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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
DEPARTMENT OF MUNICIPAL AFFAIRS
WRITERS' BUILDINGS : KOLKATA

NOTIFICATION

No. 132/MA/O/C-4/3R-12/2003

Kolkata, the 9th March, 2010.

In exercise of the power conferred by sub-section (1) of section 417, read with section 57 of the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993) (hereinafter referred to as the said Act), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of section 417 of the said Act, the following rules:

The West Bengal Municipal (Employees' Service) Rules, 2010

CHAPTER I

Short title, commencement and extent of application

Short title and
Commencement.

1. (1) These rules may be called the West Bengal Municipal (Employees' Service) Rules, 2010.

(2) These rules shall come into force on the date of their publication in the *Official Gazette*.

Application.

2. These rules shall apply to all the whole time permanent employees under the employment of the Municipalities and the Notified Area Authorities, but shall not cover an employee engaged for a limited time only under an agreement or engaged under sub-section (4) of section 54 of the West Bengal Municipal Act, 1993 on contract or commission basis or otherwise, by the Municipal Authority or Notified Area Authority which contains no stipulation regarding pension, or an employee on deputation on foreign service.

interpretation.

3. If any question arises as to the interpretation of these rules, the matters may be referred to the State Government for interpretation.

Definitions.

4. (1) In these rules, unless the context otherwise requires –

- (1) “the Act” means the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993);
- (2) “Appointing Authority” means the authority empowered to appoint an employee as per provisions of the Act;
- (3) “basic pay” means the pay, other than any other emoluments which may be specially classed as pay by the State Government or pay granted in view of personal considerations or qualifications, which has been sanctioned for a post held by an employee substantively or in an officiating capacity or to which he is entitled by reason of his position in a post;
- (4) “clerical staff” means those employees in Category ‘B’ and Category ‘C’ services as defined in the West Bengal Municipal Employees’ (Classification, Control, Appeal & Conduct) Rules, 2008, and posts whose duties are entirely clerical in nature and includes any other class of employees specially defined as such by order of the State Government;
- (5) “commuted leave” means leave taken under rule 66;
- (6) “completed year of service” includes besides period spent on duty, periods of absence on leave whether with or without any leave salary;
- (7) “conveyance allowance” means allowance in any form such as Motor Car, Motor Cycle, Scooter or bi-cycle allowance etc. as may be determined by the State Government from time to time;
- (8) “Day” means a calendar day beginning and ending at midnight but an absence from headquarters, which does not exceed 24 hours, shall be reckoned for all purposes as one day, at whatever hours the absence begins or ends;
- (9) “Disciplinary authority” means the Chairman of a Municipality, or Notified Area Authority, as the case may be;
- (10) “duty” includes,-
 - (a) service as a probationer provided that such service is followed by confirmation;
 - (b) joining time;
 - (c) the period spent on duly authorized course of instruction or training relating to the works of the Local Body under orders of the Local Body including the time reasonably required for the journeys to and from the place of instruction or training;
 - (d) the number of days actually required to attend a Court of Law or as a witness representing the Municipality or the notified Area Authority or the State Government upon service of summons by such a court;
- (11) “earned leave” means leave credited under rule 64;
- (12) “earned leave due” means the amount of earned leave to the credit of an employee on the date immediately preceding the date of effect of this rule under the regulation in force on that day plus the amount of earned leave calculated as prescribed in rule 70, as the case may be, diminished by the amount of earned leave taken after the introduction of these regulation;
- (13) “Employee” means any person who is in the whole-time employment of any Municipality or Notified Area Authority constituted under the Act, and draws his pay from the fund of the Municipality or the Notified Area Authority or from the State Government;
- (14) “Foreign service” means service in which an employee receives his pay, with the sanction of the Municipality from any source other than the fund of the Local Body;

- (15) "category A, category B, category C and category D" means the class or classes of municipal employees as classified in the West Bengal Municipal Employees' (Classification, Control, Appeal and Conduct) Rules, 2008;
- (16) "half-pay leave" means leave earned in respect of completed years of service under rule 71;
- (17) "half-pay leave due" means the amount of half-pay leave calculated under rule 68 for the entire continuous service diminished by the amount of leave on private affairs and/or on medical certificate taken, if any, before the introduction of these rules and half-pay leave taken if any, on or after that date;

Note : If the calculation under this clause results in a minus balance on the date of introduction of these rules, it should be adjusted against the half-pay leave that will be earned subsequently, such minus balance being treated as 'leave not due' for the purpose of the 240 days limit in rule 66;

- (18) "Head of the Department or head of the Office" means the head of any department or office in a Local Body determined by the Board of Councillors of the Local Body concerned;
- (19) "holiday" means the days declared by the State Government as the holidays, including the holiday, as notified under section 25 of the Negotiable Instrument Act, 1881:

Provided that the employees working in water supply (excluding maintenance), burning ghat, burial ground, ambulance, security guards, hospitals and health centers shall not be eligible to get the holidays and instead they shall be eligible for honorarium for such work under clause (20) of this rule;

- (20) "honorarium" means a remuneration granted to the employees of water supply (excluding maintenance), burning ghat, burial ground, ambulance, security guards, hospitals and health centers, from the fund of the Local Body concerned, for working on holidays at rates as may be fixed by the State Government from time to time;
- (21) "leave" includes "earned leave", "half-pay leave", "commuted leave", "leave not due" and "extra-ordinary leave";
- (22) "leave salary" means the salary paid by the Local Body to an employee on leave;
- (23) "lien" means the right of an employee to hold substantively either immediately or on the termination of a period or periods of absence, a permanent post including a tenure post to which he has been appointed substantively;
- (24) "Local Body" means a Municipality, or a Notified Area Authority, as the case may be, constituted under the Act;
- (25) "month" means a calendar month.

Note - I *In calculating a period expressed in terms of months and days, complete calendar months irrespective of the number of days in each month shall first be calculated and the odd number of days calculated subsequently;*

Note - II *In calculating a period of say 3 months and 20 days from the 25th day of January, 3 months should be taken as ending on the 24th day of April and 20 days on the 14th day of May. In the same way the period from the 30th day of January to the 2nd day of March should be reckoned as 1 (one) month and 2 days, because one month from the 30th day of January ends on the 28th day of February;*

- (26) "Municipal officer and Municipal employee" means the person appointed to a service or post in connection with the affairs of the municipal administration;
- (27) "Municipal Service" means the Municipal Service as defined in the West Bengal Municipal Employees (Classification, Control, Appeal and Conduct) Rules, 2008;
- (28) "members of the family", in relation to a municipal employee, means the wife or husband, as the case may be, and the child or the stepchild of the municipal employee

- (29) "Officiating not post means the post which an employee officiates when he performs the duties of a post on which another person holds a lien or when he is appointed by the authority competent to make a substantive appointment to the post to officiate in a vacant post on which no other person holds a lien;
- (30) "pay" means the amount drawn monthly by an employee as,—
- (i) the pay other than the additional remuneration or pay granted in view of his personal qualifications which has been sanctioned for a post held by him substantively or in an officiating capacity or to which he is entitled by reason of his positions;
 - (ii) personal pay, and
 - (iii) any other emoluments which may be classed as pay by the State Government;
- (31) "permanent post" means a post carrying a definite rate of pay as approved by the State Government;
- (32) "personal pay" means additional pay granted to an employee to save him from a loss of substantive pay in respect of a permanent post other than a tenure post, due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure;
- (33) "probationer" means an employee employed on trial in or against a substantive vacancy;
- (34) "public servant" has the same meaning as in section 21 of the Indian Penal Code 1860 (45 of 1860);
- (35) "special compensatory allowance" means an allowance granted to meet personal expenditure necessitated by the special circumstances as may be determined as compensatory allowance from time to time by the Board of Councillors of the Local Body with the sanction of the State Government;
- (36) "special kind of leave" includes "special disability leave", "study leave", "quarantine leave", "maternity leave", "hospital leave", "special sick leave", "special casual leave" to sportsman and to the delegates attending the conference annual meeting of the employees association, "compensatory leave" and "casual leave";
- (37) "subsistence allowance" means a monthly allowance made to an employee who is not in receipt of pay or leave salary during a period of suspension;
- (38) "substantive pay" means the Pay other than personal pay or emoluments classed as pay by Government under sub-clause (iii) of clause (31) of this rule to which an employee is entitled on account of a post to which he has been appointed substantively or by reason of his substantive position;
- (39) "strike" means strike as defined in clause (q) of section (2) of the Industrial Disputes Act, 1947;
- (40) "time scale pay" means pay which subject to any condition prescribed in these rules rises by periodical increments from a minimum to maximum;

Note: 1. *Time scales are said to be identical if the minimum, the maximum, the period of increment and the rate of increment of the time-scales are identical;*

Note : 2. *A post is said to be on the same time-scale as another post on a time-scale if the two time-scales are identical and the posts involve duties of approximately the same character or degree of responsibility.*

- (41) "Transfer" means the move of an employee from one place to another or from one post to another in same scale of pay;
- (42) "Travelling Allowance" means an allowance granted to an employee to cover the expenses, which he incurs in travelling in the interest of the Local Body, and it includes fixed conveyance allowances granted for the maintenance conveyances like Motor Car/Motor Cycle/Scooter/bi-cycle etc.;

(43) "Vacation Department" is the educational institution run by a Local Body to which regular vacations are allowed during which employees serving in the Department are permitted to be absent from duty.

(2) Words expressions used in these rules but not otherwise defined shall have the same meaning as in the Act.

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| Relaxation | 5. The State Government may relax the requirement of these rules under section 417 of the Act. |
| Abstaining from, or refusal of, work to be treated as without leave. | 6. Notwithstanding anything contained elsewhere in these rules if any employee, being present at the place of his duty, abstains from work without permission or refuses to work at any time during the hours of work on any day, he shall, in addition to being liable to such disciplinary action as may be taken against him for dereliction of duty, be deemed to be absent without leave for such day and shall not be entitled to draw any pay or allowances for such day. |
| Resorting to strike. | 7. (1) If any employee resorts to, or in any way abets any form of strike in violation of the provision in the 83 for any period in connection with any matter pertaining to his service or the service of any other employee, he shall, in addition to being liable to such disciplinary action as may be taken against him in that connection in accordance with the provisions of there rules, be deemed to be absent without leave during such period and shall not be entitled to draw any pay or allowances for that period.

(2) the authority empowered to grant leave may either commute retrospectively such period of absence without leave into extra-ordinary leave or may treat such period of absence without leave as amounting to a break in service entailing forfeiture of his previous service, and may pass orders accordingly; |

Provided that before issue of any order under this sub-rule the authority empowered to grant leave shall offer the concerned employee an opportunity of hearing.

CHAPTER - II

GENERAL CONDITIONS OF SERVICE

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| Declaration of age, duties and functions of appointing authority. | 8. (1) A candidate joining to the Municipal Service shall at the time of, and for the purpose of entry into Municipal Services submit to the appointing authority a declaration of age in the form set out in Note I of this rule. The declaration so made shall be binding on the applicant and he will have no right to revise it subsequently for any reason whatsoever.

(2) The candidate referred in sub rule (1) shall produce evidence in support of his declaration. If the applicant has passed the Madhyamik or the School Final or the Higher Secondary examination, the certificate of having passed the examination, indicating the age, granted by the University or the Board holding the examination shall be produced. In any other case, he shall produce, except horoscope and affidavit, other reliable evidence of his age. Wherever possible, an extract from the register of birth maintained by the local authority, or the school leaving certificate, showing the date of the applicant's birth shall be produced.

(3) The appointing authority shall consider the declaration made by the candidate under sub-rule (1) and the evidence produced in support thereof, and pass an order fixing the year, month and date of his birth.

(4) Where the date of birth proposed to be fixed under sub-rule (3) is different from the year or the date of birth of the applicant recorded in the Madhyamik or School Final or Higher Secondary Examination Certificate or recorded in the register of birth maintained by any Local Body, or the school leaving certificate, the appointing authority shall submit the case with its recommendation to the Board of Councillors of the Local Body and thereupon final decision shall be taken with the approval of the State Government.

(5) The appointing authority may at any time for sufficient reasons and with the approval of the State Government, review the order fixing the year, month and date of birth of an employee and modify the same, provided that the year, month and date of birth shall not be modified to the disadvantage of the employee unless he has been given an opportunity of making any representation which he may wish to make against the proposed action. |
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Note : 1. The declaration under sub-rule (1) shall be in the following form :-

FORM FOR DECLARATION OF AGE

I, _____ having been selected for appointment in Municipal Service do hereby declare that I was born at _____ (Birth Place) on _____ (date, month and year). I also annex herewith the following documents in support of the statement:

(I) _____

(II) _____

(III) _____

2. I do further declare that the year, month and date of birth as recorded herein are binding on me and I shall not ask for any modification thereof at any subsequent date.

Place _____

Date _____

Signature

3. Orders of the appointing authority.

Note 2. The copy of the declaration form as submitted by the employee together with the final order of the appointing authority thereon shall be attached to the Service Book.

Appointment on
medical certificate
of fitness.

9. (1) No person who has been appointed to a post, whether substantively or in an officiating capacity, shall be allowed to join his appointment without production of a medical certificate of fitness.

Note : 1. No medical certificate of fitness is required for subsequent appointment by promotion or transfer of an employee, who has already produced such a certificate and has since been in service without a break. A fresh certificate will, however, be necessary on re-employment after a break in service or on promotion from the category of labourer.

Note : 2. The provisions of the rule will not, however, apply to Government servants whose services will be transferred to the Local Body.

- (2) The medical certificate of fitness referred to in sub-rule (1) shall be in the following form :—

“ I hereby certify that I have examined _____, a candidate for employment in the _____ Municipality/Notified Area Authority and cannot discover that _____ has any disease (communicable or otherwise) constitutional weakness or bodily infirmity, except _____. I do not consider this a disqualification for such employment. His/Her age is, according to his/her own statement _____ years and by appearance about _____ years”.

Signature and Registration No. of the Medical Officer.

- (3) The certificate referred to in sub-rule (2) shall be obtained from the Health officer of the Local Body or any Government Medical Officer, or any registered medical practitioner as the Local Body may fix from time to time.

- Whole time at the disposal of the Local Body. 10. Unless in any case it be otherwise distinctly provided the whole-time of an employee is at the disposal of the Local Body which pays him and he may be employed in the interest of the Local Body in any manner required by the proper authority, without claim for additional remuneration whether the services required of him are such as would ordinarily be remunerated from Municipal Fund or from any other fund at the disposal of the Local Body.
- Limitation, in making substantive appointment 11. (1) Two or more employees cannot be appointed substantively to the same permanent post at the same time.
(2) An employee cannot be appointed substantively to two or more permanent posts at the same time.
(3) An employee cannot be appointed substantively to a post on which another employee holds a lien.
- Probation. 12. Every substantive appointment to a permanent post by direct recruitment is subject to a period of probation of one year which will commence after two years of temporary appointment, and may be extended by the appointing authority at its discretion by another year.
- Confirmation after probation. 13. (1) At the end of the period of probation, a probationer shall be confirmed in the post by the appointing authority if he has proved satisfactory in its opinion.
(2) If at any time during the period of probation or at its close, the probationer's work is not considered satisfactory, he shall be discharged by the appointing authority after giving opportunity of seeing and he will have no claim either to gratuity or pension;
provided that if he hold a lien on a permanent post before his appointment or promotion, he shall be reverted to that post.
- Subscriptions to provident fund and other similar funds. 14. An employee may be required to subscribe to the General Provident Fund in accordance with the norms as may be fixed by the State Government from time to time.
- Lien. 15. (1) Unless in any case, it is otherwise provided in these rules, an employee on substantive appointment to any permanent post acquires a lien on the post and ceases to hold any lien previously acquired on any other post.
(2) In the case of an employee who holds no lien on any appointment except that which is abolished, the abolition of the appointment may be deferred till such leave as was admissible to him immediately before the abolition of the appointment and as may be granted has terminated.
- Note :** *This sub-rule does not apply to a person having no lien on a permanent post.*
- Transfer. 16. An employee may be transferred from one post to another or from one station to another :
Provided that unless the transfer is from one post to another, the post to which an employee may be transferred shall be a post,—
(i) which carries a scale of pay comparable to that of the post presently held by the employee,
(ii) for which the employee possesses at least the minimum of the prescribed qualification, and
(iii) in the recruitment rules for which there is no bar to the appointment of the employee to the post by transfer.
- Drawal of pay date of its commencement and end. 17. Subject to any exception specifically made in these rules, an employee shall begin to draw pay and allowances attached to the post held by him with effect from the date he assumes the duties of the post, and shall cease to draw them as soon as he ceases to discharge these duties.

Note : *An employee will begin to draw the pay and allowances attached to the post held by him with effect from the date when he assumes the duties of that post, if the charge is transferred before the noon of that date. If the charge is transferred in the afternoon he commences to draw them from the following day.*

- Charge of office. 18. Unless for special recorded reasons of a public nature, the Head of the Department or Office, under whose order the transfer takes place, permits or requires it to be made in any particular case elsewhere, or otherwise, the charge of an office shall be assumed and handed over by the relieving and the relieved employee simultaneously both of them being present.
- Note :* Where the relieved employee is not present to make over the charge of his post, the relieving employee may assume its duties with the permission of the appointing authority.
- Headquarters defined. 19. The Headquarter of the employee shall be in such place as the Head of the Department or the Office may fix and is in the absence of any orders to the contrary, the station where the records of his office are kept.
- Obligations to stay at the Headquarters. 20. An employee shall ordinarily reside at the Headquarters of the Station to which he is for the time being posted. He may be permitted by the Head of his permanent office for sufficient reasons, such as difficulties in securing accommodation at Headquarters, and for other good reasons to reside outside his Headquarters, provided that his normal official duties do not suffer thereby. In such case the employee concerned shall intimate in writing his place of residence to the Head of his office who may, however, require to stay at his Headquarters at any time and for any period if it is considered necessary in the interest of the local body.
- Journey beyond the limits of charges. 21. No employee is entitled to pay or allowance for any time he may spend beyond the limits of his charge without proper authority.
- Authorisation of an employee for journey beyond the limits of charges. 22. Unless there is a Government order, under special orders of the Local Body, an employee may be authorised to proceed beyond his jurisdiction to attend a non-official conference or meeting and also to attend any work of any Committee constituted by the State Government in which the employee concerned is a member.
- No transfer of duty on holidays. 23. No transfer of duty shall ordinarily take place on a holiday.
- Fixing the day of retirement and the date for making over charge if the due date falls in a holiday/ 24. If the date of retirement of an employee falls on a holiday or one of a series of holidays, he may, with permission of the Head of the Department or the Office make over charge of his office in the afternoon of the last working day, but he will be deemed to have retired on the due date of his retirement.
- Maximum period of continuous absence from duty. 25. (1) Unless the Board of Councillors of a Local Body, in view of the exceptional circumstances of the case, otherwise determines subject to approval of the Government, no employee shall be granted leave of any kind for continuous period of absence exceeding three years.
- (2) Unless the authority competent to grant leave extends the leave, an employee who remains absent even after the expiry of leave previously granted is not entitled to any leave salary for the period of such absence and that period shall be debited against his leave account as extra-ordinary leave.
- (3) Wilful absence from duty after expiry of the leave renders an employee liable to disciplinary action.

Note - 1. Treatment of wilful absence from duty.

Wilful absence from duty, though not covered by leave, does not entail loss of lien. The period of absence not covered by grant of leave shall have to be treated as 'dies non' for all-purpose, viz., leave, increment and pension. Such absence without leave where it stands singly and not in continuation of any authorised leave of absence will constitute an interruption of service for the purpose of pension and unless the Appointing Authority exercises his power to treat the period as leave without pay, the entire past services stands forfeited.

Note - 2 Action for unauthorized absence from duty or/for overstay of leave.

- (i) When an employee applies for leave beyond the prescribed limit of extra-ordinary leave and the leave sanctioning authority is not satisfied with the genuineness of the grounds on which further leave has been asked for, nor does it consider the ground as exceptional, the leave cannot be granted. In such a case the employee shall be asked to rejoin duty within a specified date, failing which he would render himself liable to disciplinary action.

Disobedience of orders to rejoin duty within the specified period would afford good and sufficient reasons for initiating disciplinary action. If he rejoins duty by the stipulated date he may be taken back in service and the period of absence not covered by leave would be treated as overstay, and such overstay shall be regularized in accordance with the provisions of this rule.

If the employee does not join duty by the stipulated date, it would be open to the disciplinary authority to institute disciplinary action against him. If during the course of disciplinary proceedings he comes for rejoining duty he shall be allowed to do so without prejudice to the disciplinary action already initiated against him (unless he is placed under suspension), and disciplinary action shall be concluded as quickly as possible. The question of regularization of the period of overstay of leave shall be left over for consideration till the finalisation of the disciplinary proceedings.

- (ii) *If an employee absents himself abruptly, or applies for leave which is refused in the exigencies of municipal service and shall happen to absent himself from duty, he shall be informed about the consequences. viz. that the entire period of his absence shall be treated as unauthorised absence entailing loss of pay for the period in question which shall be resulting to discharge from his service after completion of the period prescribed in sub-rule (1) of this rule. If however, he reports for duty before or after initiation of disciplinary proceedings, he may be taken back for duty because he was not placed under suspension. The disciplinary action may be concluded and the period of absence treated as unauthorized absence resulting in loss of pay and allowances and such service shall not be counted within the service qualifying for Pension, Gratuity etc.*
- (iii) *An employee, who remains absent without proper permission, shall be proceeded against immediately, and such disciplinary action shall not be put off till the absence exceeds the limit prescribed under sub-rule (1) of this rule for the employees considering the grounds adduced by the employee for his unauthorised absence before initiating the disciplinary proceedings. If the disciplinary authority is satisfied that the grounds adduced for unauthorized absence are justified, the leave of the kind applied for and due may be granted to him.*

Resignation.

- 26. (1)** No employee shall, unless the Board of Councillors of the Local Body otherwise directs, be permitted to resign if he fails to serve on his appointing authority due notice at least for-
- (a) one month, in the case of an employee holding no lien or suspended lien on a permanent post under the Local Body, or
 - (b) three months, in the case of an employee holding lien or suspended lien on a permanent post under the Local Body.
- (2) An employee who tenders resignation and quits without giving the notice as provided in sub-rule (1) shall at the discretion of the appointing authority, be liable to forfeiture of his salary for the period by which the notice falls short of requirements of clause (a) or clause (b) of sub-rule (1), as the case may be, in addition to such disciplinary action as may be taken against him for contravention of this rule.

Note : *Regarding the question of taking back in service an employee who resigned and subsequently withdrew such resignation letter the following principles shall be followed:-*

- (i) *A person continues in service if he withdraws his resignation letter before the date from which the resignation is to take effect. The resignation becomes irrevocable and operative after the aforesaid date of resignation. So the question of withdrawal of the resignation letter by the employee and taking back such employee in service does not arise. After the resignation has become irrevocable and effective it cannot be cancelled.*
- (ii) *Resignation does not disqualify a person for fresh appointment and if he is given any on account of resignation, the appointment, given subsequently shall always be treated as fresh appointment without any consideration whatsoever with his previous appointment.*
- (iii) *Such fresh appointment shall not be possible other than in category 'A' service if the age exceeds the limit prescribed in the rules.*

Discharge after notice. 27. (1) If, under the terms of appointment, the Local Body has a right to terminate the services of a temporary employee after serving notice for a specified period, the services of such employee may be terminated after serving such notice and after paying him salary or wages from the date of issue of notice till the dates termination of service as mentioned in such notice.

- (2) Where an employee has been appointed 'temporarily' or 'until further notice or orders', or where his appointment has, under the terms of appointment, been made 'terminable without notice', the services of the temporary employee may be terminated after serving one month's notice or after paying him one month's salary or wages in lieu of such notice.

Note : *Letters of appointment issued to temporary employee shall specify the period of appointment and shall also provide that the services of the employee shall be liable to termination during that period by serving notice for the period specified in the letter. The period of notice specified in the letter shall be as short as possible and shall not ordinarily exceed one month. In cases where it may not be possible to insert such a provision the appointment shall be 'until further notice or orders'.*

CHAPTER -III

PAY

On substantive
appointment

28. The initial substantive pay of an employee who is appointed substantively to a post on a time-scale of pay shall be regulated as follows :-

- (1) all fresh appointment, excepting promotional appointment, is to be with minimum of the time-scales of pay. Any change in this regard may be made only with the prior approval of the State Government.
- (2) if he holds a lien on a permanent post, other than a tenure post, or would hold a lien on such a post had his lien not been suspended,—
 - (i) when appointment to the new post involves the assumption of duties or responsibilities of greater importance than those attaching to such permanent post, he will draw as initial pay the stage of the time-scale next above his substantive pay in respect of the old post;
 - (ii) when appointment to the new post does not involve such assumption, he will draw as initial pay the stage of the time-scale which is equal to his substantive pay in respect of the old post, or, if there is no such stage, the stage next below that pay, plus personal pay equal to the differences; and in either case he will continue to draw that pay until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is earlier, whereupon he will draw pay in the stage of the new time scale next above that which he drew initially, and thenceforward he will lose any personal pay granted under this rule and all connections with the old time-scale. But if the minimum pay of the time scale of the new post is higher than his substantive pay in respect of the old post, he will draw that minimum as initial pay;
 - (iii) when appointment to the new post is made on his own request under rule 18 and the maximum pay in time-scale of that post is less than the substantive pay in respect of the old post, he will draw that maximum as initial pay.
- (3) If the conditions prescribed in clause (1) are not fulfilled, he will draw as initial pay the minimum of the time-scale;

Provided both in cases covered by clause (1) and in case other than cases of re-employment after resignation or removal or dismissal from the municipal service, covered by this clause that if he has held on any previous occasion or occasions either substantively, or in an officiating or temporary capacity in -

- (i) the same post, or
- (ii) a permanent or a temporary post on the same time-scale, or
- (iii) a permanent post other than a tenure post, on an identical time-scale or a temporary post on an identical time-scale.

Pay fixation on promotion or appointment.

29. (1) Notwithstanding anything contained in these rules where an employee holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attached to the post held by him, the initial pay of such employee in the scale of pay of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued.

Provided that the provisions of sub-rule (2) of rule 40 shall not be applicable in any case where the initial pay is fixed under this sub-rule;

Provided further that where an employee was, immediately before his promotion or appointment to a higher post, drawing pay at the maximum of the scale of pay of the lower post, the initial pay of such employee in the scale of pay of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing such pay in respect of the lower post, by an amount equal to the last increment in the scale of pay of the lower post :

Provided also that if an employee has previously held substantively or officiated in -

- (i) a permanent or temporary post on the same scale of pay, or
 - (ii) a permanent post other than a tenure post or a temporary post on an identical scale of pay, then provision to rule 28 shall apply in the matter of the initial fixation of pay and counting of previous service for increment.
- (2) Notwithstanding anything contained in the foregoing provisions of this rule, in the case of continuous officiating in the higher post with effect from a date prior to the 1st April, 1981 where the substantive pay of an employee fixed in the revised scale in terms of Government, Resolution No. 15/C-9/MIM-3/81 dated the 20th April, 1982 for the employees of the Municipalities, and Resolution No. 19/C-9/MIM-3/81 dated the 20th April, 1982 for the employees of the Notified Area Authorities becomes higher than, or equal to, his officiating pay fixed under sub-rule (1), the officiating pay in the revised scale shall be re-fixed in the scale of pay of the officiating post under sub-rule (2) of rule 40, read with clause (i) of sub-rule (1) of the provision of rule 28 at the next higher stage of his substantive pay fixed in the revised scale.

Note : *An option for fixation of pay under sub-rule (1) may be given by an employee on promotion as under—*

- (i) *either his initial pay may be fixed in the higher post under sub-rule (1) of this rule straightway without any further review on accrual of increment in the pay scale of the lower post; or*
- (ii) *his pay on promotion may be fixed initially in the manner provided under clause (1) of sub-rule (1) of rule 28 which may be re-fixed on the basis of sub-rule (1) of this rule on the date of accrual of next increment in the scale of pay of the lower post :*

Provided that if the pay is fixed under this sub-rule the next increment shall fall due on completion of 12 months' qualifying service from the date the pay is re-fixed in the second occasion but drawal of increment shall be with effect from the 1st day of the month so completed.:

Provided further that option in such cases may be exercised within 30 days from the date of promotion and that option once exercised shall be final:

Provided also that if at any time, after exercising the option or expiry of the time of exercising option, as prescribed in this rule, an employee intends either to exercise his option or to change his option, exercised earlier, the State Government may, after considering the facts, relax these rules for the purpose.

When the pay of a post is changed.

30. The holder of a post, the pay of which is changed whether he holds it in a substantive or officiating capacity shall be treated as if he were transferred to a new post on the new pay:

Provided that he may at his option retain his old pay until the date on which he has earned his next or any subsequent increment on the old scale or until he vacates his post or ceases to draw pay on that time scale.

Note 1 : *If a person, permanent or otherwise, earns increment earlier than or after the original date in which he was supposed to get it at the time of exercise of option under this rule due to a revision of the date of increment, his pay should automatically be re-fixed with effect from the revised date of increment with reference to the original option exercised by him under this rule and there will be no need of exercising a fresh option and issue of special orders.*

Note 2 : *The option allowed in this rule should be exercised within 30 days from the date of issue of the order changing the scale of pay.*

Withholding of increment.

- 31.** An increment shall ordinarily be drawn as a matter of course unless it is withheld.

When an increment is ordered to be withheld, the authority passing the order shall state the period for which it is to be withheld, and whether the postponement shall have the effect of postponing future increments; and if so, for how long. Where the order fails to specify clearly for what period the employee is to be deprived of his increments, the deprivation shall be held to cease on the expiry of the period during which the employee would have drawn the increment initially withheld. Moreover, unless the order provides otherwise, the employee shall, when the deprivation ceases, be restored in all respects to the same position in the time-scale as he would have occupied had the order not been passed.

Condition for counting service for increment.

- 32.** Service counting for increments in time-scale shall be regulated by the following conditions:—

(a) all duty in a post on a time-scale count for increments in that time-scale;

Note : *Subject to any conditions that may be imposed by rule for any service or post, service as a probationer counts as duty so far as may concern the drawing of increments preceding the increments admissible on confirmation, except that in the case of probationer, no increment shall be drawn during any period by which a period of probation is extended;*

(b) service in another post, whether in a substantive or officiating capacity, service on deputation and leave other than extra-ordinary leave count for increments in the time-scale applicable to the post on which the employee holds a lien as well as in the time-scale applicable to the post or posts, if any, on which he would hold a lien had his lien not been suspended;

(c) all leave other than extra-ordinary leave shall count for increment in the time scale applicable to a post in which an employee was officiating and would but for his proceeding on leave have continued to officiate at the time when he proceeded on leave so, however, that the period of leave counting for such increment shall, in no case, extend beyond the end of the period during which the employee would have actually officiated in the post if he had not proceeded on leave;

(d) in the case of an employee who has lien on a permanent post, joining time following leave shall also count for increment in the scale attached to the post in which the employee was officiating at the time of proceeding on leave and would have continued to officiate but for his proceeding on leave subject to the condition that the leave plus joining time does not exceed six months;

Note : 1. *In each case falling under clause (c) or under clause (d) the appointing authority shall at the time of sanctioning the leave or as soon thereafter as possible and in any case not later than three months after the return from leave of the employee concerned, record a certificate to the effect that the employee would have actually continued to officiate in the post but for his proceeding on leave for the period from to and that the period of leave will count for increment only to the extent it is covered by the certificate. Relaxation, if any, made to this principle shall in the case of employee belonging to any Category other than Category 'A' be recorded in their Service Books under proper attestation with full facts justifying the relaxation.*

Note : 2. *Relaxation of this principle can be made in fit cases by the appointing authority.*

Note : 3. *In the case of an employee proceeding on leave, where no officiating arrangement is made in the leave vacancy and the employee is likely to return to the same post after leave, the certificate that he would have actually continued to officiate in the post but for his proceeding on leave may be issued by the leave sanctioning authority.*

- (e) if an employee, while officiating in a post or holding a temporary post on time-scale of pay, is appointed to officiate in a higher post or to hold a higher temporary post, his officiating on temporary service in the higher post shall, if he is re-appointed to the lower post, count for increments in the time-scale applicable to such lower post. The period of officiating service in the higher post, which counts for increments in the lower post, is, however, restricted to the period during which the employee would have officiated in the lower post but for his appointment to the higher post.

Note : *This clause is also applicable to an employee who is not actually officiating in the lower post at the time of his appointment to the higher post but would have so officiated had he not been appointed to the higher post.*

- (f) Foreign Service counts for increments in the time-scale applicable to :

- (i) the post in the Municipal Services on which the employee concerned holds a lien as well as the post or posts, if any, on which he would hold a lien had his lien not been suspended, and
- (ii) any post to which he may receive officiating promotion for the duration of such promotion.

Note : *In the case of an employee having no lien or suspended lien on a permanent post, foreign service shall also count for increment in a temporary post held by him immediately before deputation, provided his deputation on foreign service was not on his own seeking and it is certified by the appointing authority that but for the deputation he would have continued to officiate in that post.*

- (g) extra-ordinary leave does not count for increments but the Local Body may, in any case where they are satisfied that leave was taken on account of illness or for any other cause beyond the employees' control, direct, subject to approval of the State Government, that the whole or any portion of such leave shall count for increments under clause (b) or clause (c) above;

- (h) a period of overstay of leave does not count towards increments.

Note : 1. *In the case of an employee who while officiating in a post proceeds on duty as defined in sub-clause (d) of clause (10) of rule 4, the period of such duty will count for increment in the post in which he was officiating prior to so proceeding.*

Note : 2. *Although joining time is treated as duty under sub-clause (b) of clause (10) of rule 4, it cannot, except in cases mentioned in clause (d) of this rule, be treated as duty for the purpose of increment in an officiating post in as much as only leave salary is drawn for the period;*

Note : 3. *Maternity leave granted to female employees in temporary employment under these rules will count for increments in the post in which the employee was officiating at the time of proceeding on such leave provided it is certified by the appointing authority that the employee concerned would have continued to officiate in the post but for proceeding on such leave.*

Time of annual increments.

- 33.** (1) Notwithstanding anything to the contrary contained in these rules either expressly or by implication, an increment in a time scale of a pay shall be drawn with effect from the first day of the month in which it becomes otherwise due.
- (2) Save in case of loss in pay, no employee on a time-scale of pay may be granted a premature increment in that time-scale.

Stagnation Pay.

- 34.** An employee whose pay has been fixed in any of the revised scales of pay upto Rs. 4,650/- to Rs. 10,175/- shown in the annexure to the Government Resolution No. 60/MA./O/C-9/1M-19/98 dated the 8th March, 1999 and who reaches the maximum of the scale of pay shall continue to draw increment beyond the maximum of the scale for six years at the rate last drawn by him as increment before reaching the maximum.

Reduction to lower stage in time-scale.

35. When an employee is ordered to be reduced to a lower stage in a time-scale, the authority passing the order shall include in the order,-

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

Reduction to a lower grade or post.

36. When an employee is ordered to be reduced to a lower grade or post, and is subsequently promoted or reinstated, his previous service in the grade or post from which he was reduced counts for increment, unless the authority promoting or reinstating him declares that it shall not so count either in whole or in part. The period during which the orders of reduction were in force does not count for increment upon promotion or reinstatement.

Note : (1) An order imposing the penalty of reduction to a lower service, grade or post or lower time-scale shall invariably specify-

- (i) *the date from which it will take effect,*
- (ii) *the stage in the time-scale to which the employee is reduced.*

(2) *An order imposing the penalty of reduction to a lower service grade or post or to a lower time-scale shall invariably specify-*

- (i) *the period of reduction, unless the clear intention is that the reduction should be permanent or for an indefinite period;*
- (ii) *whether on promotion subsequent to the imposition of penalty, the seniority of the employee which had been assigned to him prior to the imposition of penalty will be restored in the higher grade or post or higher time-scale.*

Pay on officiating appointment.

37. (1) An employee who is appointed to officiate in a higher post for not less than sixty (60) days, may be allowed to draw pay at the next higher stage substantive pay in respect of a permanent post, with the prior approval of the State Government.

(2) An employee under training/instruction and whose absence has been treated as the period spent on duty under clause (10) (e) of sub-rule (1) of rule 4 may be promoted to the next higher grade with effect from the date he would have been so promoted had he not proceeded on training /instruction provided the following conditions are fulfilled :

- (a) he had been approved for promotion to the next higher grade; and
- (b) all his seniors, except those unfit for promotion to the particular higher grade, available have been promoted to that grade.

He may, with the approval of the State Government, also be allowed to draw such officiating pay in the next higher grade, which he would have drawn from time to time had he been on duty other than duty under clause (10) (d) of sub-rule (1) of rule 4.

Fixation of Pay on officiating appointment.

38. (1) Subject to the provisions of clauses (c) and (d) of rule 32 and of rule 37 and except where it is otherwise provided in these rules, an employee officiating in a post will draw the presumptive pay of that post.

(2) On an enhancement in the grade pay of the lower post as a result of increment or otherwise, the pay of such employee shall be re-fixed under sub-rule (1) from the date of such enhancement as if he were appointed to officiate in that post on that date where such re-fixation is to his advantage :

Provided that such lower officiating post was held for not less than three (3) years or would have been so held for officiating in other higher posts :

Provided further that the provisions of sub-rule (1) of rule 29 shall not be applicable in the matter of re-fixation of pay under sub-rule (2) of this rule.

Correction of error in fixation of Pay. 39. The pay of an employee, whose promotion or appointment to a post is found to be or to have been erroneous, shall be regulated in accordance with any general order issued by the State Government or special order issued by the Local Body with the approval of the State Government.

Pay of a post carrying a pay personal to another employee. 40. When an employee officiates in a post or holds a temporary post, the pay of which has been fixed at a rate personal to another employee, he shall draw the pay sanctioned for the post without reference to a particular individual in accordance with the principles set out in rule 39 or, where no such pay has been fixed, such pay as the Local Body may determine with the approval of the State Government.

Officiating appointment. 41. The Appointing authority may sanction officiating appointments in place of the employees who are treated as on duty as defined in clause (10) of rule 4, excepting sub-clauses (a) and (b) of the said rule.

Note : In the case of an employee sent for training or course of instruction it is not necessary to create a new post in order to accommodate him during such training or course of instruction. The order posting him for training etc. would be considered a sanction in this behalf.

Pay protection. 42. If an employee while officiating in a higher post draws pay at a rate higher than his senior either due to fixation of his pay in the higher post under the normal regulation, or due to revision of pay scales, the pay of the employee senior to him shall be re-fixed, subject to the approval of the State Government, at the same stage and from the same date his junior draws the higher rate of pay irrespective of whether the lien in the lower post held by the senior employee is terminated at the time of re-fixation of pay, subject to the conditions that both the senior and junior employees should belong to the same cadre and the pay scale of the posts in which they have been promoted are also identical.

Note : 1 The benefit of this rule shall not be admissible in case where a senior employee exercises his option to retain un-revised scale of pay, or where the pay drawn by the senior employee in the lower post before promotion to the higher post was also less than that of his junior.

Note : 2. As a general rule officiating appointment in vacancies of two months duration or less shall not be made. In order to ensure, however, a certain measure of flexibility in the arrangements that may be necessitated by the imposition of this ban, officiating appointments for short periods as may become unavoidably necessary will hereafter be regulated by the following instructions :-

(a) Whenever a vacancy of two months' duration or less occurs consequent on an employee proceeding on leave or on deputation, no officiating appointment shall, as a rule, be made, and one or the other of the following arrangements shall be made for the discharge of the duties of the vacant post-

(i) If the employee who goes on leave or deputation is one of several in the same grade in the particular organisation his work should be distributed amongst his colleagues of the same grade.

(ii) If the employee is at an intermediate level the higher employees shall take work direct from the departing employee's subordinates.

(iii) If neither of the above two courses is feasible, the employee immediately below the departing employee and available on the spot should be vested with the requisite powers where the post has any statutory functions or duties attached to it and placed in routine charge of the current duties of the vacant post, without having to accept the full duties or the full responsibilities thereof. No extra remuneration would be admissible to the employee concerned for thus carrying on the current duties of the post.

(b) Where, for any special reasons, it is not feasible to adopt any of the methods indicated above, an officiating appointment, which calls upon the employee responsibility of the post, may be made for a period less than two months subject to the prior concurrence of the State Government.

CHAPTER IV

FEES AND REMUNERATION

Circumstances in which an employee may be permitted to perform a specified service.

43. Subject to the provisions of rule 46 an employee may be permitted to perform a specified service or series of services for a private person or body or in Undertakings/Statutory Bodies under the control of the Government and in State aided non-Government organisation including Academic Bodies or Local Body and if the service be material, to receive as fee/remuneration therefor, a recurring or non-recurring fee/remuneration.

Provided that,—

(i) unless the employee is on leave, the sanctioning authority certifies in writing that the services can be performed without detriment to the employee's official duties or responsibilities; and

(ii) when the services are performed during time which would otherwise be spent in the performance of official duties, the fee shall be credited to the Municipal Fund unless the sanctioning authority for special reasons which should be recorded, directs that the whole or any specified part thereof may be paid to the employee.

Note : When an employee is permitted to undertake without detrimental to his normal duties any outside work, e.g. work for a private person/body or in Undertakings/Statutory Bodies under the control of the Government and the State aided non-Government Organisation including Academic Bodies/Local Body, he may be authorised to receive a recurring or non-recurring fee for such work subject to the following conditions :

(i) in the case of recurring monthly fee/remuneration, it shall be restricted to a sum not exceeding 20% of the basic pay of the concerned employee under the local body.

The Admissible amount of fee/remuneration shall be allowed for a period not exceeding six (6) months, and the employee may retain the whole amount without crediting any portion thereof to the Municipal fund.

(ii) In the case of fee/remuneration paid for work done on an occasional basis or of an ad-hoc nature, the fee/remuneration offered may be received by the employee concerned, provided that during any financial year the total of such fee/remuneration shall not exceed 20% of his basic pay for the year. No portion of such fee/remuneration shall be required to be credited to the Municipal Fund.

Condition of acceptance.

44. The following conditions shall regulate the acceptance of the fee or remuneration namely -

(i) No employee may accept a fee without the sanction in writing of a competent authority;

(ii) Except when special reasons exist, which should be recorded in writing by the sanctioning authority, sanction shall not be given to the acceptance of a fee or remuneration unless the work has been under taken with the prior consent in writing of the sanctioning authority, and unless the amount has been settled with his concurrence in advance;

(iii) The amount of a fee or remuneration shall be fixed with due regard to the value of the services in return for which it is given;

(iv) The sanctioning authority shall record in writing that due regard has been paid to the principle enunciated in rule 12 and shall record also the reasons which in his opinion justify the grant of extra remuneration.

CHAPTER V

DISMISSAL, REMOVAL AND SUSPENSION

Termination of
service on removal
or dismissal.

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

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

Substantive grant
under suspension.

46. (1) An employee under suspension or deemed to have been placed under suspension by an order of the appointing authority shall be entitled to the following payments, namely :—

(a) Subsistence allowance at an amount equal to the Leave salary, which the employee would have drawn if he had been on half pay leave :

Provided that when the period of suspension exceeds three months, the authority which made or deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows :—

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of first three months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the employee.

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first three months, if in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the employee.

(b) Dearness, Medical, Compensatory or other allowances, if any, admissible from time to time on the basis of reduced pay which the employee may be in receipt during the period of suspension i.e. on the half-pay or such portion thereof as the suspending authority may direct, subject to the fulfilment of other conditions laid down for the drawal of such allowances.

(2) No payment under sub-rule (1) shall be made unless the employee furnishes a certificate that he is not engaged in any other employment, business, profession or vocation :

Provided that in the case of an employee dismissed, removed or compulsorily retired from service, who is deemed to have been placed or to continue to be under suspension from the date of such dismissal or removal or compulsory retirement and who fails to produce such a certificate for any period of suspension, he shall be entitled to the subsistence allowance and other allowances equal to the amount by which his earning during such period or periods, as the case may be, falls short of the amount of subsistence allowances and other allowances that would otherwise be admissible of him; where the subsistence allowance and other allowances admissible to him, are equal to or less than the amount earned by him nothing in this proviso will apply to him.

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

(a) The dues such as income tax, profession tax, house rent, charges for electricity and water and the like.

(b) Contribution towards Group Insurance Scheme;

(c) Loans and advance taken by the employees from the Local Body Employees Credit Co-operative Society;

(d) Over-payment made to the employee by the Local Body; and

(e) Loss to the Local Body for which the employee has been held responsible;

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

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

- (i) Subscriptions to a Provident Fund;
- (ii) Premium due on Postal Life Insurance Policies;
- (iii) Dues of any Co-operative Society; and
- (iv) Amount due on the Court attachment.

Note : 1 *When an employee under suspension was in the temporary post before he was placed on suspension, the question of extension of the term of the temporary post may arise. The competent authority shall take a decision whether the individual who is due to be discharged on account of the expiry of the sanction of the post held by him or otherwise becomes liable to be retrenched or whether, to enable disciplinary proceedings being continued, steps should be taken to provide a post for him. In the latter case his post may be extended by the competent authority.*

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

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

(iii) *Review-*

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

(b) *Second or subsequent review(s)-*

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

(c) *Retrospective Revision-It is not considered advisable that any order revising the rate of subsistence allowance should be given retrospective effect. This is merely an advice of caution intended to serve, as a guideline to the competent authority ordering variation in subsistence allowance as such authority in all cases shall initiate action in sufficient time so that requisite order can take effect as soon as a suspended employee completes three months under suspension. This does not override the power of the competent authority conferred under this rule to review the subsistence allowance. As such in case an order for variation of subsistence allowance under this rule is passed by the competent authority (disciplinary or appellate) after quite some time from the expiry of the requisite three months and that authority is satisfied that the variation has got to be recorded in writing and orders accordingly, the same shall be valid and binding on all concerned.*

(d) *Deemed suspension and law of limitation :-*

An employee in whose case the order of suspension is deemed to have been continued in force or who is deemed to have been placed under suspension from the date of original order of dismissal/removal/compulsory retirement from service, he is to be paid subsistence and other allowances under this rule with retrospective effect from the date of order of such dismissal/removal/compulsory retirement.

Pay and allowances on reinstatement when order of dismissal etc. are set aside by the Court

47. (1) When an employee who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order :-

(a) regarding the pay and allowance to be paid to the employee for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

- (2) Where the authority competent to order reinstatement is of opinion that the employee who had been dismissed, removed or compulsorily retired has been fully exonerated, the employee shall, subject to the provisions of sub-rule (6), be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be :

Provided that where such authority is of opinion that the termination of the proceeding instituted against the employee had been delayed due to reasons directly attributable to the employee, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation if any, submitted by him, direct, for reasons to be recorded in writing, that the employee shall, subject to the provision of sub-rule (7), be paid for the period of such delay, only such amount (not being the whole)

- (3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as period spent on duty for all purposes.

(4) In cases other than those covered by sub-rule (2), the employee shall, subject to the provision of sub-rule (6) and (7), be paid such amount (not being whole) of the pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine after giving notice to the employee of the quantum proposed after considering the representation, if any, submitted by him in that connection within such period, which in no case shall exceed 60 days from the date on which the notice has been served, as may be specified in the notice.

- (5) In a case falling under sub-rule (4) the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be treated so for any specified purpose :

Provided that if the employee so desires, such authority may direct that the period of absence from duty including the period of suspension preceding the dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the employee.

Note : *The order of the competent authority under the proviso to this sub-rule shall be absolute for grant of :-*

- (a) *extra-ordinary leave in excess of three months in the case of temporary employee, and*
 (b) *leave of any kind in excess of five years in the case of permanent employees.*

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

(7) The amount determined under the proviso to sub-rule (2) or under sub-rule (4) shall not be less than the subsistence allowance and other allowances admissible under rule 46.

(8) Any payment made under this rule to an employee on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement.

Pay and allowances on reinstatement when the orders of dismissal etc. are set aside by a Court of Law.

48. (1) Where the dismissal, removal or compulsory retirement of an employee is set aside by a Court of Law, and such employee is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the employee shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or sub-rule (3) subject to the directions, if any, of the Court.

(2) (i) Where he is not exonerated on merits, the employee shall, subject to the provisions in sub-rule (7) of rule (47) be paid such amount (not being the whole) of pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine after giving notice to the employee of the quantum proposed and after considering the representation, if any, submitted by him, in that connection, within such period, which in no case shall exceed sixty days from the date on which the notice has been served, as may be specified in the notice.

(ii) The period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the Court shall be regularised in accordance with the provisions contained in sub-rule (5) of rule 47.

(3) If the dismissal, removal or compulsory retirement of an employee is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.

(4) The payment of allowances under sub-rule (2) or sub-rule (3) shall be subject to all other conditions under which such allowances are admissible.

(5) Any payment made under this rule to an employee on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of dismissal, removal or compulsory retirement and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the employee.

Pay and allowances on reinstatement by the Competent Authority.

49. (1) When an employee who has been suspended is reinstated or would have been so reinstated, but for his retirement including premature retirement while under suspension, the authority competent to order reinstatement shall consider and make specific order—

(a) regarding the pay and allowances to be paid to the employees for the period of suspension ending with reinstatement or the date of retirement including premature retirement, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

- (2) Notwithstanding anything contained in rule (47) where an employee under suspension dies before the disciplinary proceedings or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for the period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.
- (3) Where the authority competent to order reinstatement is of opinion that the suspension was wholly unjustified, the employee, shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the employee had been delayed due to reasons directly attributable to the employee, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the employee shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.

- (4) In a case falling under sub-rule (3) the period of suspension shall be treated as a period spent on duty for all purposes.
- (5) In cases other than those falling under sub-rule (2) or sub-rule (3), the employee shall, subject to the provisions of sub-rule (8) and sub-rule (9), be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine after giving notice to the employee of the quantum proposed and considering the representation, if any, submitted by him in that connection within such period which in no case shall exceed sixty days from the date on which the notice has been served as may be specified in the notice.
- (6) Where suspension is revoked pending finalisation of the disciplinary or Court proceedings, any order passed under sub-rule (1) before the conclusion of the proceeding against the employee shall be reviewed on its own motion after the conclusion of the proceeding by the authority mentioned in sub-rule (1) who shall make an order according to the provisions of sub-rule (3) or sub-rule (5), as the case may be.
- (7) In case falling under sub-rule (5) the period of suspension shall not be treated as a period spent on duty unless the competent authority specifically directs that it shall be so treated for any specific purpose:

Provided that if the employee so desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the employee.

Note: *The order of the competent authority shall be absolute for the grant of —*

- (a) *extra-ordinary leave in excess of three months in the case of temporary employee; and*
- (b) *leave of any kind in excess of five years in the case of permanent employee.*

- (8) The payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible.
- (9) The amount determined under the proviso to sub-rule (3) or under sub-rule (5) shall not be less than subsistence allowance and other allowances admissible under rule 47.

Note 1: *When the orders passed are in respect of an employee, in temporary appointment regard should be paid to the period for which the temporary appointment was sanctioned.*

Note 2: *A permanent post vacated by the dismissal, removal or compulsory retirement of an employee should not be filled up substantively until expiry of the period of one year from the date of such dismissal, removal or compulsory retirement as the case may be. On the expiry of the period of one year, the post may be filled up substantively subject to the condition that the arrangement so made will be reversed if the dismissed employee is reinstated on appeal or otherwise. It is not necessary to keep a post vacant for a period of one year to provide for the contingency of subsequent reinstatement and confirmation in respect of an employee who at the time of dismissal, removal or compulsory retirement was not holding substantively permanent post but would have been considered for confirmation but for penalty imposed.*

Note 3: Where the period of suspension is ordered to be treated as one spent on leave and when on conversion it is found that part of the period is treated as extra-ordinary leave for which no leave salary is admissible, the recovery of the subsistence allowance already paid shall be in order. The moment the period of suspension is converted into leave it has the effect of vacating the order of suspension and it would be deemed not to have been passed at all. Therefore, if it is found that the total amount of the subsistence and other allowances that an employee received during the period of suspension exceeds the amount of leave salary and allowance, the excess shall have to be refunded

Note 4: A person who is removed or dismissed from service has no locus standi as an employee. There is thus no bar to such a person accepting an employment when an appeal or a representation against the penalties imposed on him is pending before competent authority or where a suit against Local Body for redress of his grievances is sub-judice in the Court of Law. If, however, the penalty of removal or dismissal from service is set aside in consequence of or by a decision of the competent authority or of the Court of Law and the person concerned is reinstated in service from a date earlier than the date on which the relevant order is passed, arrear due, if any, admissible to the reinstated person shall be deducted by the amount drawn during the period of such employment.

Leave during a period of suspension or while in prison.

50. Leave may not be granted to an employee while he is under suspension or committed to prison.

Note 1: This rule does not prevent the grant to an employee on the termination of the period of his suspension or of the proceedings in connection with which he was committed to prison, of leave for the period of his suspension or committal to prison.

Note 2: In an establishment where provision for leave reserve exists any vacancy caused on account of suspension of an employee or of his being committed to person for debt or on a criminal charge should be filled by a "reservist" and where a reservist is not available, the post should, subject to the provision of Note 2 below rule 42' be filled by an officiating appointment. It is, however, not necessary to create an extra post.

CHAPTER - VI

COMPULSORY RETIREMENT

51. (a) Except as otherwise provided in these rules all municipal employees shall retire from municipal service compulsorily on attaining the age of 60 years.

(b) Notwithstanding anything contained in this rule, the appointing authority shall, if it is of opinion that it is in the public interest so to do, have the absolute right to retire any employee by giving him notice of not less than 3 months' in writing or 3 months' pay and allowances in lieu of such notice with the approval of the State Government:-

(i) if he is in Category 'A' or Category 'B' service or post and had entered Municipal service before attaining the age of 35 years, after he has attained the age of 50 years.

(ii) in all other cases, after he has attained age of 55 years.

Note : (i) If on a review of the case either on a representation from the employee retired prematurely or otherwise, it is decided to reinstate the employee in service the authority ordering reinstatement may regulate the intervening period between the date of premature retirement and the date of reinstatement by the grant of leave or, by the treating it as dies non depending upon the facts and circumstances of the case:

Provided that the intervening period should be treated as a period spent on duty for all purposes including pay and allowances, if it is specifically held by the authority ordering reinstatement that the premature retirement was itself not justified in the circumstances of the case, or if the order of premature retirement is set aside by the Court of Law.

(ii) Where the order of premature retirement is set aside by a Court of Law with specific direction in regard to regularization of period between the date of premature retirement and the date of reinstatement and no further appeal is proposed to be filed, the aforesaid period shall be regulated in accordance with the direction of the Court.

- (c) An employee may give notice of not less than 3 months in writing to the appointing authority, to retire from Municipal Service after he has completed 20 years of service, provided that it shall be open to the appointing authority to withhold permission to an employee under suspension who seeks to retire under this sub-rule.

Note 1: *In computing the three months notice period referred to in sub-rule (b) and (c), the date of service of the notice and the date of its expiry shall be excluded.*

Note 2: *The 3 months' notice referred to in clause (b) or clause (c) above, may be given before the employee attains the age specified in the said clauses provided that the retirement takes place after the employee has attained the specified age.*

Note 3: *The appointing authority should invariably keep on record that in his opinion it is necessary to retire the employee in pursuance of aforesaid rule in public interest.*

Note 4: *In case the appointing authority decides to retire an employee prematurely with immediate effect the payment of pay and allowances in lieu of the notice period shall be made to the employee concerned simultaneously with the order of retirement.*

- Calculation of the date of retirement. **52.** When an employee is required to retire, revert or cease to be on leave on attaining a specified age, the date on which he attains that age shall be reckoned as a non-working day, and the employee shall retire, revert or cease to be on leave as the case may be, with effect from and including that day.

CHAPTER - VII

FOREIGN SERVICE

- Transfer of employees of the Municipality to Foreign Service. **53.** Any employee of the Municipality may be transferred to Foreign Service, on the terms and conditions to be determined by the Government, by order.

CHAPTER - VIII

LEAVE

- Leave preparatory to retirement **54.** (1) An employee of a Local Body may be permitted by the authority competent to grant leave to take leave preparatory to retirement to the extent of earned leave due not exceeding 240 days together with half-pay leave due, subject to the condition that such leave extends upto, and includes, the date of retirement.

Norte :- *The leave granted as leave preparatory to retirement shall not include extra-ordinary leave.*

- (2) No leave shall be granted beyond the date on which an employee must compulsorily retire on superannuation.
- (3) Where an Employee who is on foreign service in or under any local authority or in a Corporation or Company wholly or substantially owned or controlled by the Government or a body controlled or financed by the Government (hereinafter referred to as the Local Body) applies for leave preparatory to retirement, the decision to grant such leave shall be taken by the foreign employer with the concurrence of the lending authority.

- Leave beyond the date of retirement or quitting of service. **55.** No leave shall be granted to an employee beyond —
- (a) the date of his retirement on superannuation; or
 - (b) the date of his final cessation of duties; or
 - (c) the date on which he retires by giving notice to Local Body or he is retired by Local Body by giving him notice or pay and allowances in lieu of such notice, in accordance with terms and conditions of his service; or
 - (d) the date of his resignation from service.

Leave sanctioning Authorities.

56. The Chairman of a Local Body or any officer authorised by him may grant -

- (i) casual leave for a period not exceeding 7 (seven) days at a stretch, subject to a maximum of fourteen days in a calendar year;
- (ii) compensatory leave;
- (iii) earned leave or on medical certificate for a period not exceeding one month; and
- (iv) any other kind of leave.

Leave cannot be claimed as of right.

57. Leave cannot be claimed as of right. When the exigencies of the service of the Local Body so require, discretion to refuse or revoke leave of any description is reserved to the authority empowered to grant it.

Note 1 :- An authority competent to grant leave may refuse to grant the full amount of leave applied for in any case and should, by the exercise of this power, so regulate the date of an employee's return from leave as to cause as little change as possible in administrative arrangements.

Note 2 :- It shall not be the intention of the Local Body that leave in ordinary circumstances should be granted more sparingly, the general principle being that an employee need not be debarred from taking the leave which he has earned at such times and for such periods as may suit the exigencies of the services of the Local Body.

Recall from leave

58. An employee on leave may be recalled to duty at any time by the authority sanctioning leave according to the exigencies of the service, provided the return to duty is compulsory. An employee who is thus recalled to duty is entitled to draw travelling allowance from the place at which the order of recall reaches him, for the journey he has to undertake to rejoin his appointment at the rate admissible to him. The period of journey from such place will be treated as on duty, but he will draw his leave salary until he joins his post.

Certificate of fitness to return to duty

59. No employee who has been granted leave on medical ground shall be permitted to return to duty without producing a Medical Certificate from a registered Medical Practitioner.

In the case of any other leave taken on account of ill health, he may be required at the discretion of the authority empowered to grant him leave, to produce a Medical Certificate of fitness before he is permitted to return to duty.

Combination of different kind of leave.

60. Any kind of leave except compensatory leave under these rules, in combination with or in continuation of any other kind of leave except casual leave, may be granted under this rule.

Combination of holidays with leave.

61. When the day immediately preceding the day on which an employee's leave begins or immediately following the day on which his leave expires is a holiday or one of a series of holidays, the employee may leave his station at the close of the day before or return to it on the day following such holiday or series of holidays.

Provided that his transfer or assumption of charge does not involve the handing or taking over of securities or of monies other than a permanent advance.

Leave account

62. (1) An employee to whom the rules apply is entitled to credit to his leave account all the earned and half-pay leave due.

(2) The amount of leave debited against an employee's leave account is actual period of earned leave and half-pay leave taken (excluding special disability leave).

Leave salary

63. An employee during earned leave is entitled to leave salary at the rate specified below :-

- (a) during earned leave-pay (substantive or officiating) which would have been admissible had he not proceeded on leave and such leave salary shall include increment of pay which falls due during such leave and dearness and other allowances sanctioned from time to time during the period of leave,
- (b) during half-pay or leave not due-half the pay admissible on earned leave as per clause (a) above and dearness and other allowances admissible as per order issued by the State Government from time to time, Dearness Pay, if any, will be calculated on the basis of leave salary actually drawn,
- (c) during extra-ordinary leave—No leave salary is admissible.

Amount of earned leave.

64. (1) An employee shall be credited with 15 days' earned leave at the commencement of each calendar half year to be reduced by 1/10th of the period of extra-ordinary leave availed of during the previous half year, subject to the condition that such reduction shall not exceed 15 days :

Provided that if an employee is appointed during the course of a particular calendar half-year, earned leave shall be credited at the rate of two and half days for each completed month and the fraction of a day will be rounded off to the nearest day.

Provided further that the credit for the half year in which an employee is due to retire or resign from service shall be at the rate of two and a half days for each completed month of service in that half year upto the date of retirement or resignation. In the case of an employee who resigns from service, necessary adjustment shall have to be made in respect of leave salary over drawn, if the leave already availed of is more than leave due to him.

- (2) An employee shall cease to earn such leave under sub-rule (1) when the earned leave due amounts to 240 days.
- (3) Subject to the provisions of rules 55, 58 and sub-rule (1), the maximum earned leave that may be granted at a time shall be 120 days.

Half-pay leave and commuted.

65. (1) (a) An employee shall be entitled to half-pay leave for 10 days in advance on the 1st January and 10 days in advance on the 1st July of each year.
- (b) The leave under clause (a) may be granted on medical certificate or on private affairs :

Provided that in the case of an employee not in permanent employ no half-pay leave may be granted unless the authority competent to grant leave has reason to believe that the employee will return to duty on its expiry except in the case of an employee who has been declared permanently incapacitated for further service by a competent medical authority determined by the Local Body.

- (2) If an employee is on leave on the day on which he completes a year of service, he shall be entitled to half-pay leave without having to return to duty.
- (3) Commuted leave not exceeding half the amount of half pay leave due may be granted on medical certificate to an employee subject to the conditions that –
- (a) the authority competent to grant leave is satisfied that there is reasonable prospect of the employee returning to duty on its expiry;
- (b) when commuted leave is granted, twice the amount of such leave shall be debited against the half-pay leave due;
- (c) the authority competent to grant leave obtains an undertaking from the employee that in the event of his resignation or retiring voluntarily from service he shall refund the difference between the leave salary drawn during commuted leave and the leave salary admissible during half-pay leave;
- (d) half-pay leave upto a maximum 180 days may be allowed to be commuted during the entire service (without production of medical certificate) where such leave is utilised for an approved course of study certified to be in the interest of the Local Body by the sanctioning authority.
- (4) where an employee who has been granted commuted leave resigns from service or retire voluntarily without returning to duty, the commuted leave shall be treated half-pay leave and the difference between the leave salaries in respect of commuted leave and half pay leave shall be recovered :

Provided that no such recovery shall be made if the retirement is by reason of ill health incapacitating the employee for further service or if the employee dies while on commuted leave.

Leave not due.

66. Except in the case of leave preparatory to retirement, 'leave not due' may be granted to an employee in permanent employ for a period not exceeding 180 days during the entire period of service, provided the following conditions are fulfilled –

- (i) the leave is required for the treatment of the employee himself and has been recommended by a Medical Board or other competent authority determined by the Local Body; and
- (ii) the employee is likely to return and to continue the service for a sufficient period to earn the leave granted and the leave so granted should be limited to the half-pay leave he is likely to earn thereafter. Such leave, when granted, shall be debited against the half-pay leave, the employee may earn subsequently.

Extra-ordinary leave

67. (1) Extra-ordinary leave may be granted to an employee in special circumstances :

- (i) when no other leave is by rule admissible, or
- (ii) when other leave is admissible but the employee concerned applies in writing for the grant of extra-ordinary leave.

(2) Except in the case of an employee in permanent employ, the duration of extra-ordinary leave shall not exceed three months on any occasion :

Provided that —

(a) when such an employee is undergoing treatment for —

- (i) Cancer or cardiac ailments in a recognised hospital or nursing home; or who receives treatment at his residence under a specialist recognised as such by the State Government and produces a certificate signed by that Specialist to the effect that he is under his treatment and that he has reasonable chances of recovery on the expiry of the leave recommended.
- (ii) Leprosy in a recognised Leprosy Institution by a Medical Officer of Health or a Specialist in leprosy recognised as such by the State Government. He may, subject to such conditions as the Local Body may by a general or special order prescribe, be granted extra-ordinary leave for a period not exceeding 180 days.

(b) The concession of extra-ordinary leave upto 12 months will be admissible only to those who have been in continuous service for a period exceeding one year.

Special disability
Leave.

68. (1) Subject to conditions hereinafter specified special disability leave may be granted by the authority competent to grant leave to an employee who is disabled by injury intentionally inflicted or caused in or in consequence of, the due performance of his official duties or in consequence of his official position.

(2) Disability leave shall not be granted unless the disability manifested itself within 3 months of the occurrence to which it is attributed, and the employee disabled acted with due promptitude in bringing it to the notice of the Board of Councillors of the Local Body :

Provided that if the competent authority is satisfied as to the cause of disability, such leave may be granted in cases where the disability manifested itself more than three months after the occurrence of its cause.

(3) Such leave may be combined with leave of any kind.

(4) The period of leave granted should be such as it certified by a Medical Board to be constituted by the Board of Councillors of the Local Body. It shall in no case exceed 24 months in the entire period of service.

(5) In the case of an employee to whom the workmen Compensation Act, 1923 applies, the amount of leave salary shall be reduced by the amount of Compensation payable under that Act.

Study leave.

69. (a) An employee holding substantive appointment to a permanent post for not less than five years and who is not due to retire within 5 years, may be granted Study Leave by the Municipality at its discretion for special course of study or training in or outside India, subject to approval of the State Government, provided that such study or training is in the interest of the Municipality.
- (b) The employee shall, before proceeding on study leave execute a bond agreeing to serve the Municipality for at least 5 years in his own post, on return from leave or to refund to the Municipality, the leave salary drawn for the period of study in case of failure to serve the Municipality.
- (c) An employee on study leave is entitled to leave salary equal to half of his pay.
- (d) Study leave may not ordinarily be granted for more than one year at a time save for exceptional reasons and in no case shall exceed two years in the whole period of service.
- (e) Study leave does not affect any leave, which may be due under these rules but will not count as service for other leave.
- (f) Failure to return to duty from study leave or to serve the Local Body in terms of the agreement will entail forfeiture of the study leave salary and study leave granted will be converted into such leave as may be admissible under these rules.

Maternity Leave.

70. (1) The authority competent to fill her post substantively may grant to a female employee maternity leave, which is not debited against the leave account on full pay at the rate she was drawing at the time of taking leave for a maximum period of one hundred and thirty five days.

Provided that no Municipal employee having two living children shall be entitled to this leave.

- (2) Leave of any other kind, as may be due, may be granted in continuation of maternity leave, if the request for its grant be supported by a medical certificate.

Note : 1. *If maternity leave is taken after a period of leave of any other description, the employee will draw, during the period of maternity leave, full pay at the rate she was drawing at the time of proceeding on leave originally sanctioned to her.*

Note : 2. *Maternity leave under this rule may also be granted in cases of miscarriage including abortion subject to the condition that the leave does not exceed six weeks and the application for the leave is supported by a certificate from the authorised medical attendant.*

Unless otherwise provided in these rules, leave shall be granted by the Municipality.

Casual leave.

71. Casual leave is not treated as absence from duty. No substitute in place of employee absent on such casual leave will be allowed.

Casual leave in any calendar year shall not exceed 14 days nor shall it entail absence of more than seven consecutive days at a time, including Sundays, holidays or weekly off days:

Provided that casual leave due in first half of a calendar year may be enjoyed in the second half in that calendar year:

Provided further that Sundays, holidays and weekly off days, preceding following or falling within the period of casual leave shall not be counted as part of Casual leave:

Quarantine leave.

72. Quarantine leave is leave of absence from duty necessitated by orders not to attend office in consequence of the presence of an infectious disease in the family or household of an employee. Such leave may be granted on production of a medical certificate from the Medical Officer in charge of a Government / Municipality / Notified Area Authority Hospital or dispensary situated nearest to his place of duty for a period not exceeding 21 days on any occasion or in exceptional circumstances, 30 days. Any leave necessary for quarantine purposes in excess of this period shall be treated as ordinary leave. Quarantine leave, subject to the above maximum, may also be granted, when necessary, in continuation of other leave. No substitute should be appointed in place of an employee in his absence on quarantine leave. An employee on quarantine leave shall not be treated as absent from duty and his pay shall not be intermitted.

Compensatory leave. 73. The employees who will be required to perform their usual duties at the discretion of the competent authority on the Holidays will be credited with one day's compensatory leave for each such holiday. Such leave shall not be granted in combination with or in continuation of any other kind of leave except casual leave. Compensatory leave shall be availed of within a period of 3 months from the date on which the leave so earned otherwise it shall stand lapsed, provided, however, if such leave duly applied for, is not granted owing to exigencies of service of the Municipality or Notified Area Authority, the leave shall be availed of within a period of six months from the date on which such leave is earned, after which the leave so earned shall stand lapsed.

Leave for conservancy workmen covered under the Award of the 7th Industrial Tribunal.

74. (1) Notwithstanding anything contained in these rules the following kinds of leave may be granted to the conservancy and other categories of staff covered by the Award of the 7th Industrial Tribunal subject to other provisions of rules 67, 68 and 69 of these rules:

- (i) Earned leave;
- (ii) Sick leave;
- (iii) Extra-ordinary leave without pay;
- (iv) Maternity leave; and
- (v) Special disability leave;

Note : *To cover short period of absence, casual leave not exceeding 10 days in a year may be granted at the discretion of the competent authority. Such leave shall be counted as duty. Casual leave lapses at the end of the year and it cannot be combined with any other kind of leave except compensatory leave granted under rule.75 Casual leave shall be limited to 3 days at a time.*

(2) *Earned leave* - An employee of this category is entitled to earned leave on full pay to the extent of 21 days in a financial year;

Provided that when the earned leave amounts to 82 days, he shall cease to earn such leave.

(3) *Sick leave* - Sick leave may be granted to an employee of this category on the certificate of a registered medical practitioner up to 15 days in a year. An employee on medical certificate is entitled to leave salary equal to half of his pay and other allowances admissible. Any period spent on leave on medical grounds in excess of the period provided under this rule will be treated as extra-ordinary leave without pay. He will cease to earn medical leave when it amounts to 90 days. Sick leave may be sanctioned either in continuation of or in combination with the earned leave but with no other kinds of leave.

(4) An employee of this category may be granted extra-ordinary leave for a period not exceeding three months in a year;

Provided that in special circumstances which cause hardship, the authority empowered to grant leave may, at its discretion, extend the said period to such longer period as it may think fit.

Note : *Unless otherwise directed by the Municipality or Notified Area Authority, an employee ceases to be in service if he has been absent continuously for more than a year.*

(5) *Maternity leave* on full pay may be granted to a female employee of this category, which is not debited against the leave account on full pay at the rate the female employee was drawing at the time of taking leave for a maximum period of one hundred and thirty five days :

Provided that no Municipal employee having two living children shall be entitled to this leave.

(6) *Quarantine leave*- Quarantine leave may be granted to an employee of this category for a period not exceeding 21 days or in exceptional circumstances, 30 days.

(7) *Special disability leave*- An employee of this category who is disabled by injury inflicted or caused in or in consequence of, the due performance of his official duties and not due to any negligence on his part may be given special disability leave subject to a maximum of six months in the entire period of service.

Leave for the employees engaged in essential service.

75. (1) The employees who are engaged in essential services shall not be allowed to enjoy calendar holidays excepting three National holidays mentioned below and nine festival holidays as may be declared by a Local Body from time to time:

National holidays

- (1) Independence Day (15th August).
- (2) Republic Day (26th January).
- (3) May Day (1st May).
- (2) The staff who are engaged in essential services shall be allowed to enjoy one weekly off day on rotation basis.
- (3) The staff of essential service shall be entitled to compensatory leave as provided in rule 74 for working on National and Festival holidays.

Note : *The staff of essential services means -*

- (1) *Conservancy Employees engaged in Conservancy works;*
- (2) *Ambulance Drivers and Cleaners / Attendants;*
- (3) *Staff attached with Hospitals and Dispensaries;*
- (4) *Operational staff of the Waterworks Department including technical personnel;*
- (5) *Vehicle Drivers and Cleaners engaged in the Conservancy and Waterworks Department;*
- (6) *Night Guard, Durwan and Security;*
- (7) *Lighting Staff and Electrical Staff; and*
- (8) *Burning ghat and Burial ground Staff.*

Leave for teaching and non-teaching staff of primary schools.

76. (1) (a) Causal leave for short periods may be granted at the discretion of the sanctioning authority to a teacher on full pay for not more than 14 days during the calendar year, but it shall not entail absence of more than seven consecutive days at a time, including Sundays or holidays:

Provided that Sundays or holidays preceding, following or falling within the period of casual leave shall not be counted as part of the casual leave.

- (b) Causal leave should only be granted for adequate reasons and cannot be claimed as of right or allowed if the interest of public service forbids it.
- (2) (a) Maternity leave may be granted to a permanent female primary teacher on full pay at the rate she was drawing at the time of taking leave for a maximum period of one hundred and thirty five days:

Provided that no permanent female primary teacher having two living children shall be entitled to this leave.

- (b) Maternity leave may be granted to temporary female primary teacher for a maximum period of one hundred and thirty five days:

Provided that no temporary female primary teacher having two living children shall be entitled to this leave.

- (c) Maternity leave may also be granted to a female teacher in case of miscarriage or abortion subject to the condition that sanctioned leave does not exceed 6 (six) weeks and the application for the leave is supported by a certificate from the registered medical practitioner/Government Hospital or Government Health Center.
- (d) Any other kind of leave may be granted in continuation of maternity leave if the request for its grant be supported by medical certificate.

- (3) If a permanent teacher is under the specific orders of the authority competent to sanction leave detained for duties and prevented for availing himself of the vacation, either in full or in part during which the school remain closed, he shall be entitled to get leave on full pay for the number of days which is such proportion of 30 days as the number of days of vacation not taken, bears to the full vacation of the year. Such detention however shall be for the performance of specific duties at the school concerning its affairs only. The order of the competent authority shall in each case state in full the reasons for such detention of the teacher and the copy of the order shall forthwith be forwarded to the State Government.

Provided that when leave due on such ground amounts to 120 days at the credit of a permanent teacher he shall cease to earn such leave.

- (4) No leave other than casual leave, maternity leave, commuted leave and leave in lieu of duty during vacation shall be granted on more than half pay to any teacher.
- (5) (i) A teacher may be granted half-pay leave on medical certificate or on private affairs which shall not exceed -
- (a) 30 days in case of a permanent teacher, and
 - (b) 20 days in case of a temporary teacher for each completed year of service.

Provided that no half-pay leave shall be granted at a time for more than 180 days to a permanent teacher and more than 120 days to a temporary teacher:

Provided further that no half-pay leave shall be granted to a temporary teacher unless the authority competent to sanction the leave has reason to believe that the teacher will return to duty on its expiry.

- (ii) Commuted leave not exceeding half the amount on half-pay leave due, may be granted on medical certificate only subject to the following conditions, namely:
- (a) commuted leave during the entire period of service shall be limited to the maximum of 180 days in the case of a permanent teacher and 120 days in the case of a temporary teacher;
 - (b) twice the amount of the commuted leave granted shall be debited against the half-pay leave due;
 - (c) the total duration of leave in lieu of duty during vacation and commuted leave taken in conjunction shall not exceed the maximum limits prescribed in clause (a) of this sub-rule:

Provided that no commuted leave may be granted under this sub-rule unless the authority competent to sanction leave has reason to believe that the teacher will return to duty on its expiry.

- (iii) A teacher on commuted leave is entitled to leave salary equal to twice the amount admissible to him in case of half-pay leave.
- (6) (a) Extra-ordinary leave may be granted to a teacher in special circumstances when no other leave is admissible under these rules.
- (b) The authority empowered to grant leave may commute retrospectively the period of absence without leave into extra-ordinary leave.
 - (c) A teacher on extra-ordinary leave is not entitled to any leave salary.
 - (d) Extra-ordinary leave in conjunction with any other leave, if any, shall not, at any one time, exceed 12 months.
- (7) Leave cannot be claimed as of right, when the exigencies of circumstances so require the discretion to refuse or revoke leave of any description is reserved to the authority empowered to grant it.
- (8) Leave other than casual leave can be prefixed or suffixed to Sundays/Holidays (including vacation) as the case may be but these cannot be sandwiched.

Leave.

77. (1) 'Leave' means, except in the case of casual leave, absence from duty attached to the tenure of the post. There may be the following kinds of leave admissible to a teacher or a non-teaching employee of an institution;

- (i) Casual leave;
- (ii) Leave on half-average pay;
- (iii) Leave on medical grounds;
- (iv) Compensatory leave;
- (v) Extra-ordinary leave;
- (vi) Maternity leave;
- (vii) Quarantine leave;

Note : (a) *No leave can be claimed as a matter of right.*

- (b) *Absence of a teacher attending Head Examiner's Meeting of the board or having an interview with the Board, if called for by the Board or if required, to join a Seminar organised or sponsored by the All India Council, State Government or by the Board, shall be treated as on duty.*

- (c) 'Medical Certificate' means a Certificate granted by Registered Medical Practitioner in the following forms:

'I _____ after careful personal examination of the case certify that _____ whose signature is given below is suffering from _____ and I consider that a period of absence from duty of _____ is absolutely necessary for the restoration of his or her health.

Government Medical Officer

Or

Date: _____

Registered Medical Practitioner.

A similar certificate may be necessary when a teacher or a non-teaching employee is declared fit to rejoin his or her duties.

- (d) 'Average Pay' means the average of basic pay for the period of twelve months immediately preceding the date on which the teacher or non-teaching employee proceeds on leave.
- (e) 'Teacher' means a Headmaster /Headmistress, Assistant Headmaster/ Assistant Headmistress or any other approved member of the teaching staff.

- (2) *Casual Leave.* - Casual leave shall not be treated as absence from duty and there shall, consequently, be no interference with the rate of emolument of the teacher or the non-teaching employee concerned.

- (3) *Leave on half-average pay.* - A teacher or a non-teaching employee of a school may be granted fifteen (15) days leave on half-average pay in a year of service:

Provided that the total period of leave on half-average pay which may accrue to the credit of the teacher or the non-teaching employee shall not exceed two months:

Provided further that during such period a teacher or a non-teaching employee shall be entitled to a leave salary at the rate of half of the average pay.

- (4) *Leave on medical Ground.* - A teacher or a non-teaching employee of a school may be granted fifteen (15) days' leave on medical ground for each completed year of service spent on duty, on production of medical certificate from a Medical Officer or a Registered Medical Practitioner with the application for leave and fit certificate at the time of resuming duties.

The total period of leave on medical ground, which may accrue, to the credit of a teacher or a non-teaching employee shall not exceed one year, that is 365 days during the whole period of service in a School or Schools.

During the period of leave on medical ground the teacher or the non-teaching employee will get a salary at the rate of full-average pay.

- (5) *Compensatory Leave.* – A teacher or a non-teaching employee of a school may be granted Compensatory leave for half the period he may be required to attend the School for duty during a long vacation or holidays; provided he attends the School at least seven days during such vacation or holidays.
- (6) *Extraordinary Leave.* – If for any unforeseen reason a teacher or a non-teaching employee of a school fails to attend his duties and if there is no other leave due at his credit, he may be granted leave without pay at the discretion of the Managing Committee for a period not exceeding two years.
- (7) *Maternity Leave.* – (i) Maternity leave may be granted to a permanent female teacher or a non-teaching employee, which is not debited against the leave account, on full pay at the rate she was drawing at the time of taking leave for a maximum period of one hundred and thirty five days:

Provided that no female teacher having two living children shall be entitled to this leave.

- (ii) Maternity leave may also be granted to temporary female teacher or a non-teaching employee, on full pay:

Provided that female teacher has been in service for at least nine months immediately preceding the date of delivery.

- (iii) Maternity leave may also be granted to female teacher or a non-teaching employee in case of miscarriage or abortion subject to the condition that such leave shall not exceed six weeks and the application for the leave is supported by a certificate from a Registered Medical Practitioner or a Government Hospital.
- (iv) Any other kind of leave, in continuation of maternity leave, may be granted if a medical certificate supports the request for its grant.
- (8) *Quarantine Leave.* – Quarantine leave is a leave of absence from duty necessitated by orders not to attend School in consequence of the presence of infectious disease in the family or household of a teacher or a non-teaching employee of School. Such leave may be granted on production of a certificate of Medical officer or Public Health Officer for a period not exceeding twenty-one (21) days or in exceptional circumstance, thirty (30) days. Any leave necessary for quarantine purposes in excess of this period shall be treated as ordinary leave. Quarantine leave may also be granted when necessary in continuation of other leave subject to the above maximum. No substitute shall ordinarily be appointed in place of a teacher or a non-teaching employee absent on quarantine leave. A substitute may, however, be appointed for the absence of a teacher or a non-teaching employee on quarantine leave, whose duties cannot be arranged otherwise. A teacher or a non-teaching employee on quarantine leave is not treated as absence from duty and his pay is not terminated.

Explanation : For the purpose of granting quarantine leave under this rule the list of infectious diseases shall include the following :—

- (a) (i) Small Pox; (ii) Scarlet Fever; (iii) Plague (Pneumonic and/or Bubonic); (iv) Typhus; (v) Cerebro-Spinal Meningitis; (vi) Encephalitis.
- (b) For the persons employed in the preparation and distribution of food, the following additional diseases should also be treated as infectious :—
 - (i) Dysentery; (ii) Enteric fever (Typhoid) fever; (iii) Malta fever; (iv) Paratyphoid fever.
- (9) (i) No kind of leave except casual leave should be availed of without written application and previous sanction, except in very exceptional circumstances, which should be explained to the satisfaction of the leave sanctioning authority.
- (ii) Any member of teaching and non-teaching staff remaining absent for more than three (3) days for reasons of illness shall submit a certificate from a Registered Medical Practitioner.

- (iii) Leave for reasons of private affairs except casual leave must be applied for and got approved before it is availed of. Member of the teaching and non-teaching staff before finalizing their private engagement should previously ascertain from the authority concerned as far as practicable whether the leave asked for is likely to be granted provided that in exceptional case of emergency nature in which it was not possible on the part of the staff concerned to apply for the leave and got it sanctioned before proceeding on leave, formal leave application fully stating the facts and circumstances necessitating such leave should be submitted to the authority concerned at the earliest possible opportunity.
- (10) (i) No permanent teaching or non-teaching employee shall be granted leave of any kind for a continuous period exceeding five (5) years. When such an employee does not resume his duty after remaining on leave for a continuous period of five (5) years, or where such an employee after the expiry of his leave remains absent from duty, otherwise on ground of suspension for any period, which together with the period granted to him exceeds five (5) years, he shall unless the Board on reference from the School authorities and in view of exceptional circumstances of the case otherwise determines, be deemed to have resigned and shall accordingly cease to be in the employment of the School.
- (ii) When an employee who is not in permanent employ, fails to resume his duties on the expiry of maximum period of extra-ordinary leave granted to him under sub-rule (7) or where such an employee who is granted a shorter period of extra-ordinary leave than the maximum period admissible, remains absent from duty for any period which together with extra-ordinary leave granted exceeds the limit upto which he would have granted such leave under sub-rule (7), he shall, unless the Board on reference from the School authorities and in view of exceptional circumstances of the case otherwise determines, be deemed to have resigned and shall accordingly cease to be in the employment of the School.
- (12) Excepting casual leave and compensatory leave, any kind of leave mentioned below may be granted in combination with or in continuation of any other kind of leave stated below:
 - (a) Leave on half-average pay;
 - (b) Leave on medical grounds;
 - (c) Extra-ordinary leave;
 - (d) Maternity leave.

CHAPTER - X

DUTIES, RIGHTS & OBLIGATIONS

Duties.

78. The following shall be the duties of a municipal employee :-
- (a) Every employee shall bear in mind that he is a public servant; he shall faithfully discharge his duties, shall always behave courteously with the members of the public or colleagues with whom he has to come in contact in the discharge of his duties as a public servant and shall always try to help them in all possible ways through quick and faithful discharge of the duties assigned to him.
 - (b) Every employee shall in the discharge of his duties rise above all personal, political and other considerations and maintain integrity, impartiality and devotion to duty without prejudice.
 - (c) Every employee shall, notwithstanding his personal views on any matter relating to municipal policy and programme, carry out faithfully the duties and responsibilities entrusted to him as a public servant and municipal servant.
 - (d) Every employee shall practice, promote and encourage collective functioning in the interest of the administrative efficiency and apply his personal initiative to the efficient discharge of his duties.
 - (e) When in the discharge of his duties an employee is called upon to decide a matter in which he or a relation of his is financially or otherwise interested, every such municipal employee shall, at the earliest opportunity, bring this fact in writing to the notice of the authority to whom he is subordinate.

- (f) Every employee (other than Category D employee) shall, once in every year, submit in the prescribed form to the appointing authority a return of movable and immovable property and other assets owned, acquired or inherited by him or any member of his family by 30th April every year as they stood on the 1st January of the current year.
- (g) Every employee shall after his marriage, submit a declaration to the appointing authority stating that he has not taken any dowry before, after or at the time of his marriage. Such declaration shall be signed by either of the spouse, father and father-in-law of the employee.

79. The following shall be the rights of an employee:

Rights.

- (1) Every employee shall have the right to form association/unions/federative bodies of the employees.
- (2) Every employee shall have full trade union rights including right to strike. The right to strike shall not be, however, available to the heads of the department of the Municipalities and also of the staff and officers of the emergency department.
- (3) An employee may contribute any literary or scientific writing or write any letter to any newspaper or periodical.
- (4) An employee desiring to apply for any other post in other establishment shall apply through the appointing authority that shall forward the same to the addressee unless there is a disciplinary proceeding pending against the appointment

80. (1) No employee shall go on strike without completing the process of conciliation or negotiation in the manner laid down in this rule; and giving notice of 14 days to the Board of Councillors and the strike shall not commence before expiry of the period of notice.

Procedure to be followed before going to strike.

- (2) The Unions/Associations/Federative Bodies, after exhaustion of negotiation with the appropriate departmental level, shall place their points of grievance, in writing, to the Chairman, on receipt of which the Chairman shall call the aggrieved party and may also call the concerned member of the Chairman-in-Council, if there be any, and /or the concerned officers of the Municipality for negotiation and settlement of grievances. The Chairman shall not take more than 80 days, except with the mutual agreement of the Chairman and the aggrieved party, to complete the negotiation. It shall be the responsibility of the Chairman to make his recommendation to the appropriate authority and if the reason of such grievance is related to a subject within the ambit of his statutory powers, settle the grievance within 30 days from the date of completion of negotiation.
- (3) If the negotiation fails and no settlement of the grievances is reached within the period specified in sub-rule (2), the Union/Association/Federative Body may serve a strike notice to the Chairman under intimation to the State Government.
- (4) On receipt of the strike notice the Chairman may take further initiative to resolve the dispute and make all efforts to that effect by arranging discussion with the aggrieved party. In case of failure of such discussion the aggrieved party shall have the right to give effect to the strike notice.
- (5) When a strike, which commences after complying with the procedure laid down in these regulation, continues more than a reasonable period, the Chairman may refer the disputes/grievances to the State Government, and the State Government shall hear all the parties to the dispute and give its orders within a period of one month.
- (6) After the grievances/disputes leading to the commencement of strike are referred by the Chairman to the State Government, the State Government may, by an order, prohibit continuance of the strike.

Obligations.

81. (1) No employee shall commit any misconduct or take any gratification other than legal remuneration or obtain valuable things without consideration for which he knows to be inadequate from a person having business transaction with the Municipality.
- (2) No employee shall, except with prior sanction of the appointing authority acquire or dispose of any immovable property by sale, lease, mortgage, gift or otherwise either in his own name or in the name of any member of his family. The same condition shall apply in case of sale or purchase of movable property exceeding rupees ten thousand in value.
- (3) No employee shall lend money or obtain loan from, any member of the public, business house or a trader with whom he has to deal in his official capacity either directly or indirectly.
- (4) No employee who has a wife or husband living shall contract another marriage without obtaining previously the dissolution of the first marriage in accordance with the laws in force, notwithstanding such second marriage is permissible under any personal law of the community to which he belongs.
- (5) No employee shall violate any law relating to intoxicating drinks or drugs and the same or to be under the influence of any intoxicating drinks or drugs during the course of his duty in the public place.
- (6) No employee shall while on leave, accept any service or employment.
- (7) No employee shall engage in any trade or undertake any employment other than public duties.
- (8) No employee shall engage any child whose age is below 14 years for domestic purpose at his residence.
- (9) No employee shall promote or indulge in any kind of sexual harassment in the office or with his female colleagues.
- (10) Any violation or infringement of these rules shall be deemed to be a good & sufficient reason for imposing penalties.

By order of the Governor,

K. C. MONDAL,
Special Secretary to the Govt. of West Bengal.