

(Department of Personnel and Training)**NOTIFICATION**

New Delhi, the 1st December, 2009

G.S.R. 170.—In exercise of the powers conferred by the proviso to article 309 read with clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to the persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Leave) Rules, 1972, namely:—

1. (1) These rules may be called the Central Civil Services (Leave) (Amendment) Rules, 2009.

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

2. In the Central Civil Services (Leave) Rules, 1972, (hereinafter referred to as the said rules), for rule 6 the following rule shall be substituted, namely,—

“6. Transfer to industrial establishment.—If a Government servant governed by these rules is appointed in an industrial establishment wherein his leave terms are governed by the Factories Act, 1948 (63 of 1948), the authority competent to grant leave shall, *suo motu*, issue an order granting cash equivalent of leave salary in respect of earned leave and half pay leave at his credit subject to a maximum of 300 days and the cash so granted shall be a sum equal to the leave salary as admissible for earned leave and leave salary as admissible for half pay leave plus dearness allowance admissible on that leave salary at the rate in force on the date the Government servant ceases to be governed by the provisions of the said rules:

Provided that in the event of his return to a post or service to which the Central Civil Services (Leave) Rules, 1972 apply, the benefit of cash equivalent of leave salary payable under rule 39 shall be modified as under :

- (a) *On superannuation.*—encashment of leave shall be subject to the condition that the number of days of both earned leave and half pay leave for which encashment has already been allowed under this rule and the number of days of earned leave and half pay leave to be encashed on superannuation does not exceed 300 days;
- (b) *On premature retirement.*—cash equivalent of unutilised earned leave and half pay leave should be subject to the condition that the number of days of earned leave and half pay leave for which encashment had already been allowed under this rule and the number of days of earned leave and half pay leave to be encashed on premature retirement shall not exceed 300 days.”.

3. In the said rules, for rule 28, the following rules shall be substituted, namely, —

‘28. Earned leave for persons serving in Vacation Departments.—

(1) (a) A Government servant (other than a military officer) serving in a Vacation Department shall not be entitled to any earned leave in respect of duty performed in any year in which he avails the full vacation;

(b) In respect of any year in which a Government servant avails a portion of the vacation, he shall be entitled to earned leave in such proportion of 30 days, as the number of days of vacation not taken bears to the full vacation :

Provided that no such leave shall be admissible to a Government servant not in permanent employ or quasi-permanent employ in respect of the first year of his service;

(c) If, in any year, the Government servant does not avail any vacation, earned leave shall be admissible to him in respect of that year under rule 26.

Explanation: For the purpose of this rule, the term “year” shall be construed not as meaning a calendar year in which duty is performed but as meaning twelve months of actual duty in a Vacation Department.

Note 1.—A Government servant entitled to vacation shall be considered to have availed a vacation or a portion of a vacation unless he has been required by general or special order of a higher authority to forgo such vacation or portion of a vacation :

Provided that if he has been prevented by such order from enjoying more than fifteen days of the vacation, he shall be considered to have availed himself of no portion of the vacation :

Note 2.—When a Government servant serving in a Vacation Department proceeds on leave before completing a full year of duty the earned leave admissible to him shall be calculated not with reference to the vacations which fall during the period of actual duty rendered before proceeding on leave but with reference to the vacation that falls during the year commencing from the date on which he completed the previous year of duty.

(2) Vacation may be taken in combination with or in continuation of any kind of leave under these rules :

Provided that the total duration of vacation and earned leave taken in conjunction, whether the earned leave is taken in combination with or in continuation of other leave or not, shall not exceed the amount of earned leave due and admissible to the Government at a time under rule 26.

(3) The earned leave under this rule at the credit of a Government servant at the close of the previous half year shall be carried forward to the next half year, subject to the condition that the leave so carried forward plus the credit for the half year shall not exceed the maximum limit of 300 days.

Note.—The facility of crediting of unavailed portion of joining time shall be admissible to persons serving in Vacation Departments, in accordance with the provisions of sub-clause (ii) of clause (a) of sub-rule (1) of rule 26.”

4. In the said rules, in rule 29, for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) The half pay leave account of every Government servant (other than a military officer) shall be credited with half pay leave in advance, in two instalments of ten days each on the first day of January and July of every calendar year.”

5. In the said rules, in rule 38-A,—

- (a) sub-rule (1) shall be omitted;
- (b) for sub-rule (5), the following sub-rule shall be substituted, namely:—

“(5) The period of leave encashed shall not be deducted from the quantum of leave that can normally be encashed by him under rules 6, 39, 39-A, 39-B, 39-C and 39-D.”

6. In the said rules, in rules 39,—

- (a) for sub-rule, (2), the following sub-rule shall be substituted, namely.—

“(2) (a) Where a Government servant retires on attaining the normal age prescribed for retirement under the terms and conditions governing his service, the authority competent to grant leave shall, *suo motu*, issue any order granting cash equivalent of leave salary for both earned leave and half pay leave, if any, at the credit of the Government servant on the date of his retirement subject to a maximum of 300 days;

- (b) The cash equivalent of leave salary under clause (a) shall be calculated as follows and shall be payable in one lumpsum as a one-time settlement, —

| | | |
|--------------------------------------|---|--|
| | Pay admissible on the date of retirement <i>plus</i> Dearness Allowance admissible on that date | |
| (i) Cash equivalent for earned leave | = $\frac{\quad}{30} \times$ | |

Number of days of unutilized earned leave at credit subject to the total of earned leave and half pay leave not exceeding 300 days.

| | | |
|---|---|--|
| | Half pay leave salary admissible on the date of retirement <i>plus</i> Dearness Allowance admissible on that date | |
| (ii) Cash payment in lieu of half pay leave component | = $\frac{\quad}{30} \times$ | |

Number of days of half pay leave at credit subject to the total of earned leave and half pay leave at credit not exceeding 300 days.”

Note.—The overall limit for encashment of leave including both earned leave and half pay leave shall not exceed 300 days.

extension reduced by the earned leave and half pay leave availed of during such period, subject to a maximum of 300 days.”

- (c) To make up the shortfall in earned leave, no commutation of half pay leave shall be permissible.”

- (c) for sub-rule (5), the following sub-rule shall be substituted, namely,—

(b) in sub-rule (4), in clause (a), for sub-clause (ii) the following sub-clause shall be substituted, namely:—

“(ii) after expiry of the period of extension, cash equivalent in the manner provided in clause (b) of sub-rule (2) in respect of both earned leave and half pay leave at credit on the date of retirement, *plus* the earned leave and half pay leave earned during the period of

“(5) A Government servant who retires or is retired from service in the manner mentioned in clause (c) of sub-rule (1), may be granted *suo motu*, by the authority competent to grant leave, cash equivalent of the leave salary in respect of both earned leave and half pay leave at his credit subject to a maximum of 300 days. The cash equivalent payable shall be the same as in sub-rule (2) of rule 39.”

(d) in sub rule (6), in clause (a).—

(i) For sub-clause (i), the following sub-clause shall be substituted, namely, —

“(i) where the services of a Government servant are terminated by notice or by payment of pay and allowances in lieu of notice or otherwise in accordance with the terms and conditions of his appointment, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of both earned leave and half pay leave at his credit on the date on which he ceases to be in service subject to a maximum of 300 days and the cash equivalent payable shall be the same as in sub-rule (2) of rule 39”.

(ii) for sub-clause (iii), the following sub-clause shall be substituted, namely :—

“(iii) a Government servant, who is re-employed after retirement may, on termination of his re-employment, be granted, *suo motu*, by an authority competent to grant leave, cash equivalent in respect of both earned leave and half pay leave at his credit on the date of termination of re-employment subject to a maximum of 300 days including the period for which encashment was allowed at the time of retirement and the cash equivalent payable shall be the same as in sub-rule (2) of rule 39.”

7. In the said rules, for rule 39-A, the following rule shall be substituted, namely :—

“39-A. Cash equivalent of leave salary in case of death in service. - In case a Government servant dies while in service, the cash equivalent of leave salary for both earned leave and half pay leave, if any, at the credit of the deceased Government servant on the date of his death, not exceeding 300 days shall be paid to his family in the manner specified in rule 39-C and the cash equivalent payable shall be the same as in sub-rule (2) of rule 39.”

8. In the said rules, for rule 39-B, the following rule shall be substituted, namely :—

“39-B. Cash equivalent of leave salary in case of invalidation from service.—(1) A Government servant who is declared by a Medical Authority to be completely and permanently incapacitated for further service may be granted, *suo motu*, by

the authority competent to grant leave, cash equivalent of leave salary in respect of both earned leave and half pay leave, if any, at the credit of the Government servant on the date of invalidation from service, subject to a maximum of 300 days and the cash equivalent payable shall be the same as in sub-rule (2) of rule 39.

(2) A Government servant not in permanent employ or quasi-permanent employ shall not, however, be granted cash equivalent of leave salary in respect of half pay leave standing at his credit on the date of his invalidation from service.”

9. In the said rules, in rule 39-C, for clauses (vii) to (xi), the following clauses shall be substituted, namely :—

“(vii) failing (i) to (vi) above, to the eldest surviving married daughter;

(viii) failing (i) to (vii) above, to the eldest surviving brother below the age of eighteen years;

(ix) failing (i) to (viii) above, to the eldest surviving unmarried sister;

(x) failing (i) to (ix) above, to the eldest surviving widowed sister; and

(xi) failing (i) to (x) above, to the eldest child of the eldest predeceased son.”

10. In the said rules, the brackets and words “(including the number of days for which encashment has been allowed along with Leave Travel Concession while in service)” wherever they occur, shall be omitted.

11. In the said rules, in rule 43,

(i) in sub-rule (1), for the figures and word “135 days”, the figures and word “180 days” shall be substituted;

(ii) in sub-rule (4), in clause (b), for the words “one year”, the words “two years” shall be substituted.

12. In the said rules, after rule 43-A the following rule shall be inserted, namely,—

“43-AA Paternity Leave for Child Adoption.—(1) A male Government servant (including an apprentice) with less than two surviving children, on valid adoption of a child below the age of one year, may be granted Paternity Leave for a period of 15 days within a period of six months from the date of valid adoption.

(2) During such period of 15 days, he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

(3) The paternity leave may be combined with leave of any other kind.

(4) The Paternity leave shall not be debited against the leave account.

(5) If Paternity leave is not availed of within the period specified in sub-rule (1) such leave shall be treated as lapsed.

Note:—The Paternity Leave shall not normally be refused under any circumstances.”

13. In the said rules, in rule 43-B, in sub-rule (1), for the figures and word “135 days”, the figures and word “180 days” shall be substituted;

14. In the said rules, after rule 43-B, the following rule shall be inserted, namely :—

“43-C. Child Care Leave.—(1) A woman Government servant having minor children below the age of eighteen years and who has no earned leave at her credit, may be granted child care leave by an authority competent to grant leave, for a maximum period of two years, i.e, 730 days during the entire service for taking care of upto two children whether for rearing or to look after any of their needs like examination, sickness, etc.

(2) During the period of child care leave, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

(3) Child care leave may be combined with leave of any other kind.

(4) Notwithstanding the requirement of production of medical certificate contained in sub-rule (1) of rule 30 or sub-rule (1) of rule 31, leave of the kind due and admissible (including commuted leave not exceeding 60 days and leave not due) upto a maximum of one year, if applied for, be granted in continuation with child care leave granted under sub-rule (1).

(5) Child care leave may be availed of in more than one spell.

(6) Child care leave shall not be debited against the leave account.”

[F. No. 11012/1/2009-Estt.(L)]

SIMMI R. NAKRA, Director (P&A)

Foot note :—The principal rules were published *vide* S.O. No. 940, dated the 8th April, 1972 and were last amended *vide* notification number GSR, 229, dated the 3rd November, 2007 .