

be granted to a military officer unless the civil authority which grants the leave is prepared to re-employ him immediately upon the termination of the leave:

Provided further that in the case of a military officer holding substantively a tenure post, leave under sub-clause (i) of clause (a) may be granted so as to extend beyond the expiry of such term if the leave has been applied for in sufficient time before the expiry of the fixed term and refused owing to the exigencies of public service.

(d) Any leave granted under this rule to a military officer holding civil appointment of limited tenure shall not extend beyond the term of his civil appointment.

36. Released or discharged military officers in civil employ.—A military officer in civil employ shall cease to be governed by rule 35 with effect from the date from which he is released or discharged from the Armed Forces and shall, with effect from the date of such release or discharge, become subject to these rules, the earned leave due to him on that date being carried forward.

37. Military officer appointed substantively to civil post.—Where a military officer is appointed substantively to a permanent civil post (other than a tenure post) there shall be credited initially in his leave account—

- (a) (i) earned leave equal to the number of days of the annual leave which on the date he is so appointed, it would be permissible to grant him under the leave rules of the Armed Forces, or
- (ii) earned leave, if any, which, on the date on which he is so appointed, it would be permissible to grant him under rule 35:

Provided that where such appointment is made in the calendar year in which the military officer was transferred to civil employ, the credit under sub-clause (i) of clause (a) shall be reduced by one-eleventh of the duty intervening between the date of that appointment and the termination of the calendar year of transfer but no reduction shall be made if annual leave is not admissible in respect of the calendar year of transfer;

(b) half pay leave equal to the number of days of furlough which, on the date he is so appointed, it would be permissible to grant him under the leave rules of the Armed Forces.

38. Leave preparatory to retirement.—(1) A Government servant may be permitted by the authority competent to take leave preparatory to retirement to the extent of earned leave due, not exceeding 120 or 180 days as the case may be as prescribed in rule 26, together with half pay leave due, subject to the condition that such leave extends upto and includes the day preceding the date of compulsory retirement.

NOTE.—The leave granted as leave preparatory to retirement shall not include extraordinary leave.

(2) (a) Where a Government servant who is on foreign service in or under any local authority or 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, it may be granted only if that local body is prepared to release him from employment to enable him to avail of the leave.

(b) If he is not so released, the leave shall be refused in public interest by the authority competent to grant leave and it may then be availed of by the

Government servant to the extent admissible under rule 39 from the date of his quitting service.

(3) Where a Government servant is on foreign service in or under a local body other than the one mentioned in clause (a) of sub-rule (2), leave preparatory to retirement shall be admissible to him only when he quits duty under the foreign employer:

Provided that where the Government servant continues in service under such foreign employer, the Government servant shall not be eligible for grant of refused leave under rule 39.

39. Leave beyond the date of compulsory retirement or quitting of service.—(1) Except as provided herein-after, no leave shall be granted to a Government servant beyond—

- (a) the date of his compulsory retirement, or
- (b) the date of his final cessation of duties, or
- (c) the date on which he retires by giving notice to Government, or he is retired by Government by giving him notice or pay and allowance in lieu of such notice, in accordance with the terms and conditions of his service, or
- (d) the date of his resignation from service.

(2) Where a Government servant has, in sufficient time before the date of his compulsory retirement,—

- (a) formally applied for leave due as preparatory to retirement and the leave has been refused in whole or in part, or
- (b) ascertained in writing from the authority competent to grant leave that such leave if applied for would not be granted.

on account of exigencies of public service, then he may be granted from the date of retirement the amount of earned leave which was due to him on the said date of compulsory retirement subject to the maximum limit of 120 or 180 days as the case may be as prescribed in rule 26, so long as,—

(i) the leave so granted, including the leave granted to him between the date from which the leave preparatory to retirement was to commence and the date of compulsory retirement, does not exceed the amount of leave preparatory to retirement actually denied;

(ii) the half pay leave, if any, applied for by him as leave preparatory to retirement and denied in the exigencies of public service, being exchanged with earned leave to the extent such leave was earned between the date from which the leave preparatory to retirement was to commence and the date of compulsory retirement.

NOTE.—Compulsory retention in service or recall from leave preparatory to retirement shall be treated as constructive refusal of leave preparatory to retirement.

(3) Where a Government servant, who had been prevented from applying for leave preparatory to retirement by reason of having been under suspension, is reinstated within 120 or 180 days, as the case may be, preceding the date of compulsory retirement and in whose case the authority competent to order reinstatement holds that the suspension was wholly unjustified, he shall be allowed to avail himself of such leave as he was prevented from applying for, subject to a maximum of 120 or 180 days as the case may be, as prescribed in rule 26.

(4) Where a Government servant, who retired from service on attaining the age of compulsory retirement while under suspension, was prevented from applying for leave preparatory to retirement on account of having been under suspension and in whose case the authority competent to order reinstatement holds that the suspension was wholly unjustified, he shall be allowed to avail himself of leave at his credit subject

to a maximum of 120 or 180 days, as the case may be, as prescribed in rule 26, after the termination of proceedings as if it had been refused as aforesaid.

(5) Where the service of a Government servant has been extended in the interest of public service beyond the date of his compulsory retirement, he may be granted earned leave, subject to a maximum of 120 or 180 days, as the case may be, as prescribed in rule 26, as follows:—

(i) during the period of extension, any earned leave due in respect of the period of such extension and, to the extent necessary, the earned leave which could have been granted to him under sub-rule (2) had he retired on the date of compulsory retirement;

(ii) after the expiry of the period of extension—

(a) the earned leave which could have been granted to him under sub-rule (2) had he retired on the date of compulsory retirement diminished by the amount of such leave availed of during the period of extension; and

(b) any leave earned during the period of extension as has been formally applied for as preparatory to final cessation of his duties in sufficient time during the extension and refused to him on account of the exigencies of the public service.

(6) A Government servant to whom clause (c) of sub-rule (1) applies may be granted leave due and admissible to him which may extend beyond the date on which he retires or is retired from service, but not extending beyond the date on which he attains the age of compulsory retirement:

Provided that a Government servant, who is retired by Government by giving him pay and allowances in lieu of notice, may apply for leave within the period for which such pay and allowances were given, and where he is granted leave, the leave salary shall be allowed only for the period of leave excluding that period for which pay and allowances in lieu of notice have been allowed.

(7) Where the service of a Government servant, not in permanent employ, is 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 earned leave to his credit, subject to a maximum of 120 days, even though such leave extends beyond the date on which he ceases to be in service. If the Government servant himself resigns or quits service, he may be granted earned leave to the extent of half of such leave to his credit subject to a maximum of 60 days:

Provided that the leave so granted to such Government servant, other than a Government servant re-employed after attaining the age of compulsory retirement, does not extend beyond the date on which he attains the age of compulsory retirement.

(8) The grant of leave under this rule, except under clause (i) of sub-rule (5), regarded as terminal leave and shall not be construed as extension of service.

40. Leave salary.—(1) Except as provided in sub-rules (2), (6) and (7), a Government servant on earned leave is entitled to leave salary equal to the average of the actual monthly pay earned during the ten complete months immediately preceding the month in which the leave commences or the substantive pay to which the Government servant is entitled immediately, before the commencement of the leave, whichever is greater.

Explanation.—For the purposes of this sub-rule, 'substantive pay' means the pay of the permanent post which the Government servant holds substantively or on which he holds a lieu or would have held a lieu

had the lien not been suspended and includes special pay declared to be part of the scale of pay of the post:

Provided that in the case of a Government servant in quasi-permanent employ as defined in sub-clause (A) of clause (i) of sub-rule (1) of rule 3, the pay of the post in which he was initially appointed in a temporary or officiating capacity shall be deemed to be the substantive pay and in the case of a Government servant in quasi-permanent employ as defined in sub-clause (B) of the said clause (i) the pay admissible in the post in which he has been declared quasi-permanent shall be deemed to be the substantive pay:

Provided further that the leave salary of a Government servant who is in permanent employ or quasi-permanent employ and who has been continuously officiating in another post for more than three years at the time he proceeds on leave shall be calculated as if he were the substantive holder of the post in which he was so officiating or in which he would have so officiated but for his officiating appointment in an equivalent or a still higher post.

Explanation.—The period of three years referred to in this proviso shall include—

(a) all periods of leave during which the Government servant would have officiated in the post but for proceeding on such leave; and

(b) all periods of officiating service rendered in an equivalent or a still higher post but for appointment to which he would have officiated in that post.

Note.—In respect of any period spent on foreign service out of India, the pay which the Government servant would have drawn if on duty in India but for foreign service out of India shall be substituted for the pay actually drawn while calculating average pay.

(2) A Government servant, who proceeds on earned leave from a post the maximum of which does not exceed Rs. 300/- per mensem, is entitled to leave salary equal to the pay drawn immediately before proceeding on leave.

(3) A Government servant on half pay leave or leave not due is entitled to leave salary equal to half the amount specified in sub-rule (1) or sub-rule (2), as the case may be, subject to a maximum of Rs. 750 per mensem:

Provided that this limit shall not apply if the leave is on medical certificate or for pursuing an approved course of study otherwise than on study leave terms.

(4) A Government servant on commuted leave is entitled to leave salary equal to the amount admissible under sub-rule (1) or sub-rule (2), as the case may be.

(5) A Government servant on extraordinary leave is not entitled to any leave salary.

(6) A Government servant who is permitted during leave, preparatory to retirement, to take up any other service or employment under an employer other than the Central Government, his leave salary shall be restricted to the amount of leave salary admissible while on half pay leave.

(7) (a) A Government servant who is granted leave beyond the date of compulsory retirement or quitting of service, as the case may be, as provided under rule 39, shall be entitled during such leave to leave salary as admissible under this rule, reduced by the amount of pension and pension equivalent of other retirement benefits.

(b) Where such Government servant is re-employed during such leave, the leave salary shall be restricted to the amount of leave salary admissible while on half pay leave and further reduced by the amount of pension and pension equivalent of other retirement benefits.

Provided that it shall be open to the Government servant not to avail himself of the leave but to avail of full pension.

(c) If during such re-employment he is granted leave earned by him during the period of re-employment, the leave salary shall be based on the pay drawn by him exclusive of the pension and pension equivalent of other retirement benefits.

(8) In the case of a person to whom the Employees' State Insurance Act, 1948 (34 of 1948) applies, leave salary payable during leave, other than earned leave, shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

41. Drawal of leave salary.—The leave salary payable under these rules shall be drawn in rupees in India.

42. Advance of leave salary.—A Government servant, including a Government servant on foreign service, proceeding on leave for a period not less than 30 days may be allowed an advance in lieu of leave salary upto a month's pay as provided for in the General Financial Rules.

CHAPTER V—Special kinds of leave other than study leave

43. Maternity leave.—(1) A female Government servant (including an apprentice) may be granted maternity leave by an authority competent to grant leave for a period which may extend upto the end of three months from the date of its commencement or to the end of six weeks from the date of confinement, whichever be earlier. During such period she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

NOTE.—In the case of a person to whom the Employees' State Insurance Act, 1948 (34 of 1948) applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

(2) Maternity leave may also be granted in case of miscarriage, including abortion, subject to the conditions that—

- (a) the leave does not exceed six weeks; and
- (b) the application for the leave is supported by a medical certificate as laid down in rule 18 or rule 19, as the case may be.

(3) Maternity leave may be combined with leave of any other kind, but any leave applied for in continuation of the former may be granted only if the request is supported by a medical certificate.

(4) Leave in continuation of maternity leave may also be granted in case of illness of a newly born baby, subject to production of medical certificate to the effect that the condition of the ailing baby warrants mother's personal attention and that her presence by the baby's side is absolutely necessary.

44. Special disability leave for injury intentionally inflicted.—(1) The authority competent to grant leave may grant special disability leave to a Government servant (whether permanent or temporary) 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) Such leave shall not be granted unless the disability manifested itself within three months of the occurrence to which it is attributed and the person disabled acted with due promptitude in bringing it to notice.

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

(3) The period of leave granted shall be such as is certified by an Authorised Medical Attendant and shall in no case exceed 24 months.

(4) Special disability leave may be combined with leave of any other kind.

(5) Special disability leave may be granted more than once if the disability is aggravated or reproduced in similar circumstances at a later date, but not more than 24 months of such leave shall be granted in consequence of any one disability.

(6) Special disability leave shall be counted as duty in calculating service for pension and shall not, except the leave granted under the proviso to clause (b) of sub-rule (7), be debited against the leave account.

(7) Leave salary during such leave shall,—

- (a) for the first 120 days of any period of such leave, including a period of such leave granted under sub-rule (5), be equal to leave salary while on earned leave; and
- (b) for the remaining period of any such leave, be equal to leave salary during half pay leave:

Provided that a Government servant may, at his option, be allowed leave salary as in sub-rule (a) for period not exceeding another 120 days, and in that event the period of such leave shall be debited to his half pay leave account.

NOTE.—Leave salary in respect of special disability leave granted to a Government servant who has rendered service under more than one Government may be appointed between the Government in accordance with the normal rules.

(8) (a) In the case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(b) In the case of a person to whom the Employees' State Insurance Act, 1948, (34 of 1948) applies the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the correspondence period.

(9) (a) The provisions of this rule shall also apply—

- (i) to a civil Government servant disable in consequence of service with a military force, if he is discharged as unfit for further military service, but is not completely and permanently incapacitated for further civil service; and

- (ii) to a civil servant not so discharged who suffers a disability which is certified by a medical board to be directly attributable to his service with a military force.

(b) In either case, any period of leave granted to such a person under military rules in respect of that disability shall be reckoned as leave granted under this rule for the purpose of calculating the period admissible.

45. Special disability leave for accidental injury.—(1) The provisions of rule 44 shall apply also to a Government servant, whether permanent or temporary, who is disabled by injury accidentally incurred in, or in consequence of, the due performance of his

official duties or in consequence of his official position, or by illness incurred in the performance of any particular duty, which has the effect of increasing his liability to illness or injury beyond the ordinary risk attaching to the civil post which he holds.

(2) The grant of special disability leave in such case shall be subject to the further conditions:—

- (i) that the disability, if due to disease, must be certified by an Authorised Medical Attendant to be directly due to the performance of the particular duty;
- (ii) that, if the Government servant has contracted such disability during service otherwise than with a military force, it must be, in the opinion of the authority competent to sanction leave, exceptional in character; and
- (iii) that the period of absence recommended by an Authorised Medical Attendant may be covered in part by leave under this rule and in part by any other kind of leave, and that the amount of special disability leave granted on leave salary equal to that admissible on earned leave shall not exceed 120 days.

46. Hospital leave.—(1) The authority competent to grant leave may grant hospital leave to—

- (a) Class IV Government servants, and
- (b) such Class III Government servants whose duties involve the handling of dangerous machinery, explosive materials, poisonous drugs and the like, or the performance of hazardous tasks,

while under medical treatment in a hospital or otherwise, for illness or injury if such illness or injury is directly due to risks incurred in the course of their official duties.

(2) Hospital leave shall be granted on the production of medical certificate from an Authorised Medical Attendant.

(3) Hospital leave may be granted on leave salary equal to that admissible during earned leave or half pay leave and for such period as the authority granting it may consider necessary.

(4) Hospital leave shall not be debited against the leave account and may be combined with any other kind of leave which may be admissible, provided the total period of leave, after such combination, does not exceed 28 months.

(5) (a) In the case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(b) In the case of a person to whom the Employees' State Insurance Act, 1948 (34 of 1948) applies the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

47. Seamen's sick leave.—(1) A Government servant serving as an officer, warrant officer or petty officer on a Government vessel may, while undergoing medical treatment for sickness or injury, either on his vessel or in hospital, be granted leave, by an authority competent to grant leave, on leave salary equal to full pay for a period not exceeding six weeks:

Provided that such leave shall not be granted if a Government medical officer certifies that the Government servant is malingering or that his ill-health is due to drunkenness or similar self-indulgence or to his own action in wilfully causing or aggravating disease or injury.

(2) A seaman disabled in the exercise of his duty may be allowed leave on leave salary equal to full pay for a maximum period not exceeding three months, if the following conditions are fulfilled, namely:—

- (a) a Government medical officer must certify the disability;
- (b) the disability must not be due to the seaman's own carelessness or inexperience;
- (c) the vacancy caused by his absence must not be filled.

(3) (a) In the case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(b) In the case of a person to whom the Employees' State Insurance Act, 1948 (34 of 1948) applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

48. Quarantine leave.—(1) Where, in consequence of the presence of an infectious disease referred to in sub-rule (2), in the family or household of a Government servant at his place of duty, residence or sojourn, his attendance at his office is considered hazardous to the health of other Government servants, such Government servant may be granted quarantine leave.

(2) (a) For the purposes of sub-rule (1), cholera, small-pox, plague, diphtheria, typhus fever and cerebrospinal meningitis may be considered as infectious diseases. Chicken-pox shall not, however, be considered as an infectious disease unless the Medical Officer or Public Health Officer considers that because of doubt as to the true nature of the disease (for example, small-pox), there is reason for the grant of such leave.

(b) In the case of a Government servant stationed in an area under the administration of a State Government, such other diseases as may have been declared by that Government as infectious for the purpose of quarantine leave rules in force in that State, may also be considered as infectious diseases for the purpose of this rule.

(3) (a) Quarantine leave may be granted by the Head of the office on the certificate of a Medical Officer or Public Health Officer for a period not exceeding 21 days or, in exceptional circumstances 30 days.

(b) Any leave necessary in excess of this period shall be treated as leave due and admissible and shall be debitable to the leave account of the Government servant.

(4) Quarantine leave, subject to the maximum laid down in sub-rule (3), may also be granted, when necessary, in continuation of other leave.

(5) A Government servant on quarantine leave shall be treated as on duty. No substitute shall be appointed while he is on such leave.

49. Departmental leave.—(1) Departmental leave may be granted to—

- (a) Class III Government servants (other than Division I staff and clerks) and to Class IV Government servants in Survey of India attached to Survey Parties with field and recess duties;
- (b) members of the seasonal staff in the Posts and Telegraphs Department, whose duties are not continuous but are limited to certain fixed periods in each year.