

CHAUDRI'S

COMPILATION

OF THE

CIVIL SERVICE REGULATIONS

Including orders issued by the late Secretary of State, Government of India (Civil and Defence), Comptroller and Auditor General's decisions, Audit Instructions, etc., etc.

AND THE

Liberalised Pension Rules of 1959,
Liberalised Leave Rules (Civil and Defence Civilians) ;
All India Services Leave and Pension Rules ; Classification (Control and Appeal Rules) Civil & Defence Civilians ; Leave Travel Concession Orders ; Etc. Etc.
Civil Pensions (Commutation) Rules,
Government Servants' Conduct Rules.
Etc. Etc.



VOLUME I

Corrected upto the 31st March 1964.

BY

S. Lakhi Singh Chaudri

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ZOOLOGICAL GARDEN
CALCUTTA

GOVERNMENT OF INDIA

MINISTRY OF FINANCE
New Delhi, the 23rd March, 1950

FOREWORD.

From the days of Manu onwards codes for various human affairs have been drawn up by law-givers or administrators. The Civil Service Regulations represent a body of rules of very wide application in Administrative and accounts offices. Whereas the parallel regulations known as the Fundamental Rules, have been printed authoritatively by the Accountant General, Posts and Telegraphs, with subsequent rulings and interpretations, no such Volume of the Civil Service Regulations has been attempted so far officially. Their application, however, depends upon a large body of instructions, rulings, interpretations etc. scattered over a number of stray letters, communique, memoranda etc. These have never been officially collected in one place. The present Compilation, therefore, even though the work of an individual without the imprimature of official authority, affords great facility in the application of the Civil Service Regulations, and I have no doubt that Mr. Lakhi Singh Chaudri's *laudable effort* will earn him the gratitude of all those who have for a long time felt the need of such a comprehensive Volume.

Sd/- Narayan

Joint Secretary,
Ministry of Finance.

PREFACE TO THE FIRST EDITION.

This *Compilation contains the CIVIL SERVICE REGULATIONS as corrected upto the 28th February 1950, and—

Extracts from the Superior Civil Services (Revision of Pay, Passage and Pension) Rules, 1924 ;
Central (Class IV) Services (Gratuity, Pension and Retire ment) Rules, 1936 ;
Superior Civil Services (Extraordinary Pension) Rules,1936 ;
Central Civil Services (Extraordinary Pension) Rules, 1939 ;
Civil Pensions (Commutation) Rules ;
High Court Judges Order 1937 ;
Civil Services (Safeguarding and National Security) Rules, 1953 and Revised Leave Rules for Civilians in the Defence Services.

as modified up to the 28th February, 1950. The orders, instructions and interpretations issued by the late Secretary of State for India, Governor General (*now* President) and the Comptroller and Auditor General as well as the Audit Instructions issued from time to time in connection with the various Articles in the Civil Service Regulations have been reproduced below the Articles concerned.

2. A large number of rules in Parts V and VII and all the rules in Part XI of the Civil Service Regulations are now obsolete. There are others which do not apply to certain establishments *e. g.*, those contained in Part II do not apply to Government servants whose pay is debitable to the Civil Estimate and those in Part III do not apply to Government servants who did not specifically elect to be governed by the Leave Rules in the Civil Service Regulations when the Fundamental Rules were introduced. The rules in Parts II and III, however, continue to apply to the Civilians whose pay is debitable to the Defence Estimates. As the Compilation is not meant for any particular class of offices but for all the offices in India and the rules in the Fundamental and Supplementary Rules are mostly based on the rules in the Civil Service Regulations, all the Articles of the Civil Service Regulations have been reproduced in this Compilation to make it self-contained.

3. The Secretary of State has ceased to have any authority over India but the rules have not yet been amended to suit the Constitutional changes. The President of the Union of India and the Governors or Rajpramukhs of the various States exercise vast powers over the affairs of the Union and States respectively. The President in the case of services and posts in connection with the affairs of the Union and the Governors or Rajpramukhs of

*The Comptroller and Auditor General of India has permitted the use of this Compilation (Volume I and II) as a book of referrence in the S. A. S. Examination *vide* his letter No. 22-Exam/55-58, dated the 30th January, 1959.

the States subject to the provisions of Article 311 and the protection of existing officers provided for in Article 314 of the Constitution of India, exercise the powers of the Secretary of State or the Government of India laid down in the rules. The Articles in the Compilations which have reference to the Secretary of State, the Governor General in Council or Local Government should, therefore, be read after substituting the President, Governor or Rajpramukhs, as the case may be.

4. I have attempted to collect in this Compilation as many orders, instructions, decisions, etc., as I could lay my hands on. These orders were scattered and were either not easily available or were unknown to a large number of offices. The Compilation is being issued in my *personal capacity* with the permission of the Government of India. The various Ministries of the Government of India, States and the Heads of Departments have patronised my efforts by placing orders for the book in advance. It is hoped that with the help of this handy compendium, the rules will be better understood and followed and will result in appreciable saving of time and effort in Government offices.

5. The decisions, etc., incorporated in this Compilation should be referred to as follows ;—

> "Government of India's decision No. (2) below Article 76A in Chaudri's Compilation of the Civil Service Regulations".

6. It is requested that any errors or omissions and shortcomings which may be found in this Compilation may be brought to my notice.

Chaudri.

(L. S. Chaudri)
of
Ministey of Finance,
Government of India.

New Delhi,
1st March, 1950

PREFACE TO THE SECOND EDITION.

This edition is a reprint of the 1st Edition after incorporating the Correction Slips Nos. 1 to 343 issued upto the 30th September, 1953. The orders and decisions of the Government of India issued from the 1st October, 1953 to the 31st December, 1953 have also been included in this Edition. The Travelling Allowance Rules, the Rules relating to Chaplains and Foreign Service Rules which have become obsolete have not been printed to avoid the book becoming unweildy. As some of the Departments approached me to improve the utility of the book by including :—

(*i*) High Court Judges (Part B States) Order, 1953 ;
(*ii*) Liberalised Pension Rules of 1950 ;
(*iii*) Central Civil Services (Part B States' Transferred employees) Rules, 1953 ;
(*iv*) Government Servants, Conduct Rules ;
(*v*) Rules and orders regulating the conditions of service of Part 'B' and 'C' States employees taken over by the Central and Part 'A' States as a result of financial integration of the *Princely* order ;

they have also been incorporated as Appendices to this Compilation.

2. I take this opportunity of thanking the various Ministries of the Government of India, the State Governments, Heads of Departments and the Heads of offices etc., for the encouragement and appreciations conveyed to me through their innumerable letters. My special thanks are, however, due to the Ministry of Finance and the Ministry of Home Affairs of the Government of India for providing me with the facilities to keep the book upto-date.

3. Quarterly Correction Slips will continue to be issued as hitherto-fore and I hope that the present edition will, like the first editions, meet the needs of the various offices and the candidates who have to sit in their departmental examination in the subject dealt with in this Compilation.



D. Chandra,

Examiner,
Local Fund Accounts,
Punjab.

Simla,
12th February 1954.

PREFACE TO THE THIRD EDITION.

This is a reprint of the 2nd Edition and incorporates Correction Slips Nos. 1 to 472 issued to the 2nd Edition upto 31st December, 1957. The various decisions and orders issued by the Government of India upto the 30th April, 1958 have also been incorporated in this Edition. Some of the orders received even during the course of printing of the book have also been incorporated. High Court Judges (Part B States) Order, 1953 which was incorporated in the 2nd Edition has been omitted. The following rules have also been incorporated to improve the utility of the book :—

(*i*) Central Civil Services (Classificasion, Control and Appeal) Rules, 1957.

(*ii*) Central Civil Services (Temporary Service) Rules 1949.

(*iii*) Revised Leave Rules, 1933 including the orders issued by the Government of India thereunder from time to time.

(*iv*) Leave Travel Concession Orders.

(*v*) All India Services Leave Rules.

(*vi*) All India Services Special disability Leave Rules.

Due to the incorporation of Correction Slips and new orders the Compilation had become bulky. The book has therefore been split up in two Volumes—the main rules and the appendices. The appendices appear in the second Volume.

3. I once more take the opportunity of thanking the Government of India in the Ministries of Home Affairs and Finance for their very kindly providing me regulary with the material and various orders and circulars which enable me to keep the book up-to-date. I am also thankful to the Ministry of Defence who have very kindly agreed to provide me with the orders issued for the Civilians in Defence Service.

4. Quarterly Correction Slips will be issued as hithertofore to the 3rd Edition.

Jullundur,
the 20th June 1958.

Examiner,
Local Fund Accounts,
Punjab.

PREFACE TO THE FOURTH EDITION.

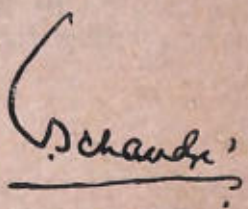
This edition again brings the Compilation up to-date. It incorporates all Correction Slips issued to the 3rd edition up to the 30th April 1960 and the various orders issued by the Government of India up to 31st May 1960. Some of the orders issued in June and July 1960 have also been incorporated and the orders which had become obsolete due to the revision/modification of the Articles have been omitted.

2. The book has been approved as a reference book for the Examinations conducted by the Comptroller and Auditor General of India, Posts and Telegraphs Department and the Controller General of Defence Accounts.

3. I am grateful to the Government of India in the Ministries of Finance and Home Affairs, the Comptroller and Auditor General as well as the Adjutant General of India for their very kindly providing me regularly with the various orders/instructions issued from time to time to enable me to keep the Compilation up-to-date.

4. Quarterly Correction Slips will be issued as hither-to-fore to the 4th Edition. It is requested that any errors and omissions in this Compilation may be brought to the notice of the under-signed.

LAKHINDER,
Distt. Hoshiarpur
the 30th July 1960.



(L. S. Chaudri)

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*Not printed.
†Printed separately as Volume II of this Compilation.

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CIVIL SERVICE REGULATIONS

RELATING TO

SALARY, LEAVE, PENSION & TRAVELLING ALLOWANCE

PART I.—PRELIMINARY.

CHAPTER I.—GENERAL SCOPE.

Extent of Application.

1. (*a*) These Regulations are intended to define the conditions under which †salaries, and leave and pension and other allowances, are earned by service in the Civil Departments, and in what manner they are calculated. They do not deal otherwise than indirectly and incidentally with matters relating to recruitment, promotion, official duties, discipline, or the like.

(*b*) Many orders applying to particular appointment or to particular individuals are not included in them; but with this exception the Regulations have been framed so as to embody all orders still in force affecting the acting allowances, the leave and leave allowances, the pensions, and the travelling allowances of officers, the conditions of whose service in respect to these matters are not defined by the Army and Marine Regulations. The omission from the Regulations of any order on those matters which is believed to be still in force should be brought to the notice of the Government of India through the proper channel. Until so confirmed, it should be considered as not in force.

(*c*) These Regulations do not apply to the pay and allowances (except travelling allowances), pension and leave of officers of the Royal Indian Marine holding shore appointments, which are governed by the Marine Regulations.

Declaration by the Secretary of State in Council :—The Seretary of State and Council has declared that a Government servant paid from Civil Estimates, who is temporarily transferred to service paid from Army Estimates, shall remain subject to the Fundamental Rules.

[G. I. F. D. Res. No. 614 C. S. R., dated the 19th June, 1922].

Government of India's decisions :—When a provision of law or rule having the force of law obliges a local Government to act in a particular way, this must obviously override any executive order, which may be quoted to the contrary. * * * * * *

[G. I. F. D. No. 677 C. S. R. dated 14-7-1916.]

(2) Consequent on the revision of the scales of pay of various services and the introduction of revised leave rules and pension rules, the Civil Service Regulations require general modification. Pending the issue of the necessary corrections, the Government of India authorise the Accountants General to act on the new orders wherever they are in conflict with the existing rules in the Civil Service Regulations.

[G. I. F. D. No. 148 C. S. R. dated 11-2-1921.]

(3) As the cases of transfer of Government servants subject to Civil Service Regulations and paid from Defence Service Estimates to service paid from Civil Estimates and *vice versa* are becoming frequent and the technical position under the rules by which such Government servants are to be governed may not be generally appreciated, the Government of India consider it desirable, with a view to avoiding any misapprehension, to explain the correct position. According to the declaration of the Secretary of State in Council

†With effect from the 1st January, 1922, the Regulations relating to salaries, leave other allowances and foreign service etc., contained in these Regulations do not (subject to the provisions of Rules 2 and 3 of the Fundamental Rules) apply to Government servants whose pay is debitable to civil estimates in India.

issued with the Government of India, Finance Department Resolution No. 614 C. S. R., dated the 19th June, 1922 (reproduced as declaration by the Secretary of State in Council, below this Article), a Government servant paid from Civil Estimates, who is temporarily transferred to service paid from Defence Estimates remains subject to the Fundamental Rules. As no similar protection has been extended by any declaration or rule to Government servants subject to the Civil Service Regulations and paid from Defence Services Estimates, who are temporarily transferred to service paid from Civil Estimates these Government servants *ipso facto* become subject to the Fundamental Rules for all purposes except for leave while so transferred.

[G. I. F. D. Endorsement No F. 2(2) R 1/45 dated 27-11-45.]

2. The rules which apply to the ordinary Civil establishments of the State apply also to officers employed under the Military and Marine Departments and under Local Governments whose service does not qualify under the Army or Marine Regulations. The rules in Part VII apply to all officers in the service of the British Government.

3. The Travelling Allowance Regulations in Part XI apply to Military Officers in the Army Secretariat of the Government of India; Chaplains of the Church of Scotland, except when on service with a regiment in the field; and all officers in Civil employ, except those officers of the Royal Indian Marine to whom the Travelling Allowance Rules in the Marine Regulations (*See* Section III, Volume I, Part II) apply.

Except in cases in which it is otherwise provided in the Military Regulations, or in which it may be otherwise specially sanctioned by the Government of India, the travelling allowance of clerks in all Military offices is governed by the Regulations in Part XI.

Right of Changing or Interpreting Rules.

4. The Government of India reserve to themselves the right of changing the rules in these Regulations regarding pay and acting allowace and leave and pension, from time to time at their discretion, and of interpreting their meaning in case of dispute.

An officer's claim to pay and allowances is regulated by the rules in force at the time in respect of which the pay and allowances are earned; to leave by the rules in force at the time the leave is applied for and granted; and to pension by the rules in force at the time when the officer resigns or is discharged from the service of Government.

Note 1—[In all contracts for service in India to which the Secretary of State is a party provision is made for the exercise of these rights by the Government of India.]

Note 2 – [Extracts from a despatch from the Secretary of State and a Resolution by the Government of India relating to the rights reserved by Government in this Article :—

Despatch from Secretary of State No. 10, dated the 17th October, 1880.

"You remark that you are unable to admit any obligations on the part of the Government of India to compensate those officers for the indirect and remote effects of any administrative measures which it has been considered necessary to adopt in the interests of the State generally, and that it would be extremley inconvenient, if not wholly impracticable, in carrying out every change to consider every possible effect, however, remote, which such change might have on the prospects of every officer in the service.

I concur in the sentiment expressed by your Government in this matter. All administrative reforms would be rendered impossible if the Government were fettered by considerations such as those above referred to"

Resolution No 4863, dated 4th December, 1891.

"The Government of India have always been careful to exercise the right of altering rules with due consideration for the rights of their servants. The ordinary course adopted to prevent hardship arising from any change of rule found necessary has been either to defer the introduction of the change for some time after its publication, or to give the officers affected the right of choosing whether they shall come under the operation of the old or of the new rules. It has been decided that the right of altering rule must be maintained, that care should be taken, as in the past, to prevent the introduction of any new rules from operating harshly, but that the Local Governments and the Government of

India should not consider themselves precluded from recommending an exception in any case of individual hardship which may arise inspite of the precautions taken. If any case of apparent hardship arises. the local authorities should understand that, when the officer applies to retire, they are not precluded from examining into its merits and ascertaining whether, in their opinion, he has substantially suffered from the introduction of a rule not in force at the time he entered the service. If, after comparing the advantages secured to the officer by the altered rules with any disdaventages incidentally involved they find that he has on the whole substantially suffered, the point may be taken into consideration in determining whether some compensation ought not to be granted in to the particular instance."

Government of India's decisions :— (1) Communications regarding the interpretation of the rules in the Civil Service Regulation should be addressed to the Government of India Ministry of Finance. Applications for the alterations or relaxation of the rules or for special concession in cases not exactly covered by them, will continue to be addressed to the Secretariat of the Government of India in which administrative questions relating to the department are dealt with.

[G. I. F. D, No. 5412, dated the 25th November, 1890].

(2) The question whether service in a particular office or department qualifies for pension or not is determined by rules which were in force at the time such service was rendered and orders subsequently issued declaring service to be non-qualifying are not applied with retrospective effect.

[G. I. F. D. No. 6800-P, dated 8th December, 1905].

(3) Under article 4, Civil Service Regulations, an officer's claim to pension is regulated by the rules in force when he resigned or was discharged from the service of Government. * * * * * * The date from which orders delegating enhanced powers take effect (unless otherwise specifically stated) is the date of the letter or Resolution in which they were communicated or the date of the correction slip by which the rules in the Civil Service Regulations were amended whichever date is the earlier.

[G. I. F. D. 442-C. S. R., dated 15th May, 1918.]

(4) The Government of India have †ruled that the benefit of any change in the leave rules made during an officer's leave cannot accrue to the officer until he retuns to duty.

[Auditor General's letter No. 766A andA—151-21, dated 22-4-1921].

(5) It is obviously a matter of great convenience, not only to audit but to administrative authorities generally, that the simple principle laid down in Rule IV of the Audit Resolution of 15th March, 1913 should continue to be fully maintained, *i. e.* that all the general codes should be fully accepted, and not require examination or be open to challenge in audit on every occasion with reference to the original sanctions on which they are based. With this object the Government of India in their various departments have agreed to submit all proposed corrections of the codes for which they are responsible for the previous scrutiny of the Comptroller and Auditor General whenever the corrections have a financial bearing. A similar practice should be followed by Local Governments as regards the various Provincial Codes and Manuals. All orders which have a financial bearing either directly or indirectly, and involve corrections to the existing rules, and all correction there to which are not the outcome of formal official orders but have a financial bearing may be sent to the Accountant General for scrutiny before issue. The Accountant General will examine the sufficiency of the sanction in each case, and in cases in which the orders are shown to him before issue he will indicate whether it is necessary that the consequential code corrections should also be scrutinized by him before the latter are promulgated. Under this procedure, every future correcion wi'l

†This does not prevent Government form making an exception that the change will apply to officers during leave as was done in the case of leave rules published with G. I. F. D. Resolution No. 1367. C. S. R, dated 29-7-1920, (G. 1, F, D. No 804 C. S. R. dated 27-7-1921.]

have valid authority behind it and the Audit Department will continue to be able to accept the codes as they stand.

[G. I. F. D. No. 680-C-S· R., dated 15-7-1916]

(6) All persons who enter service under the Central Government on or after the Ist October 1938, or who, having entered such service earlier did not hold a lien or a suspended lien on a permanent pensionable post before that date shall be governed by the Revised Pension Rules.

[G. I. F. D. No. F-6 (55) R-11/38 dated the Ist October, 1938]

Note 1 —Government of India have decided that persons who held substantive appointments in a provisional capacity before Ist October, 1938 should be governed by the old pension rules.

[G. I. F. D No F-6 (55) R-11/38 dated 8th November 1939.]

Note 2—In view of the delay that has occurred in the introduction of the Revised Pension Rules and the statutory requirement that conditions of service of permanent personnel should be prescribed by rules, it has been considered necessary to regulate the basis of existi g rules cases of persons who would atherwise be subject to the new pension rules but actually retire before these rules take effect.

[G. I F. D. No. F-6 (55)-R. 11/38 dated Ist May,1945.]

(7) Where the Central Government is satisfied that the operation of any rule regulating the conditions of service of Union Governement Servants, or any class of such Government Servants, causes undue hardship in any particular case, it may by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner.

In this rule, the expression "Union Government Servants" mean all persons whose conditions of service may be regulated by rules made by the President under the proviso to Article 309 or clause (5) of Article 148 of the Constitution.

[G- I. M. H. Affairs Notification No, 108/54 Est. (A), dated the 20th November 1954.]

(8) A question was recently raised whether decision No. (7) permits relaxation of rules relating to recruitment, promotion, retirement or re-employment, etc. for conferring benefit on a particular individual to the exclusion of all other similarly placed persons; and if so, whether the rule can be considered to be constitutionally in order.

The question has been examined and after obtaining legal advice the Government of India have reached the conclusion that the rule as promulgated by them in 1954 [*decision No. (7) above*] is constitutionally in order. It permits relaxation of those rules only which regulate conditions of service *e. g.* Travelling allowance rules, leave rules, etc. Consequently, it cannot be utilised to relax, for conferring benefit on an individual, the requirements of the rules which cannot be covered by the expression "conditions of service", *e. g.* the rules relating to recruitment, promotion, grant of extension of service or re-employment. If necessary, such rules should be amended so as to remove hardship from, and confer benefit generally on, all similarly placed individuals; they should not be relaxed to confer benefits on an individual to the exclusion of other similarly placed persons.

[G. I. M. H. Affairs Memos: No; F. 70/2/61-Ests. (A), dated the 26th June, 1961].

(9) Under the proviso to Article 309 of the Constitution the power to make rules regulating the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union vests in the President or such persons as he may direct. It is automatic that the authority which is competent to make rules is competent also to amend or interpret them The Government of India Act, 1935, expressly recognised the principle that the highest Government authority has the inherent power to relax the provisions of any service rule in individual cases of hardship where some allowance or concession, not permissible under the strict terms of the rule, is justified Sub-section (5) of Section 241 of the Government of India Act, 1935,, accordingly provided.

"No rules made under this section shall be construed to limit or abridge

the power of the Governor-General or a Governor to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable:

Provided that, where any such rule is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule....."

2. The absence of a similar provision in the Constitution created some doubt as to whether such inherent power is not enjoyed by the President. In order, therefore, to remove any doubts and to make the position in this respect clear, rule was promulgated in the Ministry of Home Affairs Notification No. 108/54-Ests (A), dated the 20th November 1954 (*decision No. 7 above*) making express provisions on the lines of sub sections (5) of section 241 of the Government of India Act, 1935.

3. This rule does not introduce a new principle or procedure which was not already in vogue, but merely serves to make explicit the position which was assumed to have prevailed heretofore. The power of the Central Government to relax a rule as and when considered necessary to deal with any particular case in a just and equitable manner is intended, as in the past, to be invoked only in rare and exceptional cases. Such action should only be taken in accordance with the accepted procedure hitherto followed in dealing with such case. Before an order of relaxation is passed in any case, the Ministry which made the rule proposed to be relaxed, and other Ministries. *e. g.* Ministry of Home Affairs and/or Ministry of Finance, as may be appropriate with reference to the facts and circumstances and subject matter of each case should be consulted and any existing rules of business or procedure of the Government of India Secretariat having a bearing on the subject should be complied with.

4. In any case in which it is agreed by the Ministry or Ministries concerned that it is a fit case in which the power to relax any rule should be exercised by the Central Government, the reasons for such relaxation should be placed on record on the appropriate file, but these should not form part of the formal order itself to be issued by the Central Government in this behalf.

5. It should be noted that any order of the Central Government which may be issued dispensing with or relaxing the requirement of any rule in any particular case should be authenticated as an order of the President in accordance with the requiremdnts of Article 77 of the Constitution.

[G.I.M H. Affairs Memo. No. 108/54-Est. (A) dated the 25th March 1955].

(10) A question was raised whether any provisions in the Government Servant's Conduct Rules violate Fundamental Rights guaranteed under the Constitution. The Government of India have been advised in the matter as follows : –

"It is necessary to emphasise that the relationship between the Government and a civil servant rests on contractual basis. In some cases the contract is evidenced by a formal document, but even where there is no formal document executed, there is none the less a contract implied by the conduct of the parties (See Gould *Vs* Stewart 1896 A. C. 576 where such relationship is referred to as a contract of service). The provision of the Constitution, and the various Rules (and residuary power of the Government to alter those rules) together comprise the terms and conditions of that contract of service, and define the rights, duties and obligations of the Government on the one hand and the civil servant on the other. A person who voluntarily enters Government service, therefore, accepts these rules and conditions voluntarily in his own interest. The Government Servant's Conduct Rules, moreover, have reference exclusively to the duration of this contract. Any breach of these rules is punishable at worst by his own removal from service. The restrictions imposed by the rules are not in truth and substance imposed upon him externally, but he accepts and abides by them voluntarily in his own interest. The operation of these rules therefore cannot be said to

be an invasion of any of the Fundamental Rights. If the Civil servant does not exercise these Fundamental Rights to the fullest, he does so merely because he considers it in his interest not to do so. But it is open to him at any time to exercise his Fundamental Rights by resigning from the civil service. He has no Fundamental Rights to insist that he should be retained in Government service and that he should have the benefit of all the rights and privileges of the contract of service, if on his own part, he does not abide by his own obligations and duties arising from that very contract."

"In the contrary view, every contract of service would necessarily involve the invasion of the Fundamental Rights of the civil servants and other employees in many ways. For instance, the contract of service of a civil servant (as indeed of any other employee) requires him to devote his time and energy to the discharge of his official functions,—and so precludes him from engaging himself in any other trade or profession, it likewise requires his presence at his place of duty for specified periods and so precludes him from going to other places during those periods; and by analogy of the arguments advanced by the Government of Assam and Orissa every such contract of service would involve invasion of the Fundamental Rights of the employee under sub-clause (*g*) and (*d*) of clause (1) or Article 19. "The view suggested by these Governments would lead to the conclusion that Article 19 would have effect to invalidate every contract of employment under Government, or public authority, etc. A view leading to such absurd results cannot be sustained."

2. The Government of India are further advised that this position is not affected by the presence, in Part III, of Article 33 which expressly authorises Parliament by law to restrict or abrogate any of the armed forces, etc. The inclusion of that Article was necessary because maintenance of discipline among members of these services necessarily and frequently required action in contravention of certain provisions of Part III of the Constitution—for instance, detention otherwise than in accordance with Article 21, and the liability to be tried and punished by Court Martial as well as by ordinary courts.

3. The Government of India are accordingly of the opinion that the provisions in the Conduct rules which place any restrictions on the freedom of speech and expression of Government servants and on their right to form associations, are not inconsistent with the provisions of the Constitution. It may also be stated in this connection that even in the U. S. A. civil servants are prohibited from taking part in politics and it has never been suggested that this prohibition involves any encroachment on any Fundamental Right.

[G.I.M.H. Affairs letter No. 141/51-Ests, dated the 11th August, 1952].

(11) See Government of India's order below Article 4—A.

Auditor General's decision :—The existing pension rule in the Civil Service Regulations must be interpreted in the light of the definitions in the C. S. R. and not in the light of the definitions in the Fundamental Rules.

[Auditor General's letter No. 985-A, dated 20-9-1923].

4-A An officer transferred to a Service or post to which the pension rules in these Regulations apply, from a service or post to which they do not apply, becomes subject to the pension rules in these Regulations, provided that it shall be open to him, within six months of the date of transfer or, if he is on leave on that date within six months of his return from leave, to elect to be governed by the pension rules to which he was subject immediately before the date of transfer. The intention of exercising this option must be specifically declared to the Local Government or the Governor General in Council as the case may be. The option once exercised shall be final.

Government of India's Order. (1) (*a*) Government servants seeking redress of their grievances arising out of their employment or conditions of

service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channels of redress before they take the issue to a court of law.

(*b*) Where, however, permission to sue Government in a court of law for the redress of such grievances is asked for by any Government servant either before exhausting the normal official channels of redress or after exhausting them, he may be informed that permission to sue the Government is not necessary, and it should *not* be added that 'if he decides to have recourse of law, he may do so on his own responsibility.

[G. I. M. H. Affairs Memo No. F. 25/3/59 Ests(A), dated the 21st April 1959 as amended by Memo. No. 25/29/63-Ests(A), dated the 26th November 1963 copies received with G. I. M. H. Affairs letter No. Dy. 771/64-Ests(A), dated the 31st January 1964.]

Note :—The question has been considered whether grievances of a Government servant in the matter of his occupation of Government accomodation and recovery of rent or damages for such occupation can be treated as matters arising out of his employment or conditions of service. In order to make the position clear, the Government of India have held that allotment of Government accomodation to Government servants and recovery of rent or damages for the occupation of such accomodation are matters arising out of Government employment.

[G. I. Ministry of Works, Housing and Supply Memo. No. 10605-W 11/52 dated the 27th December 1952].

Government of India's decisions :—(1) The Government of India have decided that any officer transferred in the circumstances contemplated by the rule referred to above before its promulgation *viz.* 16th November 1938 may exercise the option of remaining under the pension rules to which he would have been subject had he not been transferred, within six months from the date of these orders, or, if the officer be on leave on that date, within six months of his return from leave.

[Government of India, Finance Department, No. F. 11 (13) R 11/38, dated 29th May 1939].

(2) In order to determine whether the staff employed on "Agency" work should be governed by the Pension Rules of the Provincial Government under whose administrative control they are employed or by the Pension Rules of the Central Government, the staff in question may be divided into the following categories—

(*a*) Personnel, recruited for and employed in Agency Departments whose pay, leave salary, allowances and pensions are charged direct to the Central Government, *i. e.*, personel who are paid direct by the Central Government, but who are technically under the administrative control of Provincial Governments.

(*b*) Personnel recruited and employed in connection with the affairs of the Provinces whose pay, leave salary, allowances and pensions are charged to Provincial Revenues, but whom the Provincial Governments employ temporarily on Agency work. For their services the Central Goverument pays to the Provincial Governments an agreed sum which does not always include, however, their pensionary liability. The pension liability, when it accrues, is shared between the Governments on the basis of the length of service under each.

(*c*) Personnel as in category (*b*) above, whose services are employed by the Provincial Government part-time or casually, on performing Central Agency duties. For their services the Central Government usually pays an agreed sum to the Provincial Government which includes pensionary liability.

(*d*) Personnel falling in either of the three categories given above who have now come under the direct control of the Central Government on resumption by them of the administrative control over certain Agency functions.

The Government of India have considered the case of the personnel each of those categories and have decided as follows :—

Category (*a*) Those officers belonging to this category who entered the

service of a Provincial Goverment before the 31st March, 1937, would remain under the Provincial rules and the Central Government would meet their share of leave and pensionary charges as calculated under those rules. In the case of those, however, who have been recruited on or after the 1st April, 1937 or may be recruited in future for employment in Agency departments, the Central Government consider that it will be reasonable to bring them under the Central Rules.

Categories (*b*) *and* (*c*). The officers falling under these two categories (whenever recruited) would remain under the Provincial Government Rules and the Central Government would meet their share of leave and pensionary charges as calculated under those rules.

Category (*d*). The officers belonging to this category would be given the option of remaining under the pension rules to which they would have been subject had they not been transferred. If such option is not exercised specifically they would be automatically governed by the pension rules of the Central Government.

[Government of India, Finance Department, letter No. F. 6 (28) R-11/38, dated 5th December 1938]

(3) Prior to the 15th August, 1947, under section 250 (2) (*a*) of the Government of India Act, 1935, the conditions of service of officers holding listed posts were regulated by rules made by the Secretary of State. With effect from the 15th August, 1947, the provisions of that Act were adopted by the India (Provisional Constitution) Order, 1947. Under section 247 of the adapted Act, protection of the existing rights was guaranteed only to officers who had been initially appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India. So far as officers holding listed posts are concerned, in the absence of any other specific provision in respect of these officers in the Act, they had to be deemed only as persons serving in connection with the affairs of the particular Province in which they were serving and their conditions of service had thenceforth to be regulated only by rules made by the Governor of the Province or other competent authority under section 241 (2) (*b*) of the Act. In view, however, of this continuing provision regarding existing rules in section 276 of the Act, the officers continued to be governed by the provisions of the Civil Service Regulations and the Superior Civil Services Rules as they stood on the 14th August, 1947, in the matter of their pension. The same position has been maintained in the Constitution also The listed posts holders are not, therefore, affected by any changes made in the Civil Service Regulations and the Superior Civil Services Rules after the 14 August, 1947. The new pension scheme contained in appendix 41 to this Compilation is not applicable to them.

[G. I. M F. letter No. F. 2 (5) Est. (Spl)/51 dated the 7th March 1951].

(4) The question was considered some time ago as to what rules should apply to officers who had been appointed substantively to listed posts before the 15th August, 1947. It was then decided [see decision No (3) above] that the rules applicable should be the Rules as they stood on the 14th August, 1947 in their application to officers appointed by the Secretary of State, without any subsequent modification. The question has been considered again and it has been decided that the position should remain as indicated above.

[G I. M. F. letter No. F. 24 (14)—E. V/52, dated the 30th April 1952]

(5) Under Article 4-A, C S. Rs. an officer transferred to a service or post to which pension rules in C.S.Rs. apply from a service or post to which they do not apply becomes subject to pension rules in the C S.Rs. provided that it is open to him within six months of the date of transfer or if he was on leave on that date, within the six months of his return from leave to elect to be governed by the ponsion rules to which he was subject immediately before the date of transfer.

Instances have been brought to the notice of the Government of India where the officers concerned failed to exercise option within the prescribed time

limit. Generally, the reason adduced in such cases has been that the officer concerned was ignorant of the provisions mentioned in para 1 above. Ignorance of rules is not considered to be an adequate excuse for such failure and, normally, it should not be treated as a valid ground for giving a fresh opportunity for the exercise of the option. The point for consideration is whether in such cases the officer concerned should not be specifically apprised of the position of the above rule in the Civil Service Regulations.

The matter has been considered by the Government of India in consultation with the Comptroller and Auditor General and it has been decided that the administrative authority concerned should clearly bring to the notice of the officer concerned, the provisions of Article 4-A, C.S Rs. while issuing the order of confirmation of such an officer under the Government of India.

All the Ministries etc. are requested to bear in mind the above instructions while dealing with the cases of permanent absorbtion of officers not subject to the pension rules in the C.S. Rs. under the Government of India.

[G. I. M. F. Memo, No. F. 3 (22) E.V. (A)/63, dated the 21st June 1963]

CHAPTER II.—DEFINITIONS

5. Unless there be something repugnant in the subject or context, the terms defined in this Chapter are used in the Regulations in the sense here explained.

6. *Absentee* **means an officer absent from an appointment on which he has a lien, either on leave or on deputation to another appointment, whether permanent or temporary, or on special duty unconnected with his own appointment, or on joining time, or under suspension.**

Government of India's decision :—A man under suspension is an absentee if the suspension is confirmed. If he is honourably acquitted he is not an 'absentee' but must be treated in every respect as if he had been on duty.

[Para 4 of Bihar Supplement to the Civil Service Regulations]

Auditor General's decision :—See Auditor Generals decision under Article 4.

7. *Accountant General* **includes "Auditor General" and "Comptroller".**

8. *Active Service* **includes besides time spent on duty in India :—**

(*i*) **Privilege leave and Subsidiary leave.**

(*ii*) **Examination leave under Article 279 and 280, provided that not more than twelve months of such leave can be so reckoned; and that leave under clauses (*a*) to (*c*) of Article 280 is not reckoned as Active Service, unless the officer passes the examination for which the leave is granted. Leave under Article 281 also counts as Active Service, provided that the officer successfully passes the examination for which the leave is granted.**

(*iii*) **Time spent on the voyage to India by an officer who is recalled to duty before the expirty of any recognised leave out of India provided his return to duty is compulsory** [*see* **Article 199**]

(*iv*) **For purpose of pension, the period of absence from India of an officer deputed or detained out of India on duty,**

Government of India's decisions :—(1) Privilege leave combined with other leave counts as active service and, therefore, as service for furlough with which it is combined.

[G.I.F.D. 2585-P., dated 14-5-1901-]

(2) Service with His Majesty's Forces will count for active and total

service for pension (including invalid pension) as follows :—

"Candidates who have attained the age of 25 and are under 27 on 1st August preceding arrival in India, will be allowed to count a period not exceeding one year, provided such period was spent in active war service, including sick leave. Candidates of 27 years and over will similary be allowed to count a period not exceeding two years subject to the same proviso.

[Press Com. of the G.I.H.D (Est.) dated 15th March, 1920].

(3) It has been decided that disability leave under Fundamental Rule 83 (which was formerly known as wound leave) is included in 'active service.'

[Auditor General's No. 1014-A.—388-23, dated 2-10-23.]

(4) See Government of India's decision No. (2) below Article 561.

9. In the case of a member of the Indian Civil Srvice, Active service includes also—

(*i*) The interval between the date of an officer's first arrival in India and the date on which he joins his first appointment.

Note—If an officer does not join his first appointment within the joining time allowed him, the interval between the end of such joining time and the date on which he actually joins is not Active Service.

(*ii*) Time passed in India, out of employ on Subsistence Allowances but not on Furlough. (But see Exception in Article 187).

Note—This clause applies to Military Officers subject to the Civil Leave Rules.

(*iii*) For purposes of pension, the period not exeeding ten months spent in Russia in studying the Russian language.

Government of India's decision :—The expression "Time passed in India out of employ on Subsistence Allowances" in clause (*ii*) of this Article does not include time spent under suspension adjudged as a penalty.

[G.I.F. & C. D. No. 1348, dated 20-3-1886.]

10. *Cancelled.*

11. *Not printed*

12. *Not printed*

13. *Not printed*

14. Age. When an officer is required to retire, revert, or cease to be on leave, on attaining a specified age, the day on which he attains that age is reckoned as a non-working day and the officer must retire, revert or cease to be on leave (as the case may be) with effect from and including that day. This rule applies to all officers, Civil, Military or Naval.

Government of India's decisions :—(1) In the case of an officer whose year of birth is known, but not the exact date, the Ist July should be treated as the date of birth for the purpose of determining the date on which the officer concerned should be held to have attained the age of 55 (*now* 587) years. Similarly, if only the month and year of birth be known, the 16th of the month is taken to be the exact date of birth.

[G.I.F.D. 7455-P., dated 24th December, 1907.]

(2) In cases in which neither the date, month nor the year of birth of an heir to a family pension can be ascertained, the year of birth of the claimant is calculated from the account given by the investigating officer and the date and month taken as the Ist July of that year. In cases in which the year and month in which the claimant was born are known, but not actual date, the latter should be taken as the 16th of the month.

[G.I.A.D. No. 31226-I (A,G. 10) dated 24-1-1916.]

(3) Every person on entering service shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering service in Central Government, Installation.

(*i*) In the case of literate staff, the date of birth shall be invariably supported by documentary evidenee, and entered in the record of service in the employees own handwriting.

(*ii*) In the case of illiterate staff, they will be required to produce some documentary evidence, if available, *e. g*, horoscope or extract from the Municipal Birth Register in support of their date of birth which shall be recorded by a responsible gazetted officer and witnessed by another responsible employee of the Installation not below the rank of a Supervisor or of equivalent grade. In case no such proof is available the procedure as laid down in para 2 below will be followed.

2. (*a*) When the year and the month of birth are known but not the exact date, 16th of that month shall be treated at the date of birth.

(*b*) When a person entering service is unable to give his date of birth, but gives his age, he should be assumed to have completed the stated age on the date of attestation, *e g.*, if a person enters service on Ist January, 1950 and if on that date his age is stated to be 18, his date of birth should be taken as Ist January, 1932.

(*c*) Where the person concerned is unable to state his age. or where the age as stated by him is obviously incorrect it should be assessed by the medical officer and the age so assessed entered in his record of service in the manner prescribed above.

3. The date of birth as recorded in accordance with the rules shall be held to be binding and no alteration of such date shall be permitted except where *prima facie* evidence is produced that the date of birth recorded in service records is incorrect. Where alterations become necessary due to a clerical error, it shall be open to the Head of the Service in the case of gazetted officer and the Senior Officer of Installation, or any other officer authorised, in the case of non-gazetted employees to cause the date of birth to be altered. All other cases for the change of the date of birth shall be referred to the Ministry of Defence. Unless requests for alteration of date of birth are made within reasonable time or good grounds are adduced for long delay in making such requests, these shall not be considered. No requests made about the time of superannuation shall be entertained.

4. Where it is proved that the date of birth have been falsely stated by an employee to obtain an advantage, otherwise inadmissible disciplinary action shall be taken against the individual concered in addition to effecting the necessary alteration of the date of the birth in service records.

[Army Instruction No. 80, dated the 3rd March 1951 as amended by Army Instruction No. 239 of 1953]

Note :—See Note to Government of India's decision No. (2) below Article 51.

(4) See Government of India's decisions below Article 51.

15. *Audit Officer* **means the Account and Audit Offier, whatever his official designation, in whose circle of Audit a public servant is serving or in respect of verification of service for pension is holding or has held a permanent non-tenure post in a substantive capacity.**

* * * * * * * * *

16. *Average Salary* **means the average of the salary which an officer has earned during so much of the three years preceding the day on which he gives up office as he has passed on duty or on privilege leave.**

Note 1. In the calculation of "Average Salary", Privilege leave on half salary in the case of officers entitled to regular vacations, granted under Articles 271 to 274 is treated as if it were on full salary.

Note 2. If the period spent by an officer on special duty in England is allowed to count for leave it is included in the calculation of Average Salary, on the assumption that the officer drew full salary. Otherwise it is excluded in calculating Average Salary.

Note 3. When Privilege leave is combined with other leave under Article 232, the calculation is made up to the day preceding the commencement of the Privilege leave.

Note 4. In calculating the furlough allowance of an officer of the Royal Engineers

in civil employ, when the period spent in undergoing the Chatham course and the subsequent military training in India falls wholly or partly within the 3 years on which average salary is based, the salary drawn by the officer immediately before proceeding on military training should for a maximum period of 12 months, be taken into account instead of the salary actually drawn at military rates while under training.

Government of India's decisions :—(1) The period spent on joining time granted under Article 227, C. S. R. should be treated as duty and the allowance actually drawn during that period should be included in the calculations of average salary.

[Para 14 of Assam Supplement to C. S. R. (1st Edition)].

(2) In the case of an officer recalled to duty and proceeding on furlough shortly after, the calculation of leave salary should be made by taking into account the period *within three years* spent on duty or on privilege leave before and after the leave from which the officer was recalled.

[G. I. F. D. No. 5664 P., dated 17-9-1903.]

(3) When a temporary appointment is created for a particular piece of work, the intention is that the officer who may be appointed to fill it shall not take leave during the duration of the work, and if for any reason he is compelled or allowed to do so, he ought not to get higher leave allowances as a consequence of the higher pay temporarily granted to him. The Government of India, however, consider it would not be equitable to apply this principle in cases where the work is protracted and when the duration of the temporary appointment is consequently prolonged. This is the principle which led Government of India to alter Article 266 of the Civil Service Regulations in its present form and the test there prescribed, namely, whether the temporary appointment was originally created or has already lasted for more than six months is also to be applied when the incumbent of a temporary appointment goes on long leave. * * * * * *

[G.I.F.D. 614-P, dated 5-2-1907 and Comptroller General's No. 1114-A & A-488-15, dated 12-11-1915]

Note.—With effect from 19th March 1919 the above decision is applicable only to holders of appointments of the kind specified in Article 76-B, Civil Service Regulations.

[G. I. F. D. No. 1631-C. S. R. dated 20-9-1920].

(4) Average salary/average pay of the Government servant who proceeds on leave shortly after reinstatement which was preceded by a period passed under suspension, shall be calculated on the basis of pay actually drawn by or allowed to him during the 3 years preceding the day on which he gives up office in the case of those governed by the leave rules in the CSR or the 12 or 36 complete months as the case may be, preceding the months in which the leave commences in the case of those governed by the leave rules in Appendix 39.

The leave salary of a Government servant who is allowed to draw pay under Article 68-A or 108 CSR shall also be calculated similarly *i. e.* on the basis of the pay actually drawn by him.

[Government of INDIA, Ministry of Defence office Memoradum No. 82109/AG/Org 4 (Civ)(d)/16098/D (Civ-II) Dated the 8th January 1959]

17. *Barrister* **means a practising Barrister of England or Ireland and a practising member of the Faculty of Advocates of the Court of Session of Scotland. It does not include a person who, though a Barrister, has never practised the profession of Barrister.**

18. *Calendar Month.*—**The following examples show how a period stated in calendar months should be calculated :—**

Examples —A period of six calendar months beginning on the—	ends on the
28th February	27th August.
31st March or 1st April	30th September.
29th August	28th February.
30th August or 1st September	Last day of February.
A period of three calendar months beginning on the—	
29th November	28 February.
30th November or 1st December	Last day of February.

19. *Not printed*

20. *Not printed*

21. *Consolidated pay* **includes Military pay and allowances or Indian Army pay which cannot be separately drawn.**

22. *Continuous Service and Continuous Active Service* **mean the Service and Active Service of an officer since his last return from Furlough or Extraordinary leave lasting in either case more than three months ; or, if he have not had such leave, since the beginning of his Active Service. No leave may be included in Continuous Service, except Privilege leave and Special leave ; and in the case of Royal Engineer who has elected for Continuous Service in India, Furlough on urgent private affairs under Rule XI of the Rules of 1868** (*See* **Article 231**)

1. Examination leave under Articles 279 and 280 may also be included, unless the officer have already had twelve months' such leave, or, in the case of leave granted under clauses (*a*) to (*c*) of Article 280 unless the officer have failed to pass the examination for which the leave was granted. Leave admissible under Article 281 may also be included, unless the officer fails to pass that examination for which the leave is granted.

Government of India's decisions :—(1) Furlough not exceeding three months, combined with privilege leave for three (*should now be four*) months, does not constitute an interruption of "continuous" service and continuous active service."

[G I. F. D. No. 2585—P., dated the 14th May 1901]

(2) Furlough for less than three months, combined with study leave, does not constitute an interruption of continuous service even though the combined leave, furlough and study leave, exceeds three months.

[G. I. F. D. No. 7336—P., dated 13-12-1907.]

23. *Not printed*

23-A *Deputation* (*duty*) *allowance* **is an allowance given, in addition to pay or salary, to an officer deputed on special temporary duty when such duty involves a decided increase of work or responsibility in comparison with the duties of his regular appointment** (*See* **Article 76 C, 77 and 81**)

Government of India's decision. See Government of India's decisions No. (1I) and (1B) below Articles 487-A. and 486 respectively.

23-B. *Deputation* (*local*) *allowance* **is an allowance given, in addition to pay or salary, to an officer deputed on special temporary duty in consideration of a change of station involved by the deputation.**

Note 1. When the depution involves both increased work or responsibility and a change of station, the deputation allowance will be classed as deputation (duty) or deputation (local) allowance according as the former or the latter is the main consideration in fixing the allowance.

Note 2.—The extra emoluments drawn by an officer filling a temporary appointment which is not of the character to an existing appointment will be classed as a deputation (duty) allowance or as a deputatisn (local) allowance, according as they are granted for increased work or responsibility, or for a change of station.

23-C. *Duty allowance* **is an allowance given to an officer ; in addition to pay or salary, in codsideration of the unhealthiness of the locality in which the work is performed or of the specially arduous nature of his duties or of increased work or responsibility or for the discharge of duties which do not properly belong to his office and for which there is no sanctioned appointment.**

Government of India's decisions. See Government of India's decision No. I-B below Article 486.

24. *Extraordinary leave* **means Special Furlough granted under Rule 8 of the Military Furlough Rules 1875 and leave of absence from duty granted** (*See* **Article 306**) **otherwise than under the Leave Rules.**

Example ; Leave in extension of the three years admissible under Article 304 (*a*),

25. *Not printed*

26. *First appointment* **inclndes the appointment of a person not at the time holding any appointment under Government even though he may have previously held such an appointment.**

Government of India's decisions :— (1) The following procedure for change of name by Government servants has been decided upon by the Ministry of Home Affaris in consulation with the Ministry of Law :—

"A Government servant wishing to adopt a new name or to effect any modification in his existing name should be asked to adopt the change formally by a* deed changing his name. In order that the execution of the document may not be in doubt it is desirable that it should be attested by two witnesses preferably those known to the head of the office in which the Government servant is serving. A sample deed form is given in the footnote on this page for reference. The execution of deed should be followed by publication of the change in a prominent local newspaper as well as Gazette of India, publication being undertaken by the Government servant at his own expense in both cases. For the publication of the advertisement in the Gazette of India, Government servant should be directed to approach the Manager of Publications, Government of India Publication Branch, Civil Lines, Delhi.

It is only after the formalities described in the foregoing paragraph have been complied with and satisfactory evidence of identity and execution of the document adduced by the Government servant that the adoption of the new name or change in the existing name should be recognised officially, entries in Government records so far as may be necessary being amended accordingly. True copies of the relevant documents should be retained by the Head of the offices concerned."

G.I.M.H. Memo. No. 60/274/48 Ests., dated 3-11-1948 as amended by Memo. No. 87/52-Ests. dated the 24th March 1952].

(2) Various questions have arisen from time to time in connection with the employment of honorary workers in civil posts. After careful consideration it has been decided that the following instructions should be laid down for the guidance of all concerned.

2. The basic principles to be adopted in this matter are :

(*i*) Employment of honorary workers in civil posts should be an exceptional procedure to be resorted to only in abnormal circumstances or when suitable paid employees are not available.

(*ii*) Honorary employment should be offered only to such persons as have rendered meritorious services or are eminent in public life and have a striking reputation for integrity.

(*iii*) Services of an honorary worker should be utilised only in an advisory capacity. The work to be entrusted to him should not be such as would involve exercise of executive, administrative or judicial powers as the holder of a civil post or exercise of authority in the name, or on behalf, of Government.

(*iv*) An honorary worker should be paid a nominal salary of Re. 1 per

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*DEED CHANGING A SURNAME

By This Deed I the undersigned A. B. C. (new name) of etc now lately called A. C. (old name) employed as.....(designation of the post held at the time by the Government servant concerned) at..... (Place where employed in the Ministry/Department of the Government of India do here by :-

1. For and on behalf of myself and my wife and children and remoter issue wholly renounce, relinquish and abandon the use of my former surname of C (only) and in place there of do assume from the date there of the surname of B. C. and so that I and my wife and children and remoter issue may hereafter be called, known and distinguished not by my former surname of C, (only) but by my assumed surname of B. C.

2. For the purpose of evidencing such my determination declare that I shall at all times hereafter in all records, deeds, writings and in all proceedings, dealings and transactions as well private as public and upon all occasions whatsoever use and sign the name of B. C. as my surname in place of and in substitution for my former surname of C. (only).

3. Expressly authorise and request all persons at all times hereafter to designate and address me and my wife and children and remoter issue by such assumed surname of B. C. accordingly,

In Witness Whereof I have hereunto subscribed my former and adopted names of A. C. and A. B. C. and affixed my seal this.....day of.....

Signed, sealed and delivered by the above named A.B.C. formerly A. C. in the presence of (b) } A.C. A.B.C.

month in respect of the civil post, the duties of which he is required to perform. This is necessary in order to bring him within the ambit of the Government Servants Conduct Rules and other service rules. An honorary worker need not, however, actually draw such nominal salary and may by writing to the Accounts officer concerned voluntarily surrender it. For the purposes of official records, however, such nominal salary must be fixed and specified in the order of appointment.

(*v*) All honorary workers should automatically and *proprio vigore* be subject to the provisions of the Indian Official Secrets Act, 1923. They need not be required to sign any declaration in this connection but the position should expressly be made clear to each honorary worker at the time of his appointment.

3. It is realised that strict enforcement of the above principles may present political difficulties in individual cases. For example, it may not be necessary to enforce the requirements of clause (*iii*) in paragraph 2 above in the case of persons who have previously held a high office under Government. Again, honorary workers who are prominent in the public or political life of the country cannot reasonably be expected to sever their life-long association with the political parties to which they belong ; as a working arrangement, therefore rules 18, 20 and 23 (*now* rule 4) of the Government Servants Conduct Rules ought not to be enforced against such persons in so far as participation in politics is concerned. In all other respects, however, such persons should be governed by the provisions of the Government Servants Conduct Rules.

5. In the case of the employment of Members of Parliament in an honorary capacity it is necessary to ensure that such employment does not amount to holding an office of profit under Article 102 (1) (*a*) of the Contitution. In such cases the requirements of clause (*iii*) in paragraph 2 above should be strictly adhered to while the requirements of clause (*iv*) should not be enforced at all. The instructions issued in the Ministary of Law's Office Memorandum No. F. 55 (1)/50-C, dated the 6th February, 1951, regarding the payment of allowances and fees to Members of Parliament should also be carefully borne in mind.

5. All proposals for the employment of honorary workers in civil posts as well as all proposal for exceptional treatment in cases in which the Ministary concerned consider that the requirements of any of the basic principles laid down in paragraph 2 above should be relaxed should be referred to the Ministry of Home Affairs for prior concurrence.

6. It should be made clear to honorary workers at the time of their appointment that there is no obligation on the part of Government to provide them with residential accommodation or any other concessions usually allowed to salaried employees of Government. Each such case would be treated on its merits. Accommodation, furniture etc. may be made available if justified and to the extent it can be done without detriment to Government's commitments to salaried employees.

[G.I.M.H. Affairs letter No. 25/2/50-Ests , dated the 20th June, 1951].

Note. Some cases have come to notice in which persons drawn from private industrial firms are employed in Departments dealing with private Industry either on a token salary of rupee one or as fully paid officers having liens on their posts in the private firms The system of honorary appointments of persons drawn from the private industry was adopted during the War and for sometime thereafter for various reasons but there is no justification for continuing it in the present context. It is considered wrong in principle to have officers in Government departments dealing with private industry who are themselves permanent employees of private firms, as such connections naturally raise suspicion (even if it is unfounded) about the officer's independence and impartiality. It has, therefore, been decided that such appointments should not be made in future unless there are very exceptional circumstances justifying a departure from this rule. Any appointments which have already been made should be reviewed with a view to discontinuing the arrangement as early as possible.

[G.I.M.H. Affairs Memo. No. 54/4/53 Ests. (B) dated the 22nd November 1955].

(3) It has been decided that in the case of future direct recruits to the grades of Peon, Jamadar, Daftry and Record Sorter in all the Offices of the Government of India, the minimum educational qualification will be middle school standard. In future, applicants to these posts will be required to produce a certificate issued by the competent authority *i. e.* Board of Examination set up by the Government, or by the Head of a recognised School, where there is no such examination conducted by an authority outside the school, that they have passed the middle school standard.

It has also been decided that no minimum educational qualification can at persent be prescribed for the grades of sweepers, farash and chowkidar, etc., until the percentage of all-India litracy increases considerably, and educated persons to man these grades become available Government servants belonging to these grades will not, however, be eligible for appointment as Peons unless they satisfy the prescribed educational qualifications.

This Instruction applies to D. G. O. F's Organization also.

[Army Instruction No. 138 of 1952].

Note. (1) The following further decisions have been taken :—

(*i*) the prescribed minimum educational qualifications will apply to all recruitment, whether permanent or temporary.

(*ii*) retrenched permanent Displaced Government servants will be exempted from the condition regarding minimum educational qualifications.

(*iii*) the minimum educational qualification will not apply to persons who have been in continuous service from a date prior to the 29th March 1952, the date of issue of the orders, for purposes of either quasi-permanent appointment or confirmation.

(*iv*) where an authority outside the school itself, like a body appointed by Government conducts the middle school examination, then a certificate by that body will be accepted. Where there is no such authority then a certificate from a recognised school to the effect that the person concerned has duly passed the middle standard examination will be accepted.

(*v*) Retrenched temporary Government Employees (Displaced as well as Central) who have put in a minimum of three years before termination of their services will also be exempted from the condition regarding minimum educational qualifications. In the case of other retrenched personnel, the minimum educational qualification will apply. In computing the three years service for this purpose, broken periods of service shall also be taken into account. Broken periods for this purpose would also include spell of service in the Government of India or in Government of the areas which now constitute Pakistan.

This instruction applies to D. G. O. F.'s Organization also.

[Army Instruction No. 265 of 1952]

Relaxation :—The following relaxatios have been decided upon :—

The minimum educational qualification prescribed for recruitment to Class IV service should be relaxed also in favour of :—

(*a*) persons demobilised from the Defence Forces after having put in 3 years service ; or

(*b*) demobilised personnel re-employeed in a civilian capacity whose total length of service in the Forces/or in a civilian capacity is not less than 3 years.

In the case of other demobilised personnel the minimum educational qualification will apply.

In computing the period of three years' service broken periods of service should also be taken into account, and for this purpose broken periods will include spell of service in the Forces and in civil offices of the Govenment of India or of the Governments of the areas which now constitute Pakistan.

This Instruction applies to D. G. O. F's Organization as well.

[Army instruction No. 72, dated the 14th March, 1953.]

Note :—(2) The term "demobilised personnel" used in above Army Instruction would include all those Army personnel who are/have been retrenched/discharged from the Army due to reduction in establishment ,disbandment of units; or as a result of percentage cuts on the authorised establishment in the Army or due to completion of tenure of service in the Army.

[G. I. M. of Defence, Memorandum No. 6(3) 58/16325/Appts) dated the 8th June 1960].

Note (3) Army Instruction No. 138 of 1952 as amended from time to time will also apply to Messengers in lower formations.

This Note also applies to D. G. D. F's Organization.

[Army Instruction No. 151, dated tne 12th July, 1958]

(4) A question has been raised whether a Central Government servant

may be transferred compulsorily to a post outside the cadre of his own department or service. The question has two aspects, namely—

(*a*) whether such transfers can be made without the officer's consent and ;

(*b*) if so, in what circumstances they should or should not be made.

The object of this Office Memorandum is to clarify the legal position and to indicate the general considerations to be borne in mind in dealing with individual cases.

2. Fundamental Rule 11 declares that unless in any case it is otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority without claim for additional remuneration whether the services required of him are such as would ordinarlly be remunerated from the General Revenues, or from a Local Fund. Under F. R. 110, a Government servant's transfer to "foreign service" cannot be effected against his will. That restriction does not, however, apply to transfer of a Government servant from one post under Government to another which is permissible under F. R. 15. This rule clearly contemplates that such transfers may be to any post, within or outside the parent department or service and also that the appointment to the new post may be of any description, *e. g.* temporary, officiating, substantive. etc. The only restriction laid down is that save in the circumstances specified in the rule, the transfer shall not be made to a post carrying less pay than the pay of the permanent post on which the Government servant holds an actual or suspended lien. If the transfer is at the officer's own request or on account of inefficiency or misbehaviour, even a reduction in pay is permissible. This will, of course, be subject to the safeguards laid down in the Constitution and the disciplinary rules applicable to the officer. Fundamental Rule 15, read with Fundamental Rule 12-A, makes it clear that a substantive transfer from a permanent post in any service or department to a permanent post in any other service or department can be so made as, to abolish the lien on the original post and to create a lien on the new post. In other words, even a permanent transfer from one service or department to another service or department can be made irrespestive of the wishes of the Government servant concerned.

It is evidently in the public interest that in order to bring about all round national development, Government should be free to utilise the available man-power to the best advantage. The Ministries etc are therefore, advised to examine whether in the recruitment rules or terms of service governing the departmental cadres, with which they are concerned, there is anything which hampers this freedom and if so, whether any amendments of the rule, etc., can be made.

3. On the other hand, though the power to make such transfer is available, it should be exercised in the public interest and with due care. The following general consideration whould have to be borne in mind :—

(*i*) The best utilisation of available man-power does not necessarily require permanent transfers. But even if services of an officer are needed in a post outside the parent service or department it is usually sufficient to arrange for his deputation for a limited period.

(*ii*) Organised separate services for dealing with the needs of different branches of administration provide a steady supply of officers with specialised training and graduated experience who have a sense of departmental loyalty and reasonable assured prospects. Compulsory permanent transfer to and from such services should only be made in cases of proved necessity.

(*iii*) Other things being equal, the State will get better service from a willing servant than from one who is compelled to carry out the

duties of a post againsts his wishes. So long as the reluctance of an officer is not based on unreasonable or unworthy considerations, public interest would generally be better served by taking some one who is not so reluctant.

(*iv*) While the public interest is served, the legitimate claims and expectations of individual employees should not be ignored. It is necessary to make sure, not only, that there is no loss of pay but also that the employee's reasonable expectations in the original service or department are preserved, or equal prospects are provided in the service or department to which the employee is transferred. At the same time, the interest of members of the service or Department to which the transfers are made should also be considered.

(*v*) A transfer to a distant place involves movement not only of the officer concerned but also his dependants. This may well be a serious hardship, especially to the low paid employees.

4. The foregoing applies only to compulsory transfers from one Central service or department to another. The Constitution has made a separate provision for the Central Services, the State Services and All India Services. Compulsory deputation betwwen the Centre and the States would be justified in the case of All India Services only. In the case of the Central Service, F. R. 11 refers to liabilty of the Government servants in the post in which they are paid by that Government. Unless, therefore, members of any particular cadre, are, by the very terms of their appointment, made liable to serve under the Central Government and the State Governments, transfer of Central Government servants to post and services under States would not be justified.

In case of Part 'C' States, [*Union Territories*] however, even where the rule making power has been delegated to the State Government, the service of the State are under the ultimate control of the President. Accordingly, transfers of Central Government servants to posts under those States are permissible, but should be made only if essential in the pubilc interest and subject to the considerations stated in para 3 above.

[G I. M. Affairs Memo. No. 75/55 Ests. (4), dated the 24th March 1955.]

(5) A question was raised whether a certificate of Middle School Standard without English can be accepted for appointment to the grades of Peon. Jamadar, Daftry and Record Sorter until English is replaced by Hindi. It has been decided that a certificate of Middle School Standard without English can be accepted for appointment as a Peon only, For the promotion of peons so appointed, to the posts of Daftry, knowledge of English will be insisted upon and the orders contained in Ministry of Defence Memorandum No. 10231/D-Appts. dated the 20th September, 1954, extracts from which are reproduced in the annexure, will continue to be followed.

This applies to D.G.O.F's Organization also.

[Army Instruction No. 45 dated the 25th February, 1956.]

ANNEXURE

Extract from Ministry of Defence Memorandum No. 10231/D, Appts) dated the 20th September, 1954.

A question has been raised whether promotion to the posts of daftries from the grade of Peons should be made on the basis of selection on merit or on the basis of seniority subject to the rejection of the unfit. It has now been decided that promotion should be made on the basis of the principle of seniority subject to the rejection of the unfit. The practice followed in some offices of holding tests in order to determine the suitability of the peons eligible for promotion is not, therefore, correct. This test is one designed to ascertain whether the peons have sufficient knowledge of English and are otherwise suitable for performing the duties of daftries. As the Middle School Standard has been prescribed as the minimum educational qualification for peons, in future all peons with the minimum qualification can be presumed to have sufficient knowledge to perform the duties of daftries. Moreover, their aptitude for the due performance of the duties of daftries can be adjudged on the basis of their confidential records. A test would, therefore, be necessary in order to ascertain the suitability for promotion of only those peons who donot have the

minimum educational qualification. Such persons may be subjected to test in order to ascertain whether they are suitable for promotion. Thereafter all the peons who are suitable for promotion should be arranged in the order of their seniority and promotions made in that order.

2. The question has also been raised whether the promotion of peons as daftries should be regarded as promotion and on that basis not shown in the communal roster. Permanent and quasi-permanent peons are eligible for promotion. Those who are neither permanent nor quasi permanent cannot be promoted as daftries unless they have the minimum educational qualifications or they have been in continuous service from a date prior to the date of issue of Army Instruction No. 138 of 1952 [*decision No.* 3 above]. It has accordingly been decided that appointments of peons as Daftries should be regarded as promotions and need not be shown in the communal roster. It is necessary, however, to ensure that the claims of Schedule Caste/Tribe peons are adequately safeguarded and that they are not superseded for promotion on the ground of suitability. As promotions are to be made on the basis of seniority, subject to the rejection of the unfit, it follows that a senior peon belonging to a Scheduled Caste/Tribe should not be superseded for promotion as a daftry merely on the ground that a junior peon is considered more suitable."

(6) Home Ministry's Office Memorandom No. 13/1/51-NGS, dated the 16th November, 1951, prescribe middle school standard as the minimum educational qualification for direct recruits to the posts of peon, jamadar and daftry, in Central Government offices. According to subsequent orders issued under Home Ministry's Office Memorandum No. 13/1/51-NGS, dated the 13th February 1952, 1st April, 1952 and 10th October, 1952 certain categories of persons have been exempted from this minimum educational qualification. It has come to notice that a number of unqualified peons have been appointep in some of the Ministries/Offices, after 1951. Such cases have come to the notice of the Home Ministry in connection with proposals for declaring them quasi-permanent in the grade of peon. In cases where the peons concerned are not covered by the exemptions, it has not been found possible to declare them quasi-permanent in the grade of peon, in relaxation of the educational requirements. In such cases the Ministries/Offices were advised to switch over the unqualified peons to other Class IV grades *e. g.* farash, chowkidar, etc. for which no educational qualifications have been prescribed. It has, however, been represented by some of the Ministries that, consequent on the ban on creation of new posts, it is not possible to absorb these unqualified peons in alternative grades of farash, chowkidar, etc. and that in such cases the minimum educational qualification may be relaxed in favour of the individuals for proposes of quasi-permanency in the grade of peon. The proposal has been carefully examined in the Ministry of Home Affairs. It has been observed that in many cases these unqualified peons have been appointed due to a misunderstanding of the orders granting exemptions in certain types of cases. It is further noticed that in some of the cases, the unqualified peons have rendered as much as 10 years' service in the grade. In the circumstances it is felt that the unqualified peons will be put to a great hardship if, after serving in the grade for number of years, they are now denied the benefits of quasi-permanency and confirmation merely on the ground that they do not possess the middle school qualification. It has, therefore, been decided that such unqualified peons who have rendered not less than 5 years service in the grade on 1st January 1962 may be exempted from the educational requirement for purposes of quasi-permanency and confirmation in the grade of peons. Such persons will, however, be required to pass the test in English for purposes of promotion to the post of daftry, in terms of Ministry of Home Affairs Memo. No. 13/50/54-S & NG, dated the 16th July, 1954. As regards persons who have not completed 5 years' service on 1st January, 1962, they may be asked to acquire the middle school qualification before they are considered for quasi-permanency or confirmation in the grade of peon. If, however, they are not agreeable to this stipulation, they may be switched over to other Class IV posts for which no educational qualifications have been prescribed.

2. Further, the Ministry of Finance/etc, are requested to impress upon the authorities responsible for making recruitment to Class IV posts in the Ministry as well as in its Attached and Subordinate offices, that no such irregular appointments should be made in future in relaxation of the educational requirement *except* in cases which are covered by the exemptions allowed under the orders issued from Home Ministry on the subject.

3. It appears that there is some misunderstanding about the exemption allowed in Home Ministry's Office Memorandum No. 13/1/58-NGS-I, dated the 10th October, 1952 in respect of "demobilised" army personnel. It may be stated that the exemption contemplated under the above O. M. is admissible only to those ex-army personnel who have been discharged from army service as a result of reduction in strength. In cases of doubt as to whether a person is covered in the exemptions allowed under any of the orders issued on the subject, the matter may be referred to Home Ministry for clarification before the person is actually appointed.

[G. I. M. F. Affairs Memo : No. 9/9/62 Ests (C) dated the 10th April 1962]

(7) The Government of India have decided to recognise the Army Class I Certificate of Education as equivalent to Middle School Standard Certificate for purposes of appointment to the post of Peon under the Central Government.

As English is not one of the subjects included in the syllabus for the Army Class I certificate of Education Course for purposes of promotion of peons appointed on the basis of the above certificate to the post of Daftry, knowledge of English will be insisted upon and the orders contained in Annexure to decision No. (5) above which prescribes a test to be held will be applied in such cases. But in cases where a person in possession of Army First Class Certificate of Education also holds Army II or I Class English Certificate, he will not be subject to such a test.

[Civilian Personnel Routine Order No. 83, dated the 1st August 1963]

(8) 1. * * * * *

2. The Government of India in consultation with all the State Governments, Ministries of the Government of India and the Union Public Service Commission, have decided that : —

(*i*) the educational qualifications and the age-limits for recruitment to the various Public Services shall be as shown below :—

Services 1	Qualifications and age-limits 2
1. *Superior Services* All India and Central (Class I)	University degree essential Age : 21—24 years; but for the Indian Police Service 20—24 years.
2. *Middle Group Services* (*i*) Central Class II (Gazetted)	University degree essential Age : 21—24 years.
(*ii*) Central Class II (non-gazetted) and Assistant in offices not participating in the Central Secretariat Service Scheme.	University degree essential Age : 20—24 years.
(*iii*) Central Class III (Non-Clerical), other than SAS Apprentices and Divisional Accountants in the Indian Audit and Accounts Deptt.	University degree not essential, and the minimum educational qualifications may be Intermediate/Senior Cambridge/ Higer Secondary Certificate, or equivalent qualifications. In order, however, that graduates may be able to compete, the age-limits should be 19—23 years.
3. *Clerical Services* (*a*) Upper Division other than those recruited direct	Intermediate/Senior Cambridge/Higher Secondary Cer-

	to the grade in the Indian Audit & Accounts Departments.	tificate or equivalent qualifications. Age : 18—21 years.
	(b) Lower Division ...	Matriculation or equivalent qualification until replaced by Higher Secondary. Age 18—21 years.

(*ii*) The number of chances which a candidate appearing at any open competitive recruitment examination can avail of shall be restricted to two, as recommended by the Public Service (Qualifications for Recruitment) Committee.

3. * * * * *

4. Concessions in the matter of age-limits at present available to candidates belonging to the Scheduled Castes/Scheduled Tribes, displaced persons, etc, and to the departmental candidates for certain Services, will continue. The restriction as to the number of chances which a candidate may take will not apply to such candidates.

5. These orders do not apply to recruitment to technical, professional and Specialist Services.

6. In certain departments, educational qualifications are also prescribed for promotion, though this is not the normal practice. The qualifications if any, so prescribed for promotion should be revised in the light of these orders, as it would be anomalous to prescribe a lower qualification for direct recruitment than for promotion.

[G. I. M. H Affairs Memo No. 2/41/59-RPS, dated the 3rd December 1959.]

27. *Foreign Service* **means service in which a Government servant receives his substantive pay with the sanction of Government (*a*) from any source other than the *Revenues of the Governor General in Council or of a province or the Railway Fund when established ; or (*b*) from a company working a State Railway.**

28. **General Revenues* **for the purposes of pension include Provincial Revenues and the Revenues of Mysore, so far as regards service rendered in Mysore before the 1st October, 1882, by Civil and Military officers who either had a status in the service of the British Government apart from their particular employment in Mysore or having no such status were employed in Mysore when under British administration and transferred to British service proper before that date.**

Note :—The service in Mysore of Civil and Military officers as above described became "Foreign Service" on the 1st October, 1882.

29. *Grade and Class*—**Appointments are said to be in the same "Class" when they are in the same Department, and bear the same designation, or have been declared by the Government of India to be in the same class. Appointments in the same class are sometimes divided into "Grades" according to pay.**

Note :—Appointments do not belong to the same Class or Grade unless they have been so constituted or recognised by proper authority. There are no Classes or grades of Ministerial officers.

29-A. *Heads of Departments*—**The term includes—**

(*a*) **Officers who have been declared by the Government of India to be Heads of Departments. Officers who were declared by local Governments to be Heads of Departments under the Resolution by the Government of India in the Finance De-**

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*The term "General Revenues" used in these Regulations is no longer an appropriate term. Under Article 266 of the Constitution of India all revenues received by the Government of India, all loans realised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans from one Consolidated Fund entitled "the Consolidated Fund of India" and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in respect of loans form "the Consolidated Fund of the State."

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partment, No. 5525-Ex., dated the 19th November, 1909, will continue to exercise such powers as have already been delegated to them ; but the extension to any such officer of the larger powers that can now be delegated to Heads of Departments requires the sanction of the Government of India, in which alone rests the power of adding to the list of Heads of Departments.

(*b*) **Any other authority to which the †Government of India may delegate the powers of a Head of Department.**

29-B. *Imperial Branch or Service*—**The term applies—**

(1) **to those services or branches of services, which are composed of gazetted officers recruited in England *i. e.* the Indian Civil Service, Military officers filling gazetted Civil appointments ; and the "Imperial" as distinguished from the "Provincial" gazetted ranks of the Public Works Department, Forest, Indian Educational Service, Police, Agricultural, Civil Veterinary Departments.**

(2) **to such appointments as are specially declared by the Government of India to be "Imperial" appoinments.**

30. *Indian Civil Service* **means the service formely known as the Covenanted Civil Service.**

31. *Lien on Appointment*—**When an officer is said to have a lien on an appointment, it is meant that the right of such an officer to resume on return to duty a substantive or an acting appointment on which he has a lien is subject to the same condition of conformity with the interest of the public service as the tenure of the appointment is. An officer may have a lien on an appointment without having actually joined it.**

Government of India's decisions. (1) It was represented that liens of permanent Central Government servants who have opted for service in India from Pakistan areas could not be accommodated within the existing sanctioned permanent strength of the equivalent cadre in the various offices to which they have been posted and that this has led such Government servants being shown against temporary posts for the present. It has now been decided that Supernumerary permanent posts in the equivalent cadres, wherever necessary, should be created by the appropriate authority to accommodate the liens of permanent Central Government servants who opted for service in India. These Supernumerary posts should be abolished as and when vacancies arise in the existing permanent strength of the equivalent cadre or when the permanent strength is increased and also when such Government servants retire from service.

This decision is only one of principle. Specific proposals for the creation of Supernumerary posts should be referred to Ministry of Finance for concurrence in the same way as proposals for the creation of regular posts.

[G.I.M.F. Memo No. 24 (10)—Est, IV/49, dated 24-3-1949]

Note—Supernumerary permanent posts should not be included in the regular strength of a Ministry/Department and the persons holding these supernumerary permanent posts must simultaneously be counted against temporary posts on the regular strength of the Ministry/Department. It is, however, necessary to maintain separa tely a record of the supernumerary permanent posts, the particulars of the individuals whose liens are accommodated in them, and of the progressive abolition of such posts as and when the holders retire or are absorbed in permanent posts on the regular strength. This record will be necessary for the purpose of verification of service for pension. Such information should invariably be furnished to the audit authorities as and when supernumerary permanent posts are created, and in the case of non-gazetted personnel, these details should be entered in a separate section in the annual establishment returns.

(G.I.M.F. letter No 24 (10)—E. IV/49. dated the 9th August, 1950.)

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†The list of Heads of Departments will be found in Schedule I to Appendix 2 in Chaudri's Compilation of Civil Service Regulations, Volume II, (5th Edition).

(2) Instances have come to the notice of the Ministry of Home Affairs of competent authorities having issued orders confirming temporary or officiating employees in permanent posts even though the employees concerned were not qualified in all respects for such confirmations under the relevant statutory rules, executive orders or administrative instructions. In almost all these cases, the confirmation so made had the effect of depriving or of postponing confirmations of other employees who were qualified in all respects for confirmation. The Ministry of Finance/etc. are requested to take serious notice of such erroneous orders of confirmation.

2. The Ministry of Home Affairs have, in consultation with the Ministry of Law, examined the possibility and the propriety of cancelling the erroneous orders of confirmation already made and it is decided as follows :—

(*a*) An order of confirmation which is clearly contrary to the relevant statutory rules may be cancelled by the competent authority straight away.

Here the order of confirmation was *ab initio* void as it was *ultra vires* of the relevant rules and cancellation of the order would be justified on the ground that there was no valid subsisting order at all and the act of cancellation is a mere formality. The effect of cancellation would be to put the employee concerned in a position of never having been confirmed.

(*b*) An order of confirmation which is contrary to executive orders or administrative instructions may be cancelled by the competent authority, if such erroneous order of confirmation has operated to the prejudice of some identifiable person who would otherwise have been confirmed, if the orders had been correctly applied.

Here the order of cancellation would be just and equitable as the confirmation of the employee concerned operates unfairly to the detriment of another employee who would have otherwise been confirmed. Such cancellation will not have the effect of doing any injustice to the employee whose confirmation is cancelled, since he was, under the executive orders or administrative instructions in force, not entitled to confirmation.

It would however, be in consonance with the principles of natural justice that a notice to show cause why the order of confirmation should not be cancelled be given to the effected party in both the types of cases specified above.

[G.I.M.H. Affairs Memo No. 32/5/54-Ests, (A), dated the 24th November, 1954.]

(3) The orders or notification of promotion or appointment of a Government servant should be cancelled as soon as it is brought to the notice of the appointing authority that such a promotion or appointment has resulted from a factual error and the Government servant concerned should, immediately on such cancellation; be bronght to the position which he would have held but for the incorrect order of promotion or appointment.

In the case, however, of a Goverement servant who has been erroneously promoted and appointed to a post in a substantive capacity the procedure prescribed in deci-ion No (2) abuve for deconfirming the Government servant in this post should be followed and only thereafter the Government servant concerned should be brought down to the position which he would have held but for the erroneous promotion/appointment by the issue of orders as mentioned above. Services rendered by the Government servant concerned in that post to which he was wrongly promoted/appointed as a result of the error should not be reckoned for the purpose of increments or for any other purpose in that grade/post to which he would not normally be entitled but for the erroneous promotion/appointment.

Any consequential promotions or appointments of other Government

servants made on the basis of the incorrect promotion or appointment of a particular Government servant will also be regarded as erroneous and such cases also will be regulated on the lines indicated in the preceding paragraph.

Except where the appointing authority is the President, the question whether promotion/appointment of a particular Government servant to a post was erroneous or not should be decided by an authority next higher than the appointing authority in accordance with the established principles governing promotions/appointments. Where the appointing authority is the President. the decision should rest with the President and should be final. The Ministry of Home Affairs should be consulted in respect of promotions/appointments in the Services administratively controlled by that Ministry. In other cases also, the Ministry of Home Affairs may be consulted if any point is doubtful.

The President is also pleased to direct that cases of erroneous promotion/appointment in a substantive or of officiating capacity should be viewed with serious concern and suitable disciplinary action should be taken against the officers and staff responsible for such an erroneous promotion. The orders refixing the pay should be issued expressly under F.R. 31-A and copy thereof should be endorsed to the Ministry of Finance (Department of Expenditure).

[G.I.M F. Memo. No. F. 1 (3)-Est. III/59, dated the 14th March 1963]

32. *No printed*

33. *Local Fund*—**The expression "Local Fund" denotes :—**

(1) Revenue administered by bodies which by law or rule having force of law come under the control of Government whether in regard to the proceedings generally, or to specific matters such as the sanctioning of their budgets, sanction to the creation or filling up of particular appointments, the enactment of leave, pension or similar rules ;

(2) the revenues of any body which may be specially notified by the Government of India as such.

Government of India's decision. All India Universities incorporated by law for the time being in force in India are for the purpose of Article 520, Civil Service Regulations 'Local Funds' as defined in Article 33 of the Civil Service Regulations.

[G. I. Education, Health and Lands No. F. 14-14-41/E, dated the 18th November, 1942.]

34. *Local Government*—**This term applies primarily to the Provincial Governments enumerated in *Part I of Appendix I with which regular or quasi-provincial settlements have been concluded, and the Minor Local Governments enumerated in Part II whose position is**

**not printed.* As a result of the Constitution the States have been re-organised as under :—

The States	The Union Territories
Andhra Pradesh	Dadra and Nagar Havali
Assam.	Delhi.
Bihar.	Goa, Daman and Diu.
Gujarat.	Himachal Pradesh.
Kerala.	Manipur.
Madhya Pradesh.	Tripura
Madras.	The Andaman and Nicobar Islands.
Maharashtra.	The Laccadive Mincoy and Amindivi Islands.
Mysore.	
Nagaland	
Orissa.	
Punjab.	
Rajasthan.	
Uttar Pardesh.	
West Bengal.	
Jammu and Kashmir.	

analogous to that of Provincial Governments, but which are not embraced in the system of Provincial Settlements. But for the purpose of these Regulations the term also includes, in so far as they exercise the powers of a Local Government, the Departments and officers who are shown in Part III of the appendix referred to as exercising these powers in full or in part.

35. *Military Officers*'—(*a*) **A Military Officer subject to the Civil Leave Rules means a Military Commissioned Officer in permanent Civil employ who is not subject to the British Army Leave Rules.**

1. A Military officer who entered the Indian Army or the Indian Medical Service after the 31st December, 1875, or was subject, previous to his entering Civil employ, to the Indian Army Leave Rules (1886), becomes subject to the Civil Leave Rules from the date of first substantive appointment in the Civil Department or from the date of completion of three year's continuous officiating service in the Civil Department whichever may be earlier. For the purpose of reckoning the three years' officiating period, the following may be included :—

(*a*) any period of employment of any officer in Foreign Service, if he has been transferred to such service direct from Civil employ ;

(b) any period of privilege leave

Furlough or leave other than privilege leave does not count towards the three year's period, but it does not operate as a break cancelling past officiating service for the purpose of this rule, unless the officer has to revert to Military employ in order to obtain such furlough or leave,

(2) A continuous service Royal Engineer Officer becomes subject to the Civil Leave Rules from the date of entry into permanent Civil employ if it is subsequent to the date of his election for continuous Indian Service, or from the date of such election if it is subsequent to the entry into permanent Civil employ. A non-continuous service Royal Engineer Officer becomes subject to the Civil Leave Rules, if he elects these rules from the date of entry into permanent Civil employ, if it is subsequent to the date on which he completes five year's Indian Service, or from the date of completion of five year's Indian Service if it is subsequent to the entry into permanent Civil employ.

3. An officer of the Cantonments Department becomes subject to the Civil Leave Rules from the date of his substantive appointment to the Department.

4. A Military officer in the Army Secretariat of the Government of India, and a Military Officer appointed from Military employment to be Private Secretary to a Lieutenant Governor, are not in Civil employ.

5. A Military Officer does not come under tke Civil Leave Rules by reason of his being transferred to an appointment in the Civil Department of which the tenure is limited to a definite period. Such officers remain subject to the Military Leave Rules except as regards Privilege leave (*see* Article 241).

6. When a Military Officer subject to the Civil Rules is temporarily deputed to the Military Department, but retains a lien on his appointment in the Civil Department, the period of his deputation qualifies for leave under the Civil Rules.

7. An Officer of the Indian Medical Service who is subject to the Civil Leave Rules becomes subject to the Military Leave Rules on promotion to the rank of Colonel or Surgeon General.

(*b*) **A 'Military Officer subject to the Military Leave Rules' means a Military Commissioned Officer in permanent Civil employ who is subject to the British Army Leave Rules, a Departmental Commissioned Officer, a Commissioned Officer of the Indian Subordinate Medical Department, or a Warrant Officer Such an Officer is not included in the term "an Officer" used in the Leave Rules.**

Note—The terms 'Military Commissioned Officer' when used in these Regulations does not include a Departmental Commissioned Officer, or a Commissioned Officer of the Indian Subordinate Medical Department or a Warrant Officer.

(*c*) **The terms all Military Officers' means both Military Officers subject to the Civil Leave Rules and Military Officers subject to the Military Leave Rules.**

Government of India's decisions :—

(1) The test whether rule 5 of this Article applies to an appointment of limited tenure is whether the officer holding the appointment would or would not revert to Military duty at the end of the period to which the tenure is limited.

[G. I. F. D. 3639-P, dated the 6th September, 1892.]

(2) A Government servant holding a permanent appointment in the

Military Department but temporarily employed in the Civil Department continues to remain under the leave rules applicable to his Permanent appointment.

[G. I. F. D. letter No F 1203, C. S. R/27 dated the 18th June, 1927.]

36. *Ministerial Officer* **means an officer, whether gazetted or not, whose duties are not of an administrative or executive or executive character, but who is employed as a member of an office establishment.**

Examples—An Accountant, or a Clerk is a Ministerial officer. A Tahsildar, a Police Inspector or Constable, or Teacher in a school is not a Ministerial officer.

Government of India's decisions :—(1) The Government of India have decided that Assistant Accounts Officers of the Indian Finance [*now* Audit and Accounts] Department should be considered as non-ministerial officers for the purposes of the Civil Service Regulations.

[G. I. F. D. No. 503, F. E. dated 2-5-1918].

(2) It has been decided that, having regard to the nature of the duties attached to them, the posts of Private Secretaries to Secretaries and Joint Secretaries should be classified as 'ministerial'.

[G. I. M. H Affairs No. F 12/2/52 Est. dated the 3rd March, 1952]

(3) The Supreme Court need not consult Finance Ministry in cases regarding the classsification of posts whether ministerial or non-ministerial if the classification made follows the criterion adoped by the Government of India in the case of classification of posts in the Central Services

G. I. M. F. U. O No. 384, EV (C)/60, dated the 12th Feburary 1960 in file No. 24 (19)-EV/60.]

(4) Gestetner Attendent/Opretors are Ministrial.

[G. I. M. H. Affairs Note dated 15th August, 1960 in G. I. M. F. file No. F. 24 (75)-E. V /60.]

37. *Not printed*

38. *Pay and Salary—*

(*a*) **"Pay" means "monthly substantive pay". It includes also "overseas allowance" and "technical allowance"**

(*b*) **For the purposes of the Leave Rule in Chapter XIII, "Pay" includes also the Subsistence allowance of a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules who has an officiating but not a substantive appointment.**

(*c*) **"Salary" means the sum of pay and acting allowance, or charge allowance under Article 94 of Chapter VIII.**

1. Personal allowance is treated, for the purposes of calculating leave allowances as a part of an officer's substantive pay, but not for purpose of travelling allowance, unless it has been granted to protect from loss an officer, the pay of whose appointment has been changed. *[It is treated as 'emoluments' for pension in the circumstances indicated in clause (*b*) of article 486.]

2. The allowances of an officer holding conjointly with another office a Professorship or Lectureship in any Government institution, are part of his salary.

3. "Salary" does not include a local allowance, deputation (local) allowance, house-rent, tentage, or travelling allowance, whether daily, monthly or yearly.

4. The charge allowances admissible to Inspectors and Charge Clerks, Indo European Telegraph Department, are part of their salary.

5. The good conduct allowance of policemen is treated as salary for the pupose of caluculating leave allowances but not pension.

6. Deputation (duty) allowances and duty allowances, are treated as salary for the purpose of calculating leave allowances, and are included in the term "emoluments" for calculating pentions.

Note ;—These definitions do not necessarily apply to the Statutory Rules under Articles 543, 567, etc.

39. The *"Pay of an appointment"* **means the pay which any particular officer would receive monthly if he held the appointment substantively.**

1. The allowances of an officer acting in an appointment the pay of which is subject to increase upon the passing of an examination or upon the completion of a certain period of service, are calculated upon the pay which he would from time to time receive if he held the appointment substantively.

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*Added vide G. I. Notification No. F. 15 (28)—E.V./53, dated the 9th June, 1954.

2. The allowances of an officer acting in an appointment the pay of which has been reduced with effect from the next succession thereto, are calculated upon the reduced pay.

3. The Government of India and Provincial Governments may declare the pay of an appointment, for the purpose of the rules in Chapters V, VI, and VIII, in cases where the pay of an appointment is undetermined, at any rate not exceeding—

(*a*) The pay of the permanent incumbent, pay, or

(*b*) If the pay is incremental, his minimum or

(*c*) If the appointment is tenable by an officer belonging to any one of several grades or classes in a service, the pay of the lowest grade or class.

4. In the case of an appointment reserved for officers of a Graded service, the pay of which varies according to the grade of the incumbent for the time being, the pay of an office of the current duties of which an officer is appointed to be in charge under the provisions of articles 165 and 166, and the pay of any additional appointments which an officer is appointed temporarily to hold or officiate in under the provisions of Article 162, is, for the purpose of calculating the incumbent's salary, the pay of the appointment left vacant in the lowest grade or class from which the office or additional appointment is usually filled.

Government of India's dicisions (1) There are two definitions of the term "pay of appointment" given in the C. S R. *viz.*, a general definition in Article 39 and a special one in Article 141. The special definition must be treated as an exception to the general definition only for the purpose of calculating acting allowance under Articles 141 and 144 and for no other purpose, and if it is necessary to apply the provisions of Article 96, the general definition of term "pay of appointment" must be used.

[G. I. F. D. No. : 1821, dated 8-7-1886 ; 988 dated 25-2-1887 and 3665 dated 22-10-1835 (Assam).]

(2) Posts under the Central Government can be divided broadly into two categories :—

(1) those intended to be manned by members of recognised services or for which regular methods of recruitment have been laid down :

(2) *ad hoc* posts usually of a temporary nature which are not borne on the cadre of any service and to which *ad hoc* appointments are made.

So far as posts of the first category are concerned, the scale of pay and other conditions of service are prescribed and only persons belonging to the services concerned or recruited through the appropriate channels are normally appointed. As regards the second category, it sometimes happens that the scales of pay are not laid down at the time the posts are created and the pay and allowances are determined *ad hoc* with reference to the persons proposed to be appointed. In some cases, though the scale of pay is fixed, a higher starting pay or even an entirely different scale of pay is allowed on the ground that the person appointed was receiving or would have received such higher pay; for example, serving High Court Judge may be appointed as a member of a tribunal and remunerated on the basis of his pay in the former post. Such departures from the normal procedure may be justifiable on merits in every exceptional circumstances ; but it is generally open to adverse criticism on the ground that it involves a higher expenditure of the tax-payers' money than is strictly necessary, that it renders inoperative the scales of pay already fixed on the merits of the appointment and that the practice is liable to abuse. Even where the action taken is strictly in the exigencies of public service, there is room for public criticism, (though not justified) that the pay was so fixed or altered to provide for a particular person. It is necessary to remove the basis for such criticism and follow, as far as possible, the normal practice in these matters. Ministries are accordingly requested to observe, as far as possible, the following principles :—

(*i*) As regards posts borne on the cadres of regular services the rule should normally be not to appoint any non-cadre officer ; if, in any case, the appointment of a non-cadre officer becomes necessary, the pay of such an officer should be fixed in consultation with the

Finance Ministry except where the pay is fixed under the normal operations of the Rules.

(*ii*) For every post which is created, a scale of pay should normally be prescribed taking into account the duties and responsibilities of the post. Exceptions to this rule should be rare and may be made only in those cases where it is definitely expected that the post will exist for a very short duration.

(*iii*) Where a new post is created and the field of choice for appointment to the post is limited to a few persons possessing specialised experience or high qualification only, for example, in the case of the technical posts in a new field of production or research, it may be necessary to prescribe a scale of pay sufficiently high to attract such persons or to prescribe a scale of pay as personal to the first incumbent. The position should, however, be reviewed after a specified period if it is considered that during such period other persons with equal qualifications are likely to become available on lower rates of pay or the duties and responsibilities of the post would (after the formative stages of the work had been completed) permit a less specially qualified person to be apppointed thereto on reduced rates of pay.

(*iv*) The scale of pay prescribed should normally be on the pattern adopted by the Government.

[G. I. M. H. Affairs Memo No. 112/54 Est., (A), dated the 26th July 1955.]

40. (*a*) **The "*Pay of an Officer*" is—in the case of an officer with a substantive appointment—the amount which he would receive monthly under any of the following designations, in his substantive appointment :—**

Military pay and allowances and Staff Salary.
Indian Army pay and Staff Salary.
Substantive pay.
Consolidated pay.

(*b*) **In the case of an officer without a substantive appointment, is monthly Subsistence allowance (if a member of the Indian Civil Service, a Statutory Civil Servant, or a Military officer subject to the Civil Leave Rules) and his Military pay and allowances or Indian Army pay (if a Military Officer subject to the Military Leave Rules).**

Government of India's decisions—(1) A bonus or honorarium for work done out of office hours should not be regarded as salary, nor will it reckon towards pension.

[Paragraph 23 of the India Supplement to the C. S. R. (Fourth Edition)[.

(2) Doubts have been raised in certain quarters whether the pay of a Government servant, in receipt of family pension under the Liberalised Pension Rules, should be reduced by the amount of the family pension. The Government of India held that the family pension under the Liberalised Pension Rules is allowed for a limited period only and as such in regulating the pay on an officer employed by Government the fact of his being in receipt of family pension under the Liberalised Pension Rules should not be taken into account.

[G. I. M. F. *Memo* No. F. 7 (18)-EV/56, dated the 9th May, 1956].

Note ; The above decision applies also to the civilian personnel employed with the Army and paid from the Defence Services Estimates and also to the C. G. D. P.'s Organisation.

[Army Instruction No. : 212, dated the 1st December, 1956].

41. *Pension*—**Except when the term "Pension" is used in contradistinction to Gratuity, "Pension" includes gratuity.**

42. *Port Officers*—**The Port officers of Calcutta, Madras, Bombay, Rangoon, Karachi, Aden, Akyab, Moulmein and Chittagong, the First Assistant Port Officer, Rangoon, and the Assistant Port Officers at**

Madras and Bombay. are "Senior Port Officers." All other Port Officers are included in the term "Junior Port Officer."

43. *Progressive Appointment*—**means an appointment the pay of which is progressive, that is, pay which, subject to the good behaviour of an officer, rises, by periodical increments, from a minimum to a maximum.**

Note—For brevity's sake, a Progressive pay is described by three groups of figures, namely, the minimum, the increment and the maximum, thus Rs. 100—20—200 means a pay rising from Rs. 100 by a yearly increment of Rs. 20 to Rs. 200.

44. *Not Printed.*

44A. *Cancelled.*

44B. *Remuneration* **includes, besides monthly substantive pay or salary, other payments to officers from general revenues. (*i. e.*, Imperial and Provincial revenues, as well as the revenues of local funds administered by Government), whether in the nature of fixed allowances, subject to the exceptions specified below, or of fees, rewards (except language rewards other then those which take the form of monthly allowances) or recurring honoraria. It does *not*, however, include the pension of an officer who is re-employed, local allowances granted on account of the unhealthiness or expensiveness of particular localities, exchange compensation allowance, house-rent allowance or grant of free quarters, allowances to civil surgeons for charge of railway employees, office allowances, Simla or other hill allowances, and non-recurring honoraria.**

45. *Rule of Proportion*—**Pension or leave allowances are said to be chargeable according to the "Rule of Proportions" when the charge is debitable to several accounts in the proportions in which, in the case of pension, the aggregate pay drawn by the officer during the whole of his qualifying service has been paid from them, or in the case of leave allowances, the portion of his service immediately preceding the beginning of his leave which is taken into account in calculating the leave granted to him was charged to such several accounts.**

Note 1. —Duty allowances and deputation (duty) allowances should be included in pa*y* or salary, as the case may be, for the purpose of this rule.

Note 2. –In cases where leave allowances are regulated on pay instead of salary, the calculation under the above rules for leave allowances should be made on pay instead of salary.

Note 3. If according to the Rule of Proportions the share of pension or leave allowance chargeable to one account does not exceed one rupee, no charge shall be made to this account, and the share shall be borne by the account chargeable with the greatest share.

Government of India's decisions—

(1) It has been decided that a proportionate share of the pensionary liability of civil pensioners, part of whose qualifying service was remunerated by charge to the Army Estimates should be borne by the Military Department according to the length of service rendered by the officers in the Military Department.

[Paragreph 20 of the India Supplement to the C. S. R. (Fourth Edition)]

(2) *Appointment between Central and Provincial* Governments of the pension of an officer who served under one Government but was concurrently remunerated by more than one Governn.ent during the last three years of his service.

An officer serving under a Provincial Government receives during the last 3 years of his service a pay of Rs. 500 per mensem and from the Central Government during the last 6 months of his service, a duty allowance of Rs. 150 per mensem say, for income-tax duties in addition to pay from the Provincial Government. He will be entitled to a pension of Rs. 262½ after 30 years and the portion chargeable to

the Central Revenues will be Rs. 1¼ per mensem as shown below :—

Cost incurred by Central and Provincial Governments during the last three years = Rs. (500 × 30) + (650 × 6) = Rs 18,900.
Cost incurred by Central Government = Rs. 150 × 6 = Rs. 900.
Period for which the officer should be considered to have served under the Central Government during the last three years..... = Rs. 18,900 : Rs. 900 : : 3 years.
= 1/7 years.
Amount of pension chargeable to Central Government..... = 30 yeas. : 1/7 yr. : : 232½ = Rs. 1¼

[G. I. F. D. letter No. 497-C S.R. dated the 10th April 1924]

(3) The Government of India have decided that if an officer holds two or more appointments under different Governments (Provincial and Central) in respect of each of which he earns pension under different set of rules (*i. e.*, the rules made by the Local Government and the Civil Service Regulations) the Local Government may impose some restriction in their rules, so as to limit the pension in respect of one. The incidence of his pension may be calculated in the following manner :—

If the officer is granted pension under the rules in the Civil Service Regulations read with rules 13 (*a*) and 14 of Superior Civil Services (Pay and Pension) Rules 1924, the share of pension chargeable to Central Government may be calculated in accordance with the length of service under each Government in the ratio of his pay in respect of different appointments. If, however, he is granted a separte pension under the rules of the Provincial Government, the whole of that pension will be payable by the Local Government and the whole of the pension which he may earn in respect of his post under the Central Government will be payable by that Government, that is the Central Government will not bear any portion of pension unless he actually earns a pension under the Civil Service Regulations in respect of his post under the Central Government.

[Para 348 of the Pension Manual (A. G. Punjab), First Edition Reprint]

(4) See Parts II and IV in Section B of appendix 3 to the Account Code Volume I.

(5) The contributions realised on behalf of a Government Servant lent on foreign service are creditable with effect from 24th October, 1921 to the particular Government (Central or Provincial) under which he was permanenty employed prior to his transfer to foreign service.

Note.—For the purposes of allocations of leave salary and pensions foreign service will be treated as service under the particular Government which received credit for the contributions realised for the period of foreign service.

[G. I. F. D., letter No. 1255-E. B., dated the 24th October, 1921.]

(6) A question has been raised as to how the liability of pension of Central Government servants who retired from service before partition but whose pensions are sanctioned after the 14th Augst, 1947, should be determined. According to para 5(c) of Schedule II to the Indian Independence (Liabilities) Order, 1948, each Dominion should assume liability for the pensions paid in its territory on the date of partition. It has, therefore, been decided that the initial liability of the Dominion in respect of pensions sanctioned after partition but with effect from a date before partition should follow the location of the place on which the first pension payment order is issued.

[G. I. M. F. No. 8483-B. 1/49, dated 23-11-1949.]

(7) Local Funds administered by Government should be regarded as separate Governments for the purpose of incidence of Pension. It is open to the Fund whether to extinguish its pensionary liability towards Government by the payment in lump or instalments of the commuted value of a pension or to come to a special agreement with the Government for discharging this liability otherwise.

[G. I. M. F. U. O. No. 10048-BI/49, dated 3-1-1950 and Auditor General's U. O, No. 198-A/49, dated 18-1-1950.]

(8) Allocation of leave salary in the case of permanent Government servants subject to the Revised Leave Rules, 1933, or the leave rules in appendix 39 to this Volume is governed on transfer from a Civil Department of the Government of India to the Defence Services or *vice-versa* by Rule 9 in Section II of Appendix 3 to the Account Code, Volume I. This rule does not apply to temporary Government servants who may be so transferred before they are confirmed. It has therefore. been decided that in the case of a temporary Government servant, who before his confirmation is transferred from a Civil Department to the Defence Services, or *vice-versa*, the leave salary should be borne by the second or subsequent departments in the reverse order of employment up to the limit of leave earned under each department and the excess, if any, charged to the Department/Service under which he obtained his first temporary employment.

When such a Government servant is confirmed without interruption of duty and takes leave thereafter the additional leave that may become due to him under the Rules in respect of his duty in the department or departments/ service other than in which he is confirmed should be exhausted first and the leave salary allocated in the reverse order as in paragraph I above, treating the Civil Department or Defence Services, as the case may be, in which he is confirmed as the lending department/service.

The orders do not apply to a temporary Government servant who passes from one Department/Service to another after resigning his post or being discharged. In his case the leave earned and not availed of before the date of his resignation or discharge will lapse

The procedure set out in paragraph 1 above will be applicable also in the case of leave on half pay taken by temporary Government servants, the liability of the borrowing department/service for such leave in respect of an incomplete year of service under it being a proportion of 20 days (15 days in the case of Class IV servants with 24 years service or less) equal to the proportion which the incomplete year bears to the whole year.

In so far as the allocation of leave salary in respect of earned leave is concerned, the borrowing Department/Service should bear the leave salary to the extent of leave which can be earned by service under that Department/ Service irrespective of the fact that the Government servant concerned has at the time of his transfer to the borrowing Department/Service, or and time during his service under that Department/Service ceased to earn further leave by virtue of his having the maximum permissible limit of leave to his credit.

This instruction shall be deemed to have come into force with effect from the 1st February, 1949, from which date A. I. 19/45 shall be deemed to have been cancelled.

This instruction applies to D. G. O. F's Organisation as well.

[Army instruction No. 13 of 10th February 1953.]

Auditor General's decisions :—

(1) In a certain case where pension of Rs. 67/12/- ; was divisible between the Central and Provincial Governments in the portion of Rs 45/1/- and Rs. 22/11/-, and Rs. 16/15/- had already been commuted out of the share of pension chargeable to the Provincial Government and the pensioner on re-employment under the Provincial Government had been allowed to retain Rs. 36/1/- out of his remaining pension of Rs 50/13/- ; the Auditor General with the concurrence of Government of India decided that the amount held in abeyance *viz*, Rs. 14/12/- should be treated as if it had been commuted at the cost of the Provincial Government according to which the share of Provincial Government which stood at Rs. 5/12/- after commutation should be extinguished the Central Government share should be considered as reduced by Rs. 9 (Rs. 14/12/- *minus* 5/12/-.)

[Auditor Generl's endorsement No. 284-AC/60-35, dated the 9th May, 1935.]

(2) In a case in which leave salary for a certain period of leave which

was debitable to one employing Government was charged by mistake to another employing Government and in which the wrong allocation was allowed to stand it has been decided that the period of leave should. for purposes of distribution of pensionery liability, be regarded as a period of service rendered under the Government to which the leave salary was properly debitable.

[C. C. A's letter No. 550-admn/C/71-32, dated 7th April, 1932].

(3) All expenditure in respect of the non-Indian States Forces/Units after the dates of Federal Financial Integration will be charge on the State Government and that in respect of non-Indian State Forces/Units retiring on or after the 1st April, 1950, (the date of Federal Financial Integration) the Civil Accountants General would report on the title to pension of these personnel after verification of service, etc. from the records available with the Civil Accountants General and/or the State Government.

[Comptroller and Auditor General of India, letter No. 2925-Admn/427-51 dated the 8th November, 1951.]

46. *Staff Salary* **is an allowance to a Military officer in addition to the Military Pay and Allowances or the Indian Army pay of rank.**

Note. The following allowances are not treated as Staff salary :—Command allowance of hill convalscent depots of British troops, of all stations and forts, (Assirghur excepted) not being brigade commands ; and the salaries of Staff Officers of stations and convalscent depots and of Superintendents of Bazars.

47. *Cancelled.*

48. *Warrant Officer* **:—A departmental officer with honorary rank of Warrant Officer includes all Departmental officers with honorary rank of Warrant officers of all India Army Departments to whichever Military furlough rules they may be subject. These officers are :—**

(*a*) Departmental Officer with honorary rank—

- **(*i*) Commissary.**
- **(*ii*) Deputy Commissary.**
- **(*iii*) Assistant Commissary.**
- **(*iv*) Senior Assistant Surgeon.**

(*b*) Warrant officer.

- **(*i*) Conductor.**
- **(*ii*) Sub Conductor.**
- **(*iii*) Assistant Surgeon of the 1st, 2nd, 3rd, or 4th class.**

PART II—RULES REGARDING PAY AND ALLOWANCES

CHAPTER III.—GENERAL RULES FOR REGULATING ALLOWANCES

Conditions of Age and Health.

49. No person may be appointed in India to a post in Government service without a medical certificates of health in the following form (with suitable modifications when necessary) by a Commissioned Medical Officer of the Government or by a Medical Officer incharge of a civil station. This certificate shall be annexed to the first bill submitted for the pay of the Officer :—

I hereby certify that I have examined *A. B.*, a candidate for employment in the .....Department, and cannot discover that he/she has disease (communicable or otherwise) constitutional weakness or bodily informity except... ..... I do not consider this a disqualification for employment in the office of ....*A. B's.* age is according to his own statement..... years and by appearance about.....years.

Note :—In the case of female candidate a competent authority may accept a certificate signed by any female medical practitioner.

Note 2.—In the case of a candidate to be appointed on pay which at the time of his confirmation is not likely to exceed fifty rupees, the appointing authority may accept a certificate signed by a medical graduate or licentiate in Government Medical Service, or failing such, by any other medical graduate or licensiate.

Note 3.—A candidate who is likely to be employed in a temporary capacity continuously for three months or more shall produce either before or within a week from the date of his employment a certificate from the authorised medical attendant, but if the latter is doubtful whether or not the candidate is fit for Government service, he shall refer the case to the Civil Surgeon. Save as provided in Note 2 above, persons who are likely to be made permanent eventually should, however, be examined by a Commissioned Medical Officer of Government or by a Medical-Officer-incharge of a Civil station. When however, a Government servant initially employed in an office in a temporary capacity for less than three months is subsequently retained in that office or is transferred without a break to another office and the total period of continuous service under Government is expected to last for three months or more he shall produce such a certificate within a week from the date of the orders sanctioning his retention in that office or joining the new office.

Note 4.—When a Government servant in whom a defect has been noticed by the Examining Officer is transferred from one office to another the duties of which are different, a Commissioned Medical Officer or a Medical Officer-in-charge of a civil station should report whether the defect will materially interfere with the discharge of his new duties by the person so transferred.

Note 5.—The following classes of Government servants are exempted from the production of a medical certificate of health :—

(1) Government servants appointed by the Secretary of State or the High Commissioner for India.
(2) A Government servant in superior service appointed in a temporary vacancy of less than three month's duration.
(3) A Government servant in inferior service appointed in a temporary vacancy of less than six month's duration.
(4) A Government servant recruited through a competitive examination who had to undergo medical examination in accordance with the regulations prescribed for appointment to service under Government.
(5) A temporary Government servant, who has already been medically examined in one office, if transferred to another office without a break in his service.
(6) A retired Government servant re-employed immediately after retirement.

Government of India's decisions—(1) The Government of India have decided that no medical officer in Government employment should examine for determining the physical fitness for Goverament service any candidate for employment under the Government of India exept on a written request from the head of the office concerned.

[G. I. Department of Education, Health and Lands letter No. F. 16-4/41-H, dated the 18th January, 1941 re-circulated with G. I. M. Health letter No. F 7 (1) 2/53 M. 11. dated the 17th February, 1953.]

(2) It has been decided that a temporary Government servant who has already been medically examined in one office in accordance with orders issued in Finance Department Office Memorandum No. F. 6 (22) R. 11/42, dated the 15th May, 1942, if transferred to another office should not be required to undergo, fresh medical examination provided that transfer occurs without a break in his service. The person concerned should, however, obtain a certificate from the head of the office from which he is transferred to the effect that he had already produced the requisite medical certificate of health.

[G.I.F.D. Memo No. 6(22)-R11/42, dated 19-7-1943].

(3) A non-gazetted Government servant who is retrenched from Government service and subsequently re-employed afresh within a period of one year of retrenchment need not be subjected to fresh Medical Exmination provided that the official was examined for his previous appointment by a prescribed Medical Attendant and found fit.

[G.I.M.F.U.O. No. 112-EV (B)/59 datep 7-1-59 in File No. 55(18) EV/59]

(4) Doubts have been expressed as to whether Government servant who on his first appointment in a temporary capacity, obtained a certificate of fitness from his authorised medical attendant and who is subsequently appointed in a permannent vacancy in the same office or elsewhere without a break in his service should be required to obtain a certificate of fitness from a Civil Surgeon or a Commissioned Medical Officer. The intention is that such a Government servant should, at the time of his confirmation, be required to obtain a fresh certificate of fitness from a Civil Surgeon or a Commissioned Medical Officer, unless on his appointment in a temporary capacity he was examined medically by a Civil Surgeon or Commissioned

Medical Officer. This, however, does not apply to persons mentioned in provisos (1) and (2) to Supplementry Rule 4.

[G. I. F. D. Memo No. F. 44 (16)EST.V/46, dated 27-5-1946.]

(5) It has been decided in supersession of the earlier orders that in cases where a Government servant or a candidate for Government service is declared unfit for retention in Government service or for appointment in the Government service by an idividual medical officer/medical board, as the case may be, the grounds for rejection may be communicated to him in broad terms without giving minute details regarding the defects pointed out by the Medical Officer/Medical Board. Cases where the grounds of rejection have not been clearely stated by the Medical Board in their report, may be referred to the Health Ministry for advice.

[G. I. M. Health Memo : No. F. 5 (II)-46/56. M. 11, dated the 17th November 1956 received with G. I. M. F. Memo : No. F. 43. (20)-EV/56, dated the 28th November 1956.]

(6) The standards of physical fitness prescribed for recruitment to Superior Central Service require that in order to be passed fit a candidate must be free from deafness. While it is not proposed to make any change in this respect, it is considered that there are certain kinds of employments especially of the artisan class and those involving manual labour, which might be held by deaf or deaf-mute persons without much loss of efficiency if not actually on an equal footing.

It has accordingly been decided that in the cases of such kinds of employments referred to, *viz.* class III or class IV posts of the artisan class or those involving manual or skilled labour or a routine type of work deaf-muteness or deafness by itself need not be regarded as a disqualification against appointment provided that the person concerned is otherwise fit and qualified to hold the post, and that subject to the conditions mentioned and subject to any other rules and orders in force the possibility of affording avenues of employment to deaf or deaf-mute persons should be examined at the time of making recruitment to any posts.

[G.I.M.H. Affairs, Memorandum No. 60/137/50 Est, dated the 28th July 1950.]

(7) The procedure indicated in the following paragraphs should hereafter be observed in the matter of medical examination of persons appointed to gazetted posts under the Central Government.

(*i*) All persons not already in service under the Central Government or under the Government of a *Part 'A'* State should be required to undergo medical examination. The examination should be by a medical board if the post is permanent or *quasi* permanent or is likely to last for more than a year and by Civil Surgeon or District Medical Officer if the post is likely to last for not more than a year. If an appointment initially made for a period of not more than a year is subsequently extended beyond that period, the person concerned should be required to undergo medical examination by a medical board.

(*ii*) Persons already in temporary service under the Central Government or under a Part 'A' State whether in gazetted or non- gazetted post will also be subject *mutatis mutandis* to the general rule in (*i*) above ; provided that any person appointed to a post not likely to last for mor than a year who has already been medically examined by an authority not lower than a Civil Surgeon or a District Medical Officer in respect of a previous post need not undergo examination again until and unless the period of the post is extended beyond one year. If such a person has already been examined by Medical Board in respect of his previous appointment and if the standard of medical examination prescribed for the new post is the same, then he need not be required to undergo a fresh medical examination before confirmation.

Note 1 :—A person who is appointed to Government service afresh after a break in service not exceeding one year should be treated as in continuous service for the purpose of these orders, the period of break not being counted. If, however, the period of break exceeds one year he should be regarded as a fresh entrant to Government service.

Note 2:—A person who has been in continuous service but in different posts should be deemed for the purpose of these orders to have been in continuous service in the same post.

*(*iii*) A person who is already permanent or *quasi*-permanent in a post under the Central Government or under a Part 'A' State need not be medically examined on appointment to a gazetted post ; provided that if the new appointment is not in the normal line of promotion of the person concerned and requires a different medical standard from that required in his permanent or *quasi*-permanent appointment, or the rules for recruitment to the new appointment or the rules for recruitment prescribe a fresh medical examination in respect of all candidates, he shall undergo a fresh medical examination by the prescribed standard and by the prescribed medical authority.

2. Medical examination on appointment to gazetted posts, whether by a board or by a single medical officer, have not so far been conducted in accordance with any specified standards, except in the case of recruitment through competitive examinations. The form of certificate prescribed in Supplementary Rule 3 does not also lay down any specific standards. It is considered desirable, however, that definite standards for the various categories of posts should now be prescribed. It is not intended that different standards should be laid down for all the various categories of posts ; it would suffice if some two or three standards were laid down according to the degree of physical fitness demanded by the nature of duties appertaining to various posts and the posts were then allocated to one or the other of the standards laid down. The Ministry of Health will lay down the necessary standards and the Ministries will then allocate the post under them to such standards in consultation with the Ministry of Health. The Ministry of Health and the other Ministries are requested kindly to take necessary action in this behalf as soon as possible.

3. These orders will not have retrospective effect and cases already decided need not be re-opened.

4. Exemptions under Supplementary Rules 4-A will continue to be granted in the same way as at present by the Ministry of Finance in consultation, where necessary, with the Ministries of Home Affairs and Health.

5. These orders do not apply to medical examinations of persons recruited through competitive examinations held by the Union Public Service Commission, the rules for which make separate provision for the purpose.

[G.I.M.F. Memo : No. F. 53 (8)-E. V/50 dated the 6th October 1950.]

Note :—The procedure indicated in this decision should equally be followed in matter of the Medical Examinations of officer appointed on contract *vide* Government of India, Ministry of Finance Memo : No. F. (55)-E. V. 51, dated the 17th May 1951.

(8) Government of India have had under consideration the question whether non-gazetted Central Government servants, deputed to hold gazetted posts in other departments of the Government of India, should be required to be examined by Medical Boards.

It has been decided in consultation with the Ministries of Health and Home Affairs that such Government servants need not be subject to fresh medical examination by Medical Boards provided that they had been examined by competent medical authority and declared fit for holding their previous appointments.

[G.I.M.F. Memo : No. F. 15 (2)-EV (B)/62, dated the 18th August 1962]

(9) It has been decided that in the case of woman candidates for employment in Government service. the competent medical authority for medical examination on first appointment to Goverment service shall be as indicated below :—

For Gazetted posts :—

A medical board which must have a woman doctor possessing medical qualifications included in one of the Schedules to the Indian Medical Council Act, 1933, (XXVII of 1933) as one of its members.

*See the second paragraph of decision No. 10 on page 36

For Non-gazetted posts :

In Delhi : An Assistant Surgeon Grade I (Woman) under the Contributory Health Service Scheme.

In places other than Delhi. } Any registered female medical practitioner possessing a medical qualification included in one of the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

[G.I.M.H. Affairs Memo No. 5/1/57-R.P.S. dated the 15th April 1957].

(10) Decision No. 7 lays down the procedure to be observed in the matter of medical examination of persons appointed to Gazetted posts under the Central Government. The following further decisions have been reached in consulation with the Ministries of Health and Home Affairs, in this regard :—

(1) A permanent Central Government servant holding a Gazetted post under the Centre, when appointed to another Gazetted post under the Central Government, need not be subjected to a fresh medical examination by a Medical Board.

(2) A permanent State Government servant holding a Gazetted post in the State, when appointed to a Gazetted post under the Central Government need not be subjected to a fresh medical examination by a Medical Board.

(3) A permanent non-Gazetted State Government servant, when appointed to a Gazetted post under the Central Government, will be required to undergo a fresh medical examination by a Medical Board, but when appointed to a non-Gazetted post no medical examination will be necessary ; and

(4) In cases where the rules for recruitment to new appointments prescribe a fresh medical examination in respect of all candidates, all directly recruited/selected candidates, irrespective of whether they are already in permanent or *quasi*-permanent Government service in the same or in other Departments or are fresh appointees, should undergo a medical examination by the prescribed standard and by the prescribed medical authority, provided that a fresh medical examination will not be necessary in the case of—

(*a*) a person who is already in permanent or *quasi*-permanent employ of the Government and has already undergone medical examination by a standard and by a medical authority which are recognised by the appointing authority as equivalent to those prescribed for the new appointment for which he is recruited/selected, and

(*b*) a person who is already in permanent or *quasi*-permanent employ in the same line, and being eligible for promotion to the new appointment against a promotion quota of vacancies, is actually so promoted.

In view of decision referred to above, the instruction contained in para 1 (*iii*) of the decision No. 7 above should be deemed to have been superseded to this extent,

The Ministries etc., of the Government of India are requested to amend the recruitment rules in respect of Class I & II posts with which they are concerned in consulation with the U. P. S. C. in the light of the decisions contained in the preceding paragraphs.

[G.I.M.F. Memo No F. 55 (ii)-E. V/59 dated the 12th February 1960].

Note : The President is pleased to decide that a person who has already been medically examined by the prescribed medical standards and the appropriate medical authority, should not be subjected to fresh medical examination at the time of his appointment to the new post, irrespective of the fact whether that person was permanent, quasi-permanent or temporary in his previous appointment.

[G.I.M.F. Memo No. F. 15 (1)-EV (B)/62, dated the 5th July 1962]

(11) A question has been raised as to whether a non gaztted Government

servant appointed to a post in Government service afresh after a break in service not exceeding one year can be treated as in continuous service for the purpose of medical examination, on the analogy of the orders contained in Note 1 below para 1 (*ii*) of decision No. 7 above.

The question has been carefully considered and it has now been decided that the orders eontained in the said Note will apply in the case of non gazetted Government servants also provided the break in service is not due to medical reasons or to resignation.

[G.I.M.F. Memo No. F. 55 (5)-E.V (B)/59, dated the 18th February 1960]

(12) Ministry of Home Affairs Office Memorandnm No. 54/14/49-NGS, dated the 28th January 1950 and No. 48/1/50-DGS, dated the 29th May 1951, lay down that before certificates of *quasi*-permanency are issued temporary employees should be medically examined and be certified fit by the appropriate medical authority in the same way in which they are required to be declared physically fit for permanent appointment.

The matter has been carefully considered further in the Ministries of Home Affairs and Finance and it is felt that a distinction should be made in this respect between cases of grant of *quasi*-permanent status and cases of permanent appointment. There is every justification for the proposition that before a permanent employment with all its advantages is offered to any Government servant, Government should satisfy themselves on the certificate of an appropriate authority that the officer is physically fit. *Quasi*-permanency however, falls a good deal short of confirmation and it does not confer benefits of such value as to justify the demand that a fresh medical examination should be passed as a condition precedent.

It has, therefore, been decided, in supersession of the instructions contained in the office Memoranda cited above, that while the medical certificate of a competent authority should be insisted on in the case of permanent appointments, it should not be demanded in cases of grant of *quasi*-permanent status. It should be open to a temporary Government servant who, at the time of his first appointment, was not examined by the authority whose certificate is required for permanency, to secure such a certificate prior to his *quasi*-permanency, *if he so wishes*. This will, of course, be of advantage to him in future when the question of his examination in a permanent post arises. In such cases, *i. e.* where a temporary Government servant desires to be examined by the appropriate medical authority prior to his *quasi*-permanency, the necessary arrangements for his examination should be made by his Ministry/Head of Office concerned. If, on the other hand, the Government servant concerned is not prepared to undergo a fresh medical examination for *quasi*-permanency alone, this should not be insisted upon. It should, however, be made clear to him that at the time of confirmation a medical certificate from the prescribed authority will be insisted upon.

Cases in which temporary employees may already have been sent up before the prescribed medical authority for acquisition of physical fitness certificates preparatory to the grant of *quasi*-permanent status may be reopened only to this extent that such of them as were declared unfit but sitll continue in service may not be considered ineligible for that status on this ground alone.

[G. I M. H. Memo : No. 38/12/51—Ests, dated the 16th October, 1951]

(13) Cases which require medical examination by a single Medical Officer fall broadly under the following categories :—

(*a*) Candidates for appointment to non-gazetted posts who are not covered by the exemption in Note 5 under article 49 Civil Service Regulations.

(*b*) Non-gazetted Government servants; who on their first appointment produce a certificate of medical fitness from their authorised Medical

Attendant and are not covered by Notes 1 and 2 under Article 49 Civil Service Regulations and are not sent for examination by a Civil Surgeon or a Commissioned Medical Officer prior to *quasi* permanency or at the time of confirmation.

(*c*) Candidates for Gazetted posts likly to last for not more then one year or Government servants holding non gazetted appointments selected for a gazetted post likly to last for not more than one year who are examined by a Civil Surgeon under A. I, 515/51 ;

(*d*) Government servants who are declared unfit and on their appeal are referred by their respective department to a single Medical Officer for re-examination.

2. The position about re-imbursement of the fees paid by the candidate/ Government servant to the Medical Officer is as under :—

(*a*) In cases of types (*a*) and (*b*) of para, 1 above the candidates should be sent to the Authorised Medical Attendant/Commissioned Medical Officer and the question of fees will not normally arise. In all other cases, where the fees are to be paid, the candidate should pay the fees direct to the Medical Officer and claim re-imbursement from the department to which he/she belongs. Cases that will come under this category are as under :—

(1) When there is no Commissioned Medical Officer and the authorised medical attendant is not of the rank of the Medical Officer from whom the medical certificate is required and the candidate is sent to a Civil Government Medical Officer of the appropriate rank.

(2) In case of female candidates outside Delhi who are authorised to produce medical certificate from a registered medical practitioner in which case re-imbursement of fees will be made at the rate of Rs. 4 in the case of certificates from Medical graduates and Rs. 2 in the case of certificates from Medical Licentiates. Female candidates in Delhi and New Delhi will be sent to Hospitals prescribed by Ministry of Health from time to time for medical examination.

(*b*) In the case of candidates referred to in para 1 (*c* where the Medical examination is conducted by a Civil Surgeon the candidates will pay the fees to the Civil Surgeon and then claim re-imbursement from the department to which he/she belongs.

(*c*) When a second medical examination is allowed on appeal the fee for such examination should be borne by the candidate himself. This applies to all cases of appeal and consequent re-examination by a single medical officer.

(4) This instruction applies to D.G.O.F's Organisation as well.

[Army instruction No. 294, dated the 27th November 1954.]

(14) Under Army Instruction No 163/57 appearing as decision No (17) the system of permitting Government servants to be examined by two different medical authorities, one for permanent and another for temporary appointment has been abolished and temporary employees are now required to be examined medically by the authorities mentioned in para, I of that decision within a period of two years. In keeping with the spirit of those orders, it is desirable that no *quasi*-permanency certificate should, in future, be issued to temporary employees until their medical examination has been completed and they have been found fit. However, to avoid delays in the award of *quasi* permanency the eligible temporary employees should be given priority over other temporary employees in the submission of their names to the medical authorities.

The instruction also applies to organisations under the Controller General Defence Production.

[Army Instruction No. 205 of 1957]

[Authority :—Min, of Home Affairs O.M. No. 78-42-57 ETS, dated 27-4-57]

(15) It has been brought to the notice of the Government of India that a candidate who has been rejected by a Medical Board, not infrequently produce certificates from competent medical officers to show that he is medically fit. Usually in such a case the candidate conceals the fact that he has already been rejected by the Medical board. Such outside certificates cause embarrassment to Government and the question has arisen whether a second board should be assembled in such cases. It has been represented to the Government of India that it is not always possible to improve on original board and that even if a second board was constituted it would be difficult to declare that the second board was better than the first and should therefore carry more weight. The Government of India have therefore decided that there should be no right of appeal from a medical board, special or standing, but that if Government are satisfied on the evidence produced to them of the possibility of an error of judgment in the decision of the first board, it would be open to Government to allow an appeal to a second board.

[G.I. Department of Education, Health and Lands letter No. 16-13/36 H, dated the 31st March, 1937.]

Note :—(1) These orders relate to appeals against the decision of the Medical Boards Special or Standing. Cases have arisen where candidates for appointment to non-gazetted posts or gazetted posts of less than one year's duration have appealed against the decisions of Civil Surgeons or their authorised medical attendants with regard to their physical fitness for appointment to such posts. After careful consideration it has been decided that there should be no right of appeal from the findings of a Civil Surgeon or an authorised medical attendant, but that, if Government are satisfied on the evidence placed before them by the candidate concerned of the possibility of an error of judgment in the decision of the Civil Surgeon or the authorised medical attendant, it will be open to them to allow re-examination by another Civil Surgeon or a Specialist or by a Medical Board, as may be considered necessary. The fee for such examination, if any, will be paid by the candidate concerned.

[G.I.M. Health letter No. F. 7 (1)-27/51-M II, dated the 18th January, 1952 and G.I.M.H Affairs endorsement No. 38/5/52. Ests., dated the 1st February, 1952.]

Note 2.—It has been decided that if any medical certificate is produced by a candidate or Central Government servant as a piece of evidence about the possibility of an error of judgment in the decision of the Civil Surgeon or other Medical Officer who had examined him in the first instance the certificate will not be taken into consideration unless it contains a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for service by a Civil Surgeon or other Medical Officer.

[G. I. M. of Health Memo No. F. 7 (1)-6/53-M, II. dated the 27th March 1953].

(16) The standards of physical fitness required of candidates for appointment to Gazetted posts paid from Defence Services Estimates, the form of statement to be made by the candidates and the form of medical report as revised are incorporated in the Annexure to this decision.

While placing a requisition for a medical examination the appropriate medical authority should be furnished with the following particulars :—

(1) Date of birth of the candidate.
(2) Duties attached to the post for which he is a candidate.
(3) Whether he is subject to Field Service Liability.

[Army Instruction No. 193 of 1959]

ANNEXURE

Regulations as to the physical Examinations of Candidates for Admission into Defence Services as Gazetted Officer).

(These regulations are published for the convenience of candidates and in order to enable them to ascertain the probability of there coming up to the required physical standard. But it must be clearly understood that the Government of India reserve to themselves an absolute discretion to reject as unfit any candidate whom they may consider, on the report of the Medical Board, to be physically disqualified and that their discretion is in no respect limited by these regulations. The regulations are intended merely for the guidance of Medical Examiners and are not meant to restrict their discretion in any way.)

1. To be passed as fit for appointment a candidate must be in good

mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties of his appointment.

2. In the matter of the correlation of age, height and chest girth of candidates of Indian (including Anglo Indian) race, it is left to the Medical Board to use whatever correlation figures are considered most suitable as a guide in the examination of the candidates. If there be any disproportion with regard to height, weight and chest girth, the candidate should be hospitalised for investigation and X-Ray of the chest taken before the candidate be declared fit or not fit by the Board.

3. The candidate's height will be measured as follows :—
He will remove his shoes and be placed against the standard with his feet together and the weight thrown on the heels and not on the toes or other sides of the feet. He will stand erect without rigidity and with the heels, calves, buttocks and shoulders touching the standard ; the chin will be depressed to bring the vertex of the head level under the horizontal bar, and the height will be recorded in inches and parts of the inch to quarters.

4. The candidate's chest will be measured as follows :—
He will be made to stand erect with his feet together, and to raise his arm over this head. The tape will be so adjusted round the chest that its upper edge touches the inferior angles of the shoulder blades behind and lies in the same horizontal plane when the tape is taken round the chest. The arm will then be lowered to hang loosely by the side, and care will be taken that the shoulders are not thrown upwards or backwards so as to displace the tape. The candidate will then be directed to take a deep inspiration several times and the maximum expansion of the chest will be carefully noted, and the minimum and maximum will then be recorded in inches, 33 – 35, 34-36½, etc. In recording the measurements, fractions of less than 1/2 inch should not be noted.

6. The candidate's eye-sight will be tested in accordance with the following rules. The result of each test will be recorded :—

(*i*) *General* :—The candidate's eyes will be submitted to examination directed to the detection of any disease or abnormality. The candidate will be rejected if he suffers from any squint or morbid conditions of eyes, eye-lids or contiguous structures of such a sort as to render or are likely at a future date to render him unfit for service.

(*ii*) *Visual Acuity* :—The examination for determining the acuteness of vision includes two tests, one for distant, the other for near vision. Each eye will be examined separately.
Snelln's test types will be used for the test for distant vision, without glasses at a distance of 20 feet, and for the test for the near vision without glasses at any distance selected by the candidate.

The following standards are prescribed for distant vision and near vision with or without glasses for different types of services :—

Class of service	Distant Vision		Near Vision	
	Better eye	Worse eye	Better eye	Worse eye
Class I and II both Technical and Non-Technical	6/9	6/9 or 6/12	0·6	0·8
	6/9			

Subject to the visual standards as laid down in paragraph above being satisfied, the amount of refractive error allowed in respect of Class I and II

Services shall be as follows :—

(*i*) All Technical Services.
Total amount of Myopia (including the cylinder) shall not exceed —4·00 D. Total amount of Hypermetropia (including the cylinder) shall not exceed—4.00 D.

(*ii*) Non-Technical Services.

(*a*) For candidates upto the age of 20 years.
Total amount of Myopia shall not exceed—6.00 D. Total amount of Hypermetropia shall not exceed +6.00 D.

(*b*) For candidates above the age of 20 years.
Total amount of Myopia shall not exceed—8.00 D. Total Hypermetropia shall not exceed+6.00 D.

(*iii*) Fundus Examination.
Wherever possible fundus examination should be carried out and results recorded. The necessity for carrying out such examination, may, however, be left to the discretion of the Medical Board.

(*iv*) *Colour Vision* :—(1) The testing of colour vision shall be essential in respect of the following Class I and II Services.
(2) All Technical Services :—Colour perception should be graded into a higher and a lower grade depending upon the size of the aperture in the lantern as described in the table below : —

Grade	Higher grade of colour perception	lower grade of colour perception
1. Distance between lamp.	16'	16'
2. Size of aperture.	13 m.m.	13 m.m,
3. Time of exposure.	5 sec.	5 sec.

(*v*) *Field of vision.* The field of vision should be tested in respect of all Class I and II services by the confrontation method. Where such test gives unsatisfactory or doubtful results the field of vision should be determined on the perimeter.

(*vi*) *Night Blindness.* Night Blindness need not be tested as a routine, but only in special cases. No standard test for the testing of night blindness or dark adaptation is prescribed. The Medical Board should be given the discretion to improvise such rough tests *e. g.*, recording of visual acuity with reduced illumination or by making the candidate recognise various objects in a darkened room after he/she has been there for 20 to 30 minutes. Candidates' own statements should not always be relied upon, but they should be given due consideration.

(*vii*) *Ocular conditions other than visual acuity.* The ocular conditions or diseases which should be considered as a disqualification are as follows :—

(*a*) Any organic disease or a progressive refractive error which is likely to result in lowering the visual acuity should be considered as a disqualification.

(*b*) Trachoma—Trachoma, unless complicated shall not ordinarily be a cause of disqualification.

(*c*) Squint. For all Class I and II Technical Services where the presence of binocular vision is essential, squint. even if the visual acuity is of the prescribed standard should be considered as a disqualification. For other services the presence of squint should not be considered as a disqualification if the visula acuity is of prescribed standard.

(*d*) One-eyed persons—The employment of one-eyed individuals in regular Class I and II Services is not recommended. However, one-eyed individuals should not be altogether excluded for employment in Class I and II services on a contract basis

provided the visual acuity in the functioning eye is 6/6 for distant vision and 0.6 for near vision and the refractive error is not more than plus or—4.00 D.

The standards prescribed above should be rigidly adhered to in respect of the regular services under the Government. Relaxation of these standards may, however, be allowed when the age of the candidate at the time of the first appointment is 35 years or more. In such cases the standards for corrected vision should be reduced by one step as explained below :—

	CORRECTED VISION	
	BETTER EYE	WORSE EYE
Class I and II Services	6/12	6/12
	or	
	6/9	6/18

7. *Blood Pressure* :—The Board will use its discretion regarding Blood Pressure. A rough method of calculating normal maximum systolic pressure is as follows :—

(*i*) With young subjects 15—25 years of age the average is about 100 *plus* the age.

(*ii*) With subjects over 25 years of age the general rule of 110 *plus* half the age seems quite satisfactory.

N. B. As a general rule any systolic pressure over 140 and diastolic over 90 should be regarded as suspicious and the candidate should be hospitalised by the Board before giving their final opinion regarding the candidate's fitness or otherwise. The hospitalisation report should indicate whether the rise in blood pressure is of a transient nature due to excitement etc. or whether it is due to any organic disease. In all such cases X—Ray and electrocardiographic examinations of heart and blood area clearance test should also be done as a routine. The final decision as to the fitness or otherwise of candidate will however, rest with the medical board only.

Method of taking Blood Pressure :—The mercury manometer type of instrument should be used as a rule. The measurement should not be taken within fifteen minutes of any exercise of excitement. Provided the patient, and particularly his arm is relaxed he may be either lying or sitting. The arm is supported comfortably at the patient's side in a more or less horizontal position. The arm should be freed from clothes to the shoulder. The cuff completely deflated, should be applied with the middle of the rubber over the inner side of the arm, and its lower edge an inch or two above the bent of the elbow. The following turns of cloth bandage should spread evenly over the bag to avoid bulging inflation

The brachial artery is located by palpitation at the bent of the elbow and the stethoscope is then applied lightly and centrally over the elbow, but not in contact with the cuff. The cuff is inflated to about 200 m. m. Hg. and then slowly deflated. The level at which the column stands when soft successive sounds are heard represents the systolic pressure. When more air is allowed to escape the sounds will be heard to increase in intensity. The level at which the well-heard clear sounds change to soft muffled fading sounds represents the diastolic pressure. The measurements should be taken in a fairly brief period of time as prolonged pressure of the cuff is irritating to the patient and will vitiate the readings. Rechecking, if necessary, should be done only a few minutes after complete deflation of the cuff. (Sometimes, as the cuff is deflated sounds are heard at a certain level, they may disappear as pressure falls and reappear at a still lower level. This "Silent Gap" may cause error in reading).

8. The *urine* (passed in the presence of the examiner) should be examined and the result recorded. Where a Medical Board finds sugar present in a candidate's urine by the usual chemical tests, the Board will proceed with the examination with all its other aspects and will also specially note any signs or symptoms suggestive of diabetes. If, except for the glycosurea, the Board finds the candidate conforms to the standard of medical fitness required

they may pass the candidate "Fit subject to the glycosurea being non-diabetic" and the Board, will refer the case to a specified specialist in Medicine who has hospital and laboratory facilities at his disposal. The Medical Specialist will carry out whatever examinations, clinical and laboratory, he considers necessary including a standard blood sugar tolerance test and will submit his opinion to the Medical Board, upon which the Medical Board, will base its final opinion 'fit' or 'unfit'. The candidate will not be required to appear in person before the Board on the second occasion. To exclude the effects of medication it may be necessary to retain a candidate for several days in hospital, under strict supervision.

9. The following additional points should be observed :—

(*a*) That the candidate's hearing in each ear is good and that there is no sign of disease of the ear. In case it is defective the candidate should be got examined by the ear specialist. Provided that if the defect in hearing is remediable by operation or by use of a hearing aid, a candidate cannot be declared unfit on that account provided he/she has no progressive disease in the ear ;

(*b*) that his/her speech is without impediment ;

(*c*) that his/her teeth are in good order and that he/she is provided with dentures where necessary for effective mastication (well filled teeth will be considered as sound) ;

(*d*) that the chest is well formed and his chest expansion sufficient ; and that his heart and lungs are sound ;

(*e*) that there is no evidence of any abdominal disease.

(*f*) that he is not ruptured ;

(*g*) that he does not suffer from hydrocele, a severe degree of varicocele, varicose veins or piles ;

(*h*) that his limbs, hands and feet are well formed and developed and that there is free and perfect motion of all his joints ;

(*i*) that he does not suffer from any inveterate skin disease ;

(*j*) that there is no congential malformation or defect ;

(*k*) that he does not bear traces of acute or chronic disease pointing to an impaired constitution ;

(*l*) that he bears marks of efficient vaccination; and

(*m*) that he is free from communicable disease.

10. Radiographic examination of the chest should be done as a routine in all cases for detecting any abnormality of the heart and lungs which may not be apparent by ordinary physical examination.

When any defect is found it must be noted in the Certificate and the medical examiner should state his opinion whether or not it is likely to interfere with the efficient performance of the duties which will be required of the candidate.

Note :—Candidates are warned, that there is no right of appeal from a Medical Board, Special or Standing appointed to determine their fitness for the above services. If, however, Government are satisfied on the evidence produced before them of the possibility of an error of judgment in the decision of the first Board, it is open to Government to allow an appeal to a second Board. Such evidence should be submitted within one month of the date of communication which the decision of the first Medical Board is communicated to the candidate, otherwise no request for an appeal to a second Medical Board will be considered.

If any medical certificate is produced by a candidate as a piece of evidence about the possibility of an error of judgment in the decision of the first Board the certificate will not be taken into consideration unless it contains a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for service by the Medical Board.

MEDICAL BOARD'S REPORT.

The followig intimation is made for the guidance of the Medical Examiner :—

The standard of pnysical fitness to be adopted should make due allowance for the age and length of service, if any, of the candidate concerned.

No person will be deemed qualified for admission to the Public Service who shall not satisfy Government, or the appointing authority, as the case may be that he has no disease, constitutional affection. or bodily infirmity unfitting him or likely to unfit him for that service.

It should be understood that the question of fitness involves the future as well as present and that one of the main objects of medical examination is to secure continuous effective service, and in the case of candidates for permanent appointment to prevent early pension or payment in case of premature death. It is at the same time to be noted that the question is one of the likelihood continuous effective service, and that rejection of a candidate need not be advised on account of the presence of a defect which in only a small proportion of cases is found to interfere with continuous effective service.

A lady doctor will be coopted as a member of the Medical Board whenever a woman candidate is to be examined.

In case of candidates liable for field service in or out of India the Medical Board should specifically record their opinion as to his fitness or otherwise for field service.

The report of the Medical Board should be treated as confidential and in no case should the cadidate declared unfit be informed of the cause of rejection.

In cases where a Medical Board considers that a minor disability disqualifying a candidate for Government service can be cured by treatment (medical or surgical) a statement to that effect should be recorded by the Medical Board. There is no objection to a candidate being informed of the Board's opinion to this effect by the appointing authority and when a cure has been effected it will be open to the authority concerned to ask for another Medical Board.

(A) CANDIDATE'S STATEMENT & DECLARATION.

The candidate must make the statement required below prior to his Medical Examination and must sign the Declaration appended there to. His attention is specially directed to the warning contained in this Note below .—

1. State your name in full (in block letters)
2. State your age and birth place.....
3. (*a*) Have you ever had small-pox, intermittent or any other fever, enlargement or suppuration of glands, spitting of blood, asthma, heart disease, lung disease, fainting attacks, rheumatism, appendicits ?

OR

(*b*) any other disease or accident requiring confinement to bed and medical or surgical-treatment ?

4. When were you last vaccinated ?
5. Have you or any of your near relations been afflcted with consumption, scrofula, gout, asthma fits, epilepsy, or insanity ?
6. Have you suffered from any form of nervousness due to over-work or any other cause ?

7. Furnish the following particulars concerning your family :—

Father's age if living, and state of health.	Father's age at death and cause of death.	No. of brothers living, their ages and state of health.
No of brothers dead, their ages at, and cause of death.	Mother's age if living, and state of health.	Mother's age on death and cause of death.
No. of sisters living, their age and state of health.	No. of sisters dead, their age at and cause of death.	

All the above answers are, to the best of may belief, true and correct.

Candidate's Signature .....

Signed in my presence.

Signature of Chairman of the Board.

Note :—The candidate will be held responsible for the accuracy of the above statement. By willfully suppressing any information he will incur the risk of losing the appointment and, if appointed, of forfeiting all claim to Superannation Allowances or Gratuity.

(B) REPORT OF THE MEDICAL BOARD ON (NAME OF CANDIDATE) PHYSICAL EXAMINATION.

1. General development : Good ..... Fair .....
Poor.....
Nutrition : Thin..... ..... Average..... Obese.....
Height (without shoes).....Weight .....
Best Weight.....When ?..... . ..... Any recent change in Weight ?
....; Temperature.....

Girth of Chest
(1) (After full inspiration)
(2) (After full expiration)

2. Skin : Any obvious disease
3. Eyes : (1) Any disease .....
(2) Night blindness .....
(3) Defect in colour vision .....
(4) Field of vision
(6) Visual Acuity. ....

Acuity of vision	Naked eye	With glasses	Strength of glasses		
			Sph	Cyl.	Axis.
Distant Vision R. E.					
L. E.					
Near Vision R. E.					
L. R.					
Hypermetropia R. E. (manifest) L. E.					

4. Earts :— Inspection..... Hearing Right Ear.....
Left Ear.....
5. Glands ..... Thyroid.....
6. Condition of teeth .....
7. Respiratory System : Does physical examination reveal anything

abnormal in the respiratory organs ? .....
If yes, explain fully, ...
.....

8. Circulatory system :—
   (*a*) Heart : Any organic lessons ?..... Rate :
   Standing.....
   After hopping 25 times.....
   2 minutes after hopping.....
   (*b*) Blood Pressure : Systolic..... Diastolic.....
9. Abdomen : Girth..... Yrnfrtnrdd..... Hernia.....
   (*a*) Palpable : Liver..... Spleen.....
   Kidneys..... Tumors.....
   (*b*) Hemorrhoids..... Fistula.....
10. Nervous System: Indication of nervous or mental disabilities.....
.....
11. Loco-motor system : Any abnormality.....
12. Genito Urinary System : Any evidence of Hydrocele Varicocele etc. .....

Urine Analysis :—
   (*a*) Physical appearance.
   (*b*) Sp. Gr.
   (*c*) Albumin.
   (*d*) Sugar.
   (*e*) Casts.
   (*f*) Cells.

13. Report of X-Ray Examination of Chest.
14. Is there any thing in the health of the candidate likely to render him unfit for the efficient discharge of his duties in the service for which he is a candidate.
15. For which services has the candidate been examined and found in all respects qualified for the efficient and continuous discharge of his duties and for which of them is he considered unfit.

Chairman.....
Member.....
.....
Member .....
.....

Place.....
Date.....

(17) The question of extending the exsisting orders which allow relaxed physical standards for purpose of medical examination in the case of temporary Government servants as well as the present system of permitting Government servants to be examined by two different authorities, one for permanent appointment and the other for temporary appointment, has been considered. With a view to simplifying the existing procedure regarding medical examination, it has been decided in supersession of existing orders, that on first joining Government service, a Government servant should produce a certificate from the appropriate medical authority which should be affixed to his first pay bill, except in cases where the appointment is made specifically for a period not exceeding three months when no medical certificate will be necessary, unless it is decided later to extend the period beyond three months. When the appointment is so extended the certificate should be affixed to the pay bill for the fourth month or for the month after such decision is taken whichever is earlier. For this purpose the medical authority will be a Civil Medical Board in the case of gazetted Government servants and a Commissioned Medical Officer or a Civil Surgeon or a District Medical Officer or a Medical Officer or a Medical Officer of equivalent status in the case of non-gazetted Government servants other than Class IV. The competent medical authority for Class IV Government servants will be the Authorised Medical Attendant possessing a medical qualification included in one of the Schedules to the Indian Medical Council Act, 1933 (XXVI of 1933) or, failing such, a Government Medical Officer of the nearest dispensary or hospital possessing such qualifications. Necessary alterations to rules and regulations

will be made in due course on the basis of the above decision, but meanwhile the decision quoted above should be acted upon in the case of future recruits to Government service.

2. It has been decided that the revised procedure mentioned in para I above should be enforced in the case of existing Government servants also, but in order to avoid a sudden pressure of work falling on the Medical Officers, the process of fresh medical examination where necessary should be so staggered as to be completed within a period of two years from the date of issue of this instruction. In determining the medical fitness of the existing employees during the period of two years, due allowance should be made in the case of persons who have been in continuous service for more than 5 years and are above the age of 27 years, for the normal and reasonable degree of deterioration in the health of physical fitness of a person that may have occurred in the course of and in consequence of the service which he has already rendered to the state while in temporary employ.

3. This instruction applies also to organisations under the Controller General of Defence Production.

[Army Instruction No. 163, dated the 7th September 1957]

(18) At present there is no uniformity in the matter of medical report form used and the staddards of physical fitness observed by Medical Boards in regard to the medical examination of candidates for appointment to the various Miscellaneous gazetted posts, Class I and Class II, under the Central Government. The question of laying down regulations prescribing standards of physical fitness etc. for all the gazetted posts, technical and non-technical, under Central Government is at present under consideration in the Ministry of Health. Pending promulgation of those regulations, the medical report form to be used and the standards to be observed in all the cases of appointment to gazetted posts (other than Engineering and Survey of India) should be the same as given in the "Medical Regulations and Medical Report form for the I. A. S., I. P. S., I. F. S., and the Central Service" issued by the Ministry of Home Affairs.

The standards to be observed for the Medical examination of candidates for appointment to the Engineering Service and the Suryey of India (Class I and Class II Services) will, however, continue to be governed by the existing regulations applicable to those services.

Whenever a candidate for appointment to a gazetted post is required to be examined by a Medical Board, the Head of the Department or Office should take action in the manner indicated above. It would be preferable if in all such cases a statement showing the designation of the post and the nature of the duties to be performed is furnished to the Medical Authority concerned.

[G. I. Ministry of Health Memo No. F. 7 (1)-23/52—M. 11 dated the 7th April 1953.]

(19) A few cases have recently come to notice, in which Government servants or candidates for service who were declared unfit by Civil Surgeons/individual medical officers or Medical Boards appealed against the findings on the strength of admissible medical opinion long after they were declared unfit in the first instance or discharged from service. In view of the fact that it is not possible to keep the posts open indefinitely for such Government servants or candidates for service without causing serious administrative inconvenience, it has been decided that Government servents or candidates for Government service who are declared unfit by Civil Surgeons/individual medical officers/ Medical Boards should if they desire so appeal against such decisions, do so together with the requisite evidence in support of their case within one month from the date of issue of the communication in which the findings of the medical officers/Medical Boards are communicated to the candidate or Government servant.

[G, I, M. Health Memo No. F-7 (1)-10/53 M II dated the Ist May, 1953 circulated with G. I. M, F, Memo No. 61 (5)-EV /53, dated the 23rd June, 1953.]

(20) No second medical examination is necessary in the case of a Class

IV Government servant who had furnished medical certificate of fitness from the authorised medical attendant at the time of his entry into Government service.

[G. I. M. F. File No. F, 61 (7)-EV/53]

(21) A question having been raised as to whether Medical Examination for physical fitness is necessary in the case of part-time employees, it has been decided that such employees should be required to produce medical certificates of fitness in the same manner and under the same conditions as whole-time employees. The medical examination fees, where paid by the person concerned to the medical officer or board, as the case may be, will also be reimbursable to him in the usual manner.

[G. I. M. F. Memo No. F- 45 (1) EV/54, dated the 24th March, 1954].

(22) In accordance with the instructions contained in Government of India's decision No. (19) above candidates/Government servants who are declared unfit by Civil Surgeon etc, have been given the right to appeal within one month from the date of issue of communication in which the findings of the Medical Officers etc. are communicated to them. While candidates for appointment to Government service who are declared unfit for Government service are not allowed to join duty till they are declared fit by the second or subsequent medical authority as a result of admission of their appeal, the following questions have now been raised as to what should be done in the case of a temporary Government servant declared medically unfit :—

(*a*) whether he should be discharged from service (*i*) immediately on receipt of the adverse report or (*ii*) after one month of the date of communication to him of the findings of the Civil Surgeon etc, or

(*b*) whether he should be allowed to continue in service until either his request for an appeal board is rejected or until the appeal board, if agreed to has been constituted and has given its verdict.

2. After a defailed examination of the above questions it has now been decided that the procedure indicated in paragraphs 3 to 5 below should be observed in future to deal with such cases.

3. Normally an officer should be medically examined before his appointment. In certain cases however, an officers is required to join immediately for work or for training the appoinsment may be made without first obtaining the medical certificate, though the appointment should be subject to the Officer's being declared medically fit. In all such cases if an officer is declared unfit on medical examination and he prefers an appeal on the basis of decision No. (19) above, he should be retained in service till the case is finally decided.

4. Similarly, in the case of a Government servant whose appointment is made on a temporary basis on the strength of a medical certificate issued by a lower authority or without such a certificate, it may be necessary to get a certificate of fitness from the appropriate medical authority. If the appropriate medical authority finds that the person is not fit for retention in service at all and if an appeal for a second medical examination from the Government servant concerned is accepted, the person concerned should be allowed to continne in service till the verdict of appropriate medical authority is known. In case it is decided not to accede to the request for further medical examination the service of the officer should be terminated fourthwith.

5. It has also been brought to the notice that the instructions contained in decision No. 19 above are not usually followed in a number of cases. For a proper observance of the procedure in the above paragraph it is necessary that the intimation regarding unfitness should immediately on receipt be communicated to the person concerned with a note that appeal, if any, must be made by the candidate/Government servant concerned within one month of the communication of the findings of the Civil Surgeon/Medical Officer/Medical Board and that if any medical certificate

is produced as a piece of evidence about the possibility of an error of judgment in the decision of the Civil Surgeon/Medical Officer/Medical Board who examined him in the first instance, the certificate must contain a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for service by a Civil Surgeon/ Officer/Medical Board.

In case no appeal is preferred by the candidate/Government servant within one month of the date of communication to him of the findings of the Medical Officer/Board his service should be terminated fourthwith on the expiry of the period of one month and ordinarily no appeal should be allowed after the expiry of that period.

[G. I. M. Health Memo No. 5 (35)/55—M. II dated the 13th December, 1955.]

(23) A question has been raised whether the procedure detailed in decision No. (22) above can also be followed in the case of Ministerial Government servants who are retained in service after the age of 55 upto the age of 60. As these orders do not make any specific reference to this category of Government servants, it has been decided that the procedure indicated in the above decision may also be followed in repect of such Government servants if they are declared unfit for further retention in service and if they prefer an appeal against the decision of the Medical Board/Medical Officer etc. under the usual condition *viz* :—

(*a*) the appeal, if any, must be made by the Government servants within one month of the communication of the findings of the Medical Officer/Medical Board ; and

(*b*) if any medical certificate is produced as a piece of evidence about the possibility of an order of judgment in the decision of the Medical Officer/Medical Board, who examined him in the first instance the certificate must contain a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidate has already been rejected as unfit for further retention in service by a Medical Officer/Medical Board.

2. If the Government are satisfied on the evidence produced before them that there has been *'prima facie* error of the judgment on the part of the Medical Officer/Medical Board, a second medical examination by a competent authority may be allowed. The fee for such examination, if any, will have to be borne by the Government servant concerned.

3. If a decision on the appeal of the Government servant is not arrived at before the expiry of his present term, he should be advised to proceed on leave pending retirement admissible to him with effect from the date on which his term would normally expire, and he would continue to be on such leave if the decision on his appeal is not in his favour. Such leave will, however, in no case extend beyond the date of his attaining 60 years. In the event of such a Government servant, however, being declared physically fit as a result of the second medical examination he may be permitted to resume duty and the period of his absence treated as leave in accordance with the normal leave rules.

4. The above order will be effective only from the date of issue and cases already decided need not be reopened.

[G. I. M. Health Memo, No. F.S. (II)-34/56-M, II dated the 31st August, 1956.]

(24) Under article 49 of Civil Service Regulations, no person should be appointed to a post in Government service without producing a medical certificate of health which must be affixed to his first pay Bill. This means that medical examination should precede actual appointment. Where this procedure is not followed and the employee is found physically unfit for service in his post, the payment of salary for the period of his employment can be made only in special relaxation of Article 49 of C.S.R. Hence medical examination *before* appointment should be the rule.

2. However, in exceptional cases of urgency, it may become necessary to make the appointment first and ask for a certificate of health immediately

afterwards. Such cases will be kept down to the minimum. If the competent medical authority declares such a person as "not fit" for appointment to the specified post. the service of such an employee will, subject to the provisions of the Ministry of Health Office Memorandum No. 5-35/55-M. II, dated 13th December, 1955 [reproduced as Government of India's decision No. (22) above] be terminated forthwith.

3. Sometimes the candidate is declared "temporarily unfit" meaning thereby that he has to be re-examined after a specified period where the condition of temporary unfitness is curable within a reasonable period. In such cases, there is no objection to a Government servant declared "temporarily unfit" physically being retained in service for the period specified by the competent medical authority provided that :—

(*a*) the period after which a second medical examination is to be conducted is specified by the competent medical authority ;

(*b*) the condition leading to temporary unfitness is declared as being curable within a reasonable period ;

(*c*) the disease is not of such a nature as to be a source of risk to others with whom the Government servant may have to come in contact in the course of his duties ; and

(*d*) where the period of such retention is likely to exceed six months. the approval of the Ministry of Finance shall be obtained.

4. In partial relaxation of the provisions of Article 49 of Civil Service Regulations, it has also been decided that a Government servant so appointed in advance of medical examination, will be paid his salary for the period of his employment if he is declared "unfit" and for the period of his retention in service if he is declared "temporarily unfit" as mentioned in para 3 above.

5. This will also be applicable to the Controller General of Defence Production Organisation.

[Army Instruction No. 152, dated the 12th July, 1958.]

(25) The President has made the following rules namely :—

THE CENTRAL CIVIL SERVICES (MEDICAL EXAMINATION)RULES 1957

1. (1) These rules may be called the Central Civil Services (Medical Examination) Rules, 1957.

(2) These rules apply to every person who is a member of a civil service of the Union or who holds a civil post under the Union except railway servants as defined in rule 101-A of the Indian Railway Establishment Code, Volume I.

2. (1) Where the competent authority has reason to believe that a Government servant to whom these rules apply is suffering from—

(*a*) contagious disease, or

(*b*) a physical or mental disability which in its opinion, interferes with the efficient discharge of his duties,

that authority may direct the Government servant to under go a medical examination within such period not exceeding one month as may be specified by it and may, if it considers it essential to do so; also direct the Government servant to proceed on leave forthwith pending medical examination. Such leave shall not be debited to the leave account of the Government servant if the examining medical authority subsequently expresses the opinion that it was unnecessary for the Government servant to have been required to proceed on leave.

(2) On the basis of the opinion expressed by the examining medical authority and subject to the provisions of sub-rule (3), the competent authority may require Government servant to proceed on leave or, if he is already on leave, to continue to remain on leave, or may retire him from service if he is a permanent Government servant, or may terminate his services if he is a *quasi-permanent* Government servant.

(3) The procedure for medical examination, grant of leave retirement from service or termination of service under this rule shall be such as the President may by order prescribe.

(4) For the purposes of this rule, "competent authority" in relation to a

Government servant means the authority competent to dismiss him and includes such other authority as the President may by order specify in this behalf ;

(5) For the avoidance of doubt, it is hereby declared that non-compliance with a direction given under sub-rule (1) or sub-rule (2) of this rule will be considered a good and sufficient reason for the imposition of a penalty in accordance with the rules governing discipline applicable to the Government servant concerned.

3. A Governmen servant who is retired from service under sub-rule (2) of rule 2 may be granted such invalid pension, gratuity or provident fund benefits as may be admissible to him under the rules applicable to him on the date of such retirement.

3A. A Government servant whose services have been terminated in pursuance of sub-rule (2) of rule 2 may be granted such gratuity as may be admissible under the rules applicable to him on the date of such termination.

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

[G. I. H. Affairs Notification No S. R, O. 92. dated the 28th December,1957]
[as amended by Notification No :38/3/59-Est (A) dated the 22 nd September 1960]

(26) In pursuance of sub-rule (3) of rule 2 of the Central Civil Services (Medical Examination) Rules, 1957, the President hereby directs as fellows :—

1. For the purposes of rule 2 of the Central Civil Services (Medical Examination) Rules, 1957 (hereinafter referred to as the said rules), the examining medical authority shall be—

(*a*) a Medical Board, in the case of (*i*) all Gazetted Government servants and (*ii*) those non-Gazetted Government servants whose pay, as defined in rule 9(21) of the Fundamental Rules, exceeds Rs. 500 p. m.

(*b*) a Civil Surgeon or a District Medical Officer or a Medical Officer of equivalent status, in other cases.

2. (1) The authority directing the Government servant to undergo medical examination under sub-ule (1) of rule 2 of the said rules shall communicate to the examining medical authority all such details concerning the medical history of the case as might be available in his official records of the case and shall include a directive that the standards of physical fitness to be adopted should make due allowance for the age and length of service of the Government servant concerned.

(2) The authority directing the Government servant to proceed on leave pending medical examination under sub-rule (1) of Rule 2 of the said Rules shall also intimate the fact to the examining medical authority and require it to express an opinion on the necessity for the Government servant to have been required to proceed on leave.

3. (1) If the examining medical authority finds the Government servant to be in a bad state of health and considers that a period of absence from duty is necessary in his case for the recovery of his health, it may recommend the grant of leave to him for that period.

(2) If that authority considers that there is no reasonable prospect of the Government servant recovering his health and becoming fit to resume his duties, it shall record the opinion that the Government servant is permanently incapacitated for service and also give detailed reasons for that opinion.

(3) In either case the examining medical authority shall communicate its findings to the authority which directed the Government servant to undergo the medical examination.

4. (1) A Government servant in whose case the grant of leave is recommended by the examining medical authority shall be required to proceed on leave, or, if he is already on leave, to continue to remain on leave, by the authority competent to grant him leave as soon as the findings of the medical authority become available.

(2) The leave granted under sub-rule (1) or sub-rule (2) of rule 2 of the

said rules shall be of such nature and for such period as would be admissible to the Government servant under the rules applicable to him if he had applied for the leave on medical certificate, provided that the period of leave shall not extend beyond the date of expiry of the period recommended by the medical authority.

5. (1) A Government servant declared by the examining medical authority to be permanently incapacitated for further service shall be retired from service, but before the Government servant is actually retired from service, the authority which directed him to undergo the medical examination shall inform him in writing of the action proposed to be taken in regard to him indicating briefly the grounds on which such action is proposed to be taken :—

(2) The Government servant shall also be informed that :

(*a*) subject to the provisions of Supplementary Rule 233(1)(*b*) and (2) or the Note below Article 827-A, C.S.R., as the case may be and any orders regarding grant of leave to persons suffering from specified diseases like tuberculosis, his retirement will have effect on expiry of a period of one month from the date of communication unless he desires to retire from an earlier date ;

(*b*) he may submit, if he so desires, within the period of one month, a request to be examined by Medical Review Board supported by *prima facie* evidence that good grounds exist for doing so ; and

(*c*) if he prefers a request for examination by a Medical Review Board, he shall be liable to pay the fees prescribed under paragraph 7.

(3) For the period from the date of the communication upto the date of retirement under paragraph 6, the Government servant shall be granted leave under the rules applicable to his post service as if he had applied for leave on medical certificate.

6. On receipt of an application for review, the competent authority shall take steps to constitute a Special Review Board in consultation with the administrative Medical Officer of the State. If the Review Board confirms the opinion of the examining medical authority, the retirement of the Government servant shall, subject to the provisions of S.R. 233 (1)(*b*) and (2). be effective from the date on which the decision is communicated to the Government servant. If, on the other hand, the Review Board recommends grant of leave to the Government Servant, action shall be taken as provided in paragraph 4.

7. The entire expenditure for medical examination conducted at the instance of the employing department to ascertain whether a Government servant is fit for continuance in service or not shall be borne by the Government. This will include Travelling Allowance as on tour with halting allowance where the medical examination is carried out at a station other than the headquarters of the Government servant concerned and also reimbursement of fee charged, if any, for such examination. The expenditure incurred in assembling the Review Board shall also be borne by the Government, provided that the Government servant shall be required to pay a prescribed fee which shall be refunded if the Government servant is not retired or his services are not terminated as recommended by the examining medical authority.

[G I.M.H. Affairs Memo : No. 98/11/54 Est. (A), dated the 28th December 1957 and Memo : of even number dated the 12th September 1957.]

(27) It has been decided that the medical certificates issued by honorary Medical Officers recommending leave to Central Government servants or declaring them fit on the expiry of leave may be treated as certificates from their Authorised Medical Attendants, provided that such certificates are accepted for the same purpose in respect of its own employees by the Government of the State in which the Central Government servant falls ill or to which he proceeds for treatment.

For this purpose honoray Assistant Surgeons may be treated as equal to Assistant Surgeons and honorary Surgeons and Physicians as equal to Civil

Surgeons etc.

[G I. M. F. Memo ; No : F. 7 (48)-Est IV (A)/61, dated the 1st September 1961]

(28) It has been decided that certificates of physical fitness required for entry into Government service and on subsequent occasions, if any, may be issued by the Honorary Medical Officers, equal in status to the corresponding Government Medical Officers and accepted, provided that such certificates are accepted for the same purpose in respect of its own employees by the Government of the State in which the candidate is appointed under the Central Government or in which his medical examination is arranged.

For this purpose honorary Physician/Surgeon may be treated as equal to Civil Surgeon and honoray Assistant Surgeon as equal to Assistant Surgeon.

[G. I. M. F. Memo. No. F. 15(1)—EV (B)/63 dated the 30th March 1963]

50. The Local Government may, in any individual case on public grounds, dispense with the production of the certificate required by Article 49.

Government of India's decisions (1)-Once a person is asked to produce a medical certificate of fitness for entry into Government service whether in a permanent or temporary capacity and has actually been examined and declared unfit, it is not open to the authorities exercising the powers of a local Government to use their discretion to ignore the certificate that has been produced.

[G. I. F. D. Endorsement No F 6 (13)-R, II/44, dated the 11th May, 1944.]

(2) It has been decided that the medical examination for purposes of appointments, leave, invalidment, commutation of pension etc., of Government servants stationed in States and Unions may be carried out by and with the help of the respective State authorities concerned, subject to the condition that the Chief Medical Officer of the State should invariably be a member of the examining medical board. The other members of the medical board should be officers in the employ of the State Government possessing qualifications included in one of the schedules to the Indian Medical Council Act, 1933.

[G. I. Ministry of States letter No. F. 16 (10)-S//49, dated the 27th March 1950]

Note : The above decision also applies to civilian personnel paid from the Defence Services estimates *vide* Army Instruction No, 283, dated the 23rd June 1951.

(3) Some cases have come to the notice of the Ministry of Health in which candidates suffering from stammering have been declared unfit for clerical posts by medical officers. Since stammering is not considered to be a serious defect for clerical duties, it has been decided that it should not be considered a physical defect requiring disqualification of a candidate for a clerical post.

[G. I. M Health Memo, No. F. 5(1) 55—H, II, dated the 6th June 1955 copy received with G. I. M. F. Endorsement No- F. 45 (5)-EV/55, dated the 16th June 1955.]

(4) See Government of India's decisions Nos : (16), (17), (22), (23), (24) 25 and (28) below article 49.

51. A person whose age exceeds twenty-five years may not ordinarily be admitted into the pensionable service of the State without the sanction of the Head of the Department or a Commissioner of a Division. * * * * * *

Note.—This Article does not apply to the employment in civil capacities of reservists and pensioners of the Army, and Air Force.

Government of India's decisions :—(1) With reference to Article 356, C. S. R. as revised under G. I. I. F. D. No. 359-C.S.R., dated the 11th March, 1921, it has been decided by the Government of India that when a military employee is transferred to a Civil Department and assumes a civilian status, the date of birth to be entered in his service book should be the date stated by him at the time of attestation.

[G.I.F.D. No. 1450-C.S.R., dated 24-8-1923.]

(2) A person whose age exceeds 25 years should not be appointed

*Not printed as the necessary provision appears in the Service Rules of the States concerned.

in the Indian Audit and Accounts Department without the sanction of the Comptroller and Auditor General.

[Comptroller and Auditor General's letter No. 1723-NGD 11/124-50 dated the 9th June 1952.]

(3) It has been decided, following the practice in the Indian Army that in cases in which the documents referring to the previous military service do not give the definite date of birth but only the age stated at the time of attestation the Government servant concerned should be assumed to have completed the stated age on the date of attestation, *e.g.* if an ex-soldier was enrolled on 1st January, 1910 and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1892.

For the sake of uniformity of practice, it has also been decided that the method given in the above paragraph should also be followed in cases where a person enters civil employ without having rendered any military service and is unable to give his date of birth but gives his age. The procedure indicated above applies only to cases arising in future *i. e.* on or after 20th May, 1938. Cases in which the date of birth has already been determined by a different method are not to be reopened.

[G.I.F.D. No. F. 6(23)-R II/38, dated the 20th May, 1938.]

Note.—The procedure in para 1 of decision No : (3) above should be adopted only for the purpose of calculating the date of birth when the age is known but so far as the evidence of age is concerned, the age in medical certificate should be the deciding factor and the mere statement of the individual without any proof should not be accepted.

[G.I.M. F.U.O. No. 5168-EV/53, dated the 18th July 1953].

(4) The Government of India have decided that when, in the appointing authority's opinion, a person appointed in the first instance in an officiating or temporary capacity is likely to be made permanent at a later date the question of exemption from age-limit, if necessary, should be considered at the time of first appointment though formal sanction to the exemption may be accorded at the time the person is confirmed in Government service.

[G.I.F.D. letter No. F. 6(3)-R II/41, dated 29-1-1941.]

Note :—The provisions of this order have also been extended to personnel paid from the Defence Service Estimates. In cases in which it is considered the age limit should be waived, the appointing authority will record his recommendation in writing at the time of his ffrst appointment.

[Army Instruction (India) No. 231, dated 16-8-1941.]

(5) In the case of persons who are below 25 at the time they enter service in a temporary or officiating capacity but are over 25 at the time of confirmation, the question of exemption from the age-limit would not arise and no formal sanction would be required at the time of confirmation.

[G.I.F.D. Memo : 6(33)-R. II/43, dated 20-9-1943.]

(6) It is intended, as far as possible, to eliminate persons entering service at advanced ages subsequently entertaining a grievance that they are not allowed to continue in service till they earn the full pension. If in any special case, therefore, the Head of a Department should desire to make an exception to this age limit, the recruit should be made aware, at the eve of recruitment, of the fact that he is unlikely to be able to earn full pension.

[G.I.F.D. No. F. 6 (23)-R. II/40, dated 21-5-1940.]

(7) The Government of India have announced the following decisions for relaxation of age-limits for admission to examination conducted by the Union Public Service Commission or other authorities under the Central Government for recruitment to various Services in favour of persons who took part in national movements and were thereby prevented from appearing at these examinations while they were still within the prescribed age-limits.

I. Grounds on which relaxation of age-limit will be granted :—

To be eligible for the concession of relaxation of the upper age-limits for admission to an examination conducted by the Union Public Service Commission or other authorities under the Central Government for appointment to a service or post under the Central Government, a candidate must have taken part in the national movements and must—

(*a*) (*i*) either have been actually debarred from or refused admission

to a competitive examination on account of political activities ; or

(*ii*) have been imprisioned or detained on account of his political activities thus preventing his candidature for such an examination and

(*b*) at the time when he was so prevented from taking such an examination have been within the normal age-limits prescribed therefor.

Note :—It is necessary for the purpose of this concession that a candidate should have been actually imprisioned or under detention at the time of the examination at which he would otherwise have been a candidate when the examination was held.

II. The age relaxation to be allowed :—

A candidate who fulfils the conditions of eligibility for the concession mentioned in the preceding paragraph will be allowed one chance to appear at an examination at which he would have competed in the normal course but for his participation in the national movements, if he is not over 35 years of age on the date of commencement of the examination. He will not be eligible to claim this concession for admission to any examination which may be held after the 31st December, 1951.

III. Proof of participation in national movements :—

A candidate who claims the concession for relaxation of the age limit should submit along with his application for admission to any competitive examination held by the Union Public Service Commission or other Central authority *when an announcement about the examination is made by such authority*, a certificate from a member of Central or a Provincial Legislature or an affidavit filed before a First Class Stipendiary Magistrate by a respectable person testifying the facts about the candidate's participation in the national movements, and his being debarred in consequence from admission to such an examination.

IV. Application :—

A candidate who claims the benefit of this concession should submit his application through the Provincial Government/Chief Commissioner of the Province/the Government of the acceding State/where he ordinarily resides, to the Union Public Service Commission or other authority to whom applications for admission to the examination are required to be submitted by the terms of any announcement about an examination which is made by such an authority.

[G. I. Ministry of Home Affairs press note circulated with their Memo: No. 15-21/48-Ests:, dated 29-11-48 and No. 6/1/51-N.G.S., dated 14-2-51.]

Note—The provisions of this decision have also been extended to Civilian personnel paid from the Defence Service Estimates *Vide* Army Instruction No. 10 of 1950.

(8) A question has been raised whether any exemption from the age and educational qualifications normally prescribed for recruitment under the Government of India should be granted to the Retrenched Central Government Employees to enable them to secure re-employment under the Governmen of India. It has been decided that no general relaxation of the educational qualifications normally prescribed for recruitment should be made in their case but that the conditions regarding maximum age need not be strictly enforced. Accordingly, it has been decided that for appointments made othewise than on the basis of open competitive tests held by the Union Public Service Commission, the period of a Retrenched Central Government Employee's previous service should be deducted from his actual age and, if the resultant age does not exceed the prescribed maximum age-limit by more than three years, he should be deemed to satisfy the conditions for appointment to the post in question in respect of the maximum age. For purely temporary appointments made upto the 31st December 1951, however, no age-limits shall apply in these cases.

For the purpose of relaxation of age-limits as above, "a Retrenched Central Government Employee" is defined as "a person who was employed under the Government of India for a continuous period of not less than six months

and who was discharged because of reduction in establishmeet not more than three years before the date of his registration at an Employment Excharge or of application otherwise for employment under the Government of India."

Before admitting him to the concession regarding age-limits, a person who claims to be a Retrenched Central Government Employee should be required to produce a certificate from his last Ministry/Office to the effect that he had continuous service for a period of not less than six months under the Government of India and was discharged because of reduction in establishment and that he is suitable for employment under Government ; and it should be verified whether the intervening period between his discharge and date of registration in an Employment Exchange or other application for employment assistance is not more than three years.

[G. I. M. H. A. Memo. No. 58/2/50 DGS, dated 5th June 1950 and even number dated the 31st January 1951.]

(9) Under rules 116 of the General Financial Rules every person newly appointed to a service should at the time of his appointment declare the date of his birth by christian era supported with as far as possible by documentary evidence. Certain sweepers were brought on to regular establishment. There was nothing beyond their own statement and no documentary proof of their age was available. The Ministry of Finance with the concurrence of Ministry of Home Affairs held that for the sweepers who are not members of a regular establishment it was not obligatory to have recorded their age on appointment, under Rule 116 of the General Financial Rules. Hence in the absence of any documentary evidence to the age of a man, the age recorded in the medical certificate should be accepted.

[G. I. M. F. No. 4315-EV/50 dated 23th June 1950.]

(10) In the case of candidates belonging to Scheduled Caste and Scheduled Tribes the maximum age limit prescribed for appointment to a non-Gazetted service or post will be increased by fiive years.

[G. I. M. H. A. Resolution No.42/19/51-N. G. S. dated 25th June 1952.]

(11) Request from Government servants for alteration of date of birth should not be entertained after the preparation of their Service Books and in any event not later than the completion of the probation period or declaration of quasi-permanency, whichever is earlier. The date of birth of a Government servant may however, be altered at a later stage by a Department of the Central Government, an Administrator or a Head of Department, if he is satisfied that a *bona fide* clerical mistake has been committed and that it should be rectified. Efforts should, however, be made to settle the matter within the period stated above.

[G.I.M.F. Affairs Memo. No. F. 9/1/61-Ests (A), dated the 17th November 1962]

(12) *Procedure for recording date of birth and age in the service records of Civilian employees in Defence Services.*

1. (*i*) Every person on entering service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering service in Defence services in a civilian capacity.

(*ii*) In the case of literate staff, the date of birth shall be invariably supported by documentary evidence, and be entered in the record of service in the employee's own handwriting. If an employee is a matriculate or possesses a higher qualification, the date of birth as recorded in his Matriculation/School Certificate shall be accepted as the date of his birth.

(*iii*) In the case of illiterate staff, they will be required to produce some documentary evidence, if available, *e. g.*, horoscope or an extract from the Municipal Birth Register in support of the date of birth which shall be recorded by a responsible Gazetted Officer and witnessed by another responsible employee of the Installation not below the rank of a supervisor or of equivalent grade. In case, no such proof is available the procedure as laid down in para 2 below will be followed.

2. (*a*) When the year and the month of birth are known but not the

exact date, the 16th of that month shall be treated as the date of birth.

(*b*) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation *e. g.*, if a person enters service on 1st January 1950 and if on that date his age is stated to be 18, his date of birth should be taken as 1st January 1932.

(*c*) Where the authorities have any doubt about the correctness of the age stated or evidence produced by the person concerned in support of the age, medical opinion to asses his age may also be obtained and suitable date of birth entered in his service record (after taking into account in the date stated/ evidence produced by the individual) in the manner prescribed at (*b*) above)

3. The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall be permitted except where *prima facie* evidence is produced that the date of birth recorded in service records is incorrect. Where alterations become necessary due to a clerical error, it shall be open to the Head of the service in the case of Gazetted officer, and the Senior Officer of an instalation, or any other duly empowered officer, in the case of non.gazetted employees to cause the date of birth to be altered. All other cases, for change of the date of birth shall be decided by the Ministry of Defence in the case of Gazetted Officer, and by authorities specified in Column 3 of Schedule IV of the Civilians in Defence Service (Classification, Control and Appeal) Rules, 1952, [*incorporated as appendix 48 to this Compilation*] in the case of non-gazetted staff.

The date of birth as recorded at the initial appointmeni or as altered by the competent authority in accordance with these orders will be taken as the correct date of birth for counting previous Military Service, if any, for pension, irrespective of the date of birth as recorded in documents relating to such prior service, in those cases in which the earlier Military Service is allowd to count for *pension* under Article 356 C. S. R. except that in the case of Class III and IV civilian employees serving in Army installations under the control of the CGS, QMG and AG, the power to change the date of birth may be delegated by the latter to the Deputy PSO concerned.

4. Requests for change of dates of birth of Civilians in Defence Services should not be encouraged. Only, in very special cases may, a change be sponsored provided there is overwhelming evidence to show that the date of birth recorded in the Service Records is incorrect. Unless such requests are made within a reasonable time of the commencement of service, they shall not be considered. No requests made about the time of superannuation shall be entertained. Such requests should be supported by satisfactory documentary evidence (such as the Metriculation or equivalent certificate or a duly attested extract of the birth register or baptismal certificate in original) together with a satisfactory explanation of the circumstances in which the wrong date came to be entered and statement of any previous attempts made to have the date of birth as recorded amended. It should also be examined whether the Government servant concerned would have been within the age limits prescribed for Government service at the time he entered service with reference to the different date later claimed by him as the correct date. If he would not have been so eligible, it should be examined whether the date actually accepted then was given by him *bonafide* and did not give him some advantage In securing admission into service at that time and the change proposed later on is for *bonafide* reasons and not merely to gain some fresh advantage.

5. Where it is proved that the date of birth had been falsely stated by an amployee to obtain an advantage otherwise inadmissible, disciplinary action shall be taken against the individual concerned in addition to effecting the necessary alteration of the date of birth in service records to conform with evidence found in support of the real date of birth.

6. Where a changed date of birth is ordered, no retorspective adjustment of pay and allowences should be permitted, in other words, the change will be given effect from a prospective date. This should be made clear in each sanction. Past cases will not be re-opened in this respect.

7. No alteration of the age of personnel who have become non-effective will be permitted.

8. This instruction applies to D. G. O. F's Organization as well.

9. These instructions surpersede all earlier instructions on the subject in so far as they relate to cases of civilian personnel.

[Army Instruction No. 200, dated the 23rd July, 1955 as amended by Army Instructions No. 141 of 1956, 125 of 1957, 300 of 1956 and 290 of 1060]

(13) No upper age limit is prescribed for re-employment in a civil post of a Reservist and a Military Pensioner except that the person concerned has not attained the normal age of superannuation laid down for the post at the time of his re-employment. Note below Article 51 Civil Service Regulations refers.

The following categories of persons will be treated as retrenched Central Government employees for the purpose of concessions extended to tnem *vide* Civilian Personnel Routine Order No. 57 of 1955 :—

(*a*) Ex-Servicemen transferred to Reserve Class C.
(*b*) Ex-Servicemen released under mustering out concessions.
(*c*) Ex-Servicemen enrolled for the second time and discharged on
(*i*) completion of short term engagement.
(*ii*) on fulfilling the conditions of enrolment.
(*d*) Ex-Personnel of Madras Civil Unit.
(*e*) Officers (Military and Civil) discharged on completion of their contract (including short Service Regular Commissioned Officers).
(*f*) Officers discharged after working for more than six months continuously against leave vacancies
(*g*) Ex-Servicemen discharged on compassionate grounds.
(*h*) Ex-servicemen invalidated out of service.
(*j*) Ex-Servicemen discharged on the ground that, they are unlikely to become efficient soldiers/sailors/airmen,
(*k*) Ex-Servicemen who are medically boarded out on account of gunshot and so on.

Rule for re-employment of Military Pensioners and Reservists are contained in Section I and III of Chapter XXI Civil Service Regulations.

[G. I. M. of Defence Memorandom No. 6(8)58/5198/D (Appts) dated the 28th May 1959 amended by No : 6(8)/58/D (Appts), dated the 6th January 1960]

(14) See Government of India's decisions below Article 14.

(15) It has been decided to extend the following age concession already allowed to the residents of former French possessions in India for a further period of three years *i. e.* upto 31st December 1964.

For admission to competitive examinations held in English by the Union Public Service Commission or any other authority for recruitment to posts under the Government of India, the upper age limits for candidates who have been receiving their education through the medium of French should be relaxed as under :

(*a*) Gazetted posts	...	by 3 years
(*b*) Non-gazetted posts	...	by 5 years

These relaxations will not, however, apply to the examinations conducted by the Union Public Service Commission for entry into the Defence Services.

[G.I.M.H. Affairs Memo : No. 4/461-(B) dated the 14th December 1961]

Date of reckoning Allowances

52. (*a*) Unless it be otherwise provided by special rule or contract, the salary of an officer begins when he takes charge of the appointment in respect of which it is earned. If the charge is transferred afternoon, the transfer does not effect allowances until the next day

(*b*) If, however, the substantive appointment of an officer is

changed while he is officiating in an appointment, or if, while so officiating an appointment is not intrrupted by his new substantive appointment, he may draw the pay thereof without joining it from the date on which he is appointed thereto. or from any later date on which the substantive office becomes vacant.

(c) The Local Government may by general or special order allow a student, stipendiary or otherwise, who is entitled to be appointed to the service of Government on passing through a course of training at a university, college or school, to draw pay from any date following that on which the final qualifying examination passed by him ends, as if he assumed charge of his duties on that date. It may also grant such a student leave for a period not exceeding five weeks, or in the case of Burma six weeks, from the date from which he is allowed to draw pay and count service.

Government of India's decisions—(1) The date on which charge has been completely taken over is taken as the date of assumption of office.

[G.I.F.D. No. 1229. dated 24-3-1893]

(2) In the case of permanent appointments, substansive promotion may be given from the date on which each officer in the chain assumes charge of his office irrespective of the fact that the officer whom he succeeds may be in transit at the time.

[G.I.F.D. 2041, dated 13-5-1893.]

Charge of Office.

53. Unless for special recorded reasons (which must be of public nature) the authority 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 must be made over at its headquarters, both the relieving and the relieved officers being present.

1. A Provincial Government may delegate to a subordinate authority the power to relax for special and recorded reasons of a public nature, the provisions of this Article in the case of any class of officers serving under the latter whose transfer has been ordered by competent authority not higher than that of Provincial Government.

2. Sanction to the delivery of charge away from headquarters, but within the jurisdiction of officer relieved, may be accorded by Minor Local Government and by Heads of Imperial Departments in respect of all officers serving under them who are transferred under competent authority. In special case where the Head of Minor Local Government or Imperial Department desires, for particular reasons connected with the public service, to confer at his own headquarters with the relieving officer before the latter enters upon his local duties, he may permit the transfer to be made at his own headquarters.

3. The condition imposed by this rule that both the relieving and relieved officers must be present is not enforced in the case of officers who are permitted to combine vacation with leave under article 278. In such cases the following procedure has been laid down ;—

(a) When vacation is prefixed to leave, the outgoing officer will report before leaving headquarters, or if for urgent reasons the leave is granted during vacation, as soon as it is granted, that he makes over charge with effect from the end of the vacation. The relieving officer will then take over charge at the end of the vacation in the ordinary way.

(b) When vacation is affixed to leave the officer to be relieved will make over charge in the ordinary way before the vacation, the incoming officer on return at the end of the vacation taking over charge with effect from the beginning of the vacation.

Note—Charge of an office may not without the previous sanction of Government of India, be relinquished or resumed by officer visiting Aden on duty preparatory to retirement from service or while proceeding on or returning from leave.

Government of India's decisions :—(1) This Article does not impose an obligation for communicating the ground of order, for relinquishment or assumption of charge of an office at a station other than the headquarters, to the Audit officer but the reasons should appear in the proceedings of the Local Government.

[G.I.F.D. No. 3571, dated 29-10-1896.]

(2) It has come to notice that cases of transfer of charge of an office else-

where than at headquarters are becoming somewhat more frequent than formerly. In the circumstances, it has been decided to ensure prevention of any possible abuse of the spirit of the rule. It will meet the object in view if orders in all such cases are issued by an officer not below the rank of Joint Secretary of the Ministry of the Government of India, or embody the fact of his approval having been given.

[G.I.M F. Memo No. F. 5 (44)-E IV/48 dated 23-4-1948].

(3) It has been brought to the notice of the Government of India that while the amount of joining time admissible under Supplementary Rule 294 [corresponds to Article 176 (*i*) (*a*) of the C. S. R.] to a Government servant who performs a journey on transfer by air is limited to the actual time occupied by the journey, there is no means by which the Audit Officer is able to ascertain the time occupied by such journey. It has, therefore, been decided in consultation with the Comptroller and Auditor General, that a stetement furnishing information as to whether the journey on transfer was performed by air and, if so, how much time was actually occupied by the journey should invariably accompany charge reports in future when an officer assumes charge of the new post on transfer from another post.

[G I.M.F. No. F. 3 (4)-E-IV/50, dated 7-3-1950].

54. As a general rule and subject to any special orders to the contrary in particular cases. the headquarters of an officer on the staff of a Government, as for instance, a Secretary to a Government, the Director-General Indian Medical Service, or a clerk in a Government Secretariat. are the headquarters, for the time being of the Government to which he is attached.

55. The headquarters of any other officer are either the station which has been declared to be his headquarters by the authority which appoints him, or in the absence of such declaration, the station where the records of his office are kept.

Note—A Local Government may delegate to a subordinate authority the power to fix, or change, the headquarters of officers serving under the latter who are appointed by a higher authority.

Leaving Jurisdiction.

56. No officer (other than a police officer acting within his legal powers or an excise officer acting under the orders of the Collector) is entitled to pay or allowance for any time he may spend beyond the limits of his charge without proper authority.

Government of India's decision :—Journey beyond jurisdiction to give evidence in a Court or to attend Departmental examinations do not require special sanction under this article.

[Para 70, Assam Supplement to the C. S. R. (1st Edition).]

57. A Local Government may authorise any of its officer to proceed on duty to any part of British India, whether within or beyond its own jurisdiction, or to any Indian State or Foreign Settlement in India, provided either that the pay and allowances of the officer deputed are chargeable wholly or partially to Provincial Revenues or that the officer belongs to a Department or establishment which though paid from Imperial Revenues is under the administrative control of the Local Government.

Note—The Local Government may delegate its powers under this Article to Heads of the Departments, Deputy Inspector General of Police and Commissioners of Police in the Presidency towns and Rangoon are Heads of Departments for the purposes of this Rule.

1. An officer permitted under this Article to proceed to any place on duty may take with him such establishment and records as are absolutely necessary for the efficient discharge of his duties.

Government of India's decision :—It is permissible under this Article to accord a general sanction allowing an officer to proceed to a station beyond his jurisdiction in cases when his duty requires him to proceed to that station frequently, the controlling officer's signature of his travelling allowance bills

being taken to be proof of his journeys to the place being necessitated by official requirements.

[G. 1, F. D. 6553 C. S. R. dated 16-12-1910 (Assam),]

58. *Not printed*

59. *Not printed*

Promotion During Leave.

60. An officer on Long Leave has no claim to substantive promotion. Such promotion may, however, be given, but except in the case provided for in rule 1-A below Article 487 or Note I under Article 585 (*a*), the promotion has effect only from the date on which the officer returns to duty.

If an officer, while absent on Short Leave during which the amount of his leave allowance depends upon the substantive or officiating appointment which he would hold if present on duty, obtains promotion, substantive or officiating, or an increase of pay or acting allowance which involves no change in, or addition to, his duties or responsibilities, the promotion or increase has effect at once.

Personal, Local and Duty Allowances.

61. Unless in any case it is specially ordered otherwise by the authority sanctioning it, a personal allowance should be reduced by any amount by which the recipient's pay or salary may be increased, and should cease as soon as his pay or salary is increased by an amount equal to his personal allowance.

Government of India's decisions :—(1) The words "unless in any case it is specially ordered otherwise" have reference to the authority who sanctioned the personal allowance in the first instance, and who alone has the power to sanction its retention in full when the salary of the recepient is increased.

[G. I. F. D. No. 4847 P. dated 30-8-1905.]

(2) See Government of India's decision No : (1-B) below article 486.

62. (*a*) (*i*) **A duty allowance is drawn in full by the officer actually discharging the duties for which the allowance has been sanctioned.**

(*ii*) **In addition, a duty allowance may continue to be drawn by an officer absent from his office through deputation on special duty for a period not exceeding one month, but if the absence exceeds this period, he is not entitled to draw the allowance for any part of the absence.**

Note.—Any medical officer in medical charge of a civil station, who is required to proceed beyond the limits of his charge in order to appear as a witness in any judicial proceedings shall, in addition to the salary of his office continue to draw the duty allowance attached thereto.

(*b*) **An officer in receipt of house-rent at a Presidency town may, during absence from the Presidency town, whether on other duty or on duty connected with his office, continue to draw his house-rent, provided the term of his absence does not exceed two months, exclusive of the months of departure and return. If the absence exceeds this term, the house-rent under this Article must be supported by a certificate by the officer that his previous rate of expenditure for a house at the Presidency town continued during absence.**

Note 1.—This rule applies also to officers in receipt of house-rent allowances at Shillong.

Note 2. } *Not printed
Note 3. }

(*c*) (*i*) **Subject to the provisions of Article 268 (*a*) as regards house-rent allowance, an officer discharging the duties of an appointment is entitled to the local allowances attached to it.**

(*ii*) **So much of a local allowance as is not paid to a substitute may be drawn by an officer absent from his office through deputation on special duty for a period not exceeding one month, but if the absence**

*The areas to which they refer do not now form part of India.

exceeds this period he is not entitled to draw the allowance for any part of the absence.

Note 1.—This rule applies also to an officer in receipt of Presidency allowance at a Presidency town, who is absent therefrom on duty connected with his office. But Senior Accountants of the late Public Works Accounts Department and Public Works Divisional Accountants, when absent from the Presidency town on inspection duty, may draw Presidency allowances, irrespective of whether the period of absence is under or over a month.

Note 2.—The rule in the Note under clause (*a*) of this Article regarding duty allowance applies in the case of local allowance also, without prejudice to the claim of the *locum tenens* to draw the allowance,

63. *Not printed.*

Advances and their Recovery.

64. (*a*) An advance may be made to any public officer in the Civil Department—

(*i*) on arrival in India on first appointment, of an amount not exceeding two months' pay less the amount of any advance made in England ;

(*ii*) on return from long leave or special duty out of India, not exceeding two months' pay or Rs. 1,000, whichever is less, in addition to any advance made by the Secretary of State in England.

(*b*) The advance may be drawn under the order of the Audit Officers from any treasury in India to be specified in such orders.

(*c*) Such advances, as well as similar advances issued by the Home Government, are to be recovered by monthly instalments of one-third of salary.

Note—Clause (*c*) does not apply in the case of Military officer in Civil employ subject to Military Leave Rules granted an advance under those rules ; nor does it apply to Covenanted Engine-drivers, Mechanics, Boiler-maker etc., recoveries from whom are regulated by Article 667.

65. An Officer returning from leave out of India may be granted an advance of his leave allowance for the unexpired portion of his leave subject to a maximum of 35 days from the date of embarkation for India.

66. An advance of pay made in England to enable an officer to return to duty in India, or to one appointed in England proceeding to India to join his appointment, is recovered at such rate of exchange as the Secretary of State in Council may by order prescribe.

Transfer on Duty.

67. (*a*) No officer (unless he has been newly appointed to the service of Government) can begin to draw any pay or allowances at any treasury in India or at the Home treasury of the Government of India, without producing a last-pay certificate from the treasury where his pay or allowances were last disbursed, or from the Accountant-Genral within whose jurisdiction this treasury is, or in the case of non-gazetted officer from the head of the office under whom be was last employed.

(*b*) The rules regarding the issue of last-pay certificates in connection with 'transfer on duty' are laid down in * Appendix 5.

Government of India's Instructions :—(1) It is the duty of a Government officer, who wishes to transfer his services to different Government office or department, to obtain the consent of the authority which appointed him to his existing post before taking up the new appointment. If he takes up the new appointmet without such consent, he commits, a breach of discipline and is liable to be punished, in the last resort by dismissal from his former post

*The revised rules framed by the Auditor General of India and forms are incorporated in appendix 4 to the Treasury Rules. These have been reproduced in Appendix 5 to this Compilation.

and consequent loss of pensionable service. Resignation of his former appointment will not, it should be noted, protect him from this penalty.

In granting or withholding consent to the acceptance by a subordinate of other Government employment, the Head of an office or Department, must consider whether the transfer will be consistent with the interests of the public service. Permission should not be refused, however, without strong reason which should be recorded in writing.

The Head of an office or Department shall not employ, either temporarily or permanently, an officer whom he knows or has reasons to believe to belong to an other establishment without the previous consent of the Head of the office or Department in which he is employed. In the rare cases in which for reason which appear satisfactory to the new employer, an officer cannot obtain the required consent before taking up the new appointment. the employment may be made conditional on consent being obtained at the earliest opportunity.

The foregoing instructions apply equally to officers on leave whether with or without allowances. All leave allowances must *ipso facto* cease on taking up of new employment, other than work of a purely casual nature.

[G. I. F, D. 3205 P., Dated 27-6-1910].

Note :—The Union Public Service Commission have decided to accept advance copies of applications from Government Servants for posts advertised by them provided they are received before the closing date and original applications reach the Commission at least within a fortnight of the closing date.

[Army instruction No. 243 of 1950].

(2) The question of formulating specific instructions for the guidance of the administrative authorities in dealing with the applications of the Government servants applying for posts and appointment elsewhere has been under consideration for some time past. The conclusion reached is that no hard and fast rules can be laid down in the matter and that the final decision whether a particular application should be forwarded must rest with the authority through whom the application has to be forwarded. In taking the decision authority has to balance the interests of the State against the necessity of avoiding hardship to the individual. The general principles to be observed in dealing with such applications are stated below :—

(*i*) *Applications from permanent Government servants.* When a person has been offered and has voluntarily accepted a permanent post or appointment to a regular Service, which offers him the chance of an honourable career with respect of earning promotion on merits, he is under a moral obligation to devote his energies whole hearted to the performance of his duties in that post or service and not to divide his attention and efforts in search for employment elsewhere. He cannot justly complain of hard ship or harsh treatment if his application for any other post or employment is withheld.

(*ii*) *Application from purely temporary employee.* A temporary employee, who has no reasonable prospects of being made permanent, can hardly be blamed if he is on the look out for better and longer lasting employment. Withholding of his application would result in hardship. Application from such employees should therefore be readily forwarded unless there are compelling grouuds of public interest for withholding them.

(*iii*) *Applications from temporary employees who may have good prospects of being permanent in due course.* An employee of this type, falls somewhere between the type mentioned under (*i*) and (*ii*) above and application from him should therefore be dealt on its merits, with reference to the circumstances in each case.

(*iv*) *Applications of employees who have been given some technical training at Government expense after commencement of service*•. The State

is justified in demanding that, in return for the training given to him at State expense, an employee of this category should continue to give his service to the State, in the post or service in which such training was given. He can not justifiably complain of hardship if he is not allowed to capitalise the special qualifications so gained by seeking other better employment. Withholding of application in such a case is therefore justifiable.

(*v*) *Applications of Government servants for employment in private business and industrial firms etc.* The rules quoted above do not specifically deal with applications of this category. On general grounds. however, it is highly improper for a Government servant to apply, without permission, for employment in a private business or industrial firm etc. Where a Government servant seeks permission, to apply for such employment, he should first offer to resign or retire from Government Service. He cannot complain of hardship if he is not granted permission to apply for such employment if his application is with-held. While a person remains in Government Service, the State can legitimately refuse to surrender its claims on his services in favour of a private employer.

(*vi*) Not withstanding anything contained in the preceding paragraph in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding of his application even if otherwise the application would have been forwarded.

It may be added for information that where for good and sufficient reasons an application is withheld, no infringment of any Constitutional right is involved.

[G. I. M. H. Affairs Memo No. 170/5 Ests, dated the 21st. October 1952].

Note : (1) As stated above no hard and fast rules can be laid down in the matter and whether a particular application should be forwarded is a matter within the discertion of the authority through whom the application has to be forwarded. In dealing with the application in the light of the general principles stated in the above decision the authority has to balance the interests of the State against the necessity of avoiding hardship to the individual.

* * * * * * * * *

Generally applications for posts are from employees at lower level who have not yet been confirmed in their posts which they have been holding. As stated in para 2 (*ii*)of the above decision applications in such cases, should be readily forwarded unless in very rare cases, there are complications of public interest for withholding them- Accordingly, the discretion allowed to the Heads of Departments/Officers in such cases should be used as far as possible in favour of employees and the withholding of applications should be an exception rather than a rule. This should be particularly so in the case of employees belonging to the Scheduled Castes/Tribes who should be afforded every facility to improve their prospects.

This has the concurrence of the Comptroller and Auditor General in so far as person serving under him are concerned.

[G. I. M. H. Affairs Memo : No. 130/54-4-Est.(A)-1, dated the 28th February 1955]

Note (2) According to the instructions contained in Note (1) above, applications for employment elsewhere of temporary employees should be readily forwarded except in very rare case where there may be compelling grounds of public interest for with-holding such applications. This should be the exception rather than the rule particularly in the case of employees belonging to the Scheduled Castes/Tribes who should be afforded every facility to improve their prospects.

The question has been raised whether the above concession would apply also to permanent Government servants belonging to the Scheduled Castes/Tribes. The concession was limited in its scope to temporary employees who do not have reasonable chances of securing confirmation. In view, however, of the paucity of persons belonging to the Scheduled Castes/Tribes,especially in the higher grades of the Central Services Government have decided that an exception should be made in their favour. Accordingly applications for employment elsewhere of even permanent empolyees of Government belonging to Scheduled Castes/Tribes should be readily forwarded except in very rare cases where it is necessary in the exigencies of public service, to withold such applications.

[G. I, M. H. Affairs Memo No. 28/8/59-Ests (A), dated the 15th June 1959]

(3) The existing instructions relating to the forwarding of applications from Government servants for outside posts are laid down in decision No : (2) above and the notes there under. Briefly stated, those orders provide that except where public interest otherwise demands, the administrative authorities should ordinarily forward applications which are submitted either in response to advertisements issued by the Union Public Service Commission or applications which are submitted by temporary Government servants for permanent posts in response to requests officially received from other Departments. The orders also indicate that in deciding whether to forward an application or to withhold it on grounds of public interest, the competent authority has to balance the interest of the State against the necessity of avoiding hardship to the individual. No distinction is made between the technical and scientific personnel on the one hand and the other categories of Government servants on the other,

2. The question whether the existing instructions on the subject require any modification has been considered by Government. It is felt that the present arrangements provide for adequate discretion to the administrative authorities to hold the balance even between the interests of the parent office and the desire of the individual official to better his prospects. What is needed is that the discretion should be applied with judgment and not mechanically.

The heads of Departments should interpret the term 'public interest' strictly and subject to that consideration, the forwarding of applications should be the rule rather than the exception. Ordinarily, every employee should be permitted to apply for an outside post even though he may be holding a permanent post but this should not be done more than once in a year. In case the employing Department or institution is entirely temporary where, as in the case of the Atomic Energy Commission, the department or institution employs a large number of scientific personnel in a temporary capacity, the restriction should be made applicable to the holders of the temporary posts also.

No distinction need be made between applications made for posts in a Department under the Central Government, applications for posts under the State Governments, applications for posts in public sector undertakings owned wholly or partly by the Central Government or a State Government and applications for posts in *quasi*-Government organisations, They should all be treated alike so far as the forwarding of applications is concerned. If, however, a Government servant desires to apply for a post in a private concern. particularly in an organisation with which he has had dealings in his official capacity, he should first offer to resign or retire from Government service.

3. Government have also considered whether the terms of the bond which Government servants receiving scientific or technical training at Government expense have to execute undertaking to repay the money in the event of their failure to serve Government for a specified number of years after the completion of their training should be enforced in those cases in which the Government servants are permitted by competent authorities to apply for outside posts in accordance with the principles outlined above. It has been decided that the terms of the bond should be enforced against those Government servants only who leave Government service in order to secure private employment.

4. The existing instructions may be deemed to have been modified to the extent indicated above in their application to "scientific and technical personnel", that expression being interpreted to mean persons holding posts or belonging to Services which have been declared to be scientific or technical posts or scientific or technical services by the *ad hoc* Committee of Secretaries set up for the purpose.

[G. I. M. H. Affairs Memo : No. 70/10/60-Ests (A), dated the 9th May 1960]

(4) Sub para 2 of para 2 of decision No. (3) above provides *inter alia* that every employee, irrespective of whether he is temporary or permanent

should be permitted to apply for an outside post only once in a year, This provision has since been reviewed in the context of its applicability to scientific personnel. The question of facilitating their mobility both for the contentment of the individuals concerned and for a more rational utilisation of scientific talent in the country has been carefully considered, and thought has bee given in particular to cases of scientific personnel who may have qualifications in excess of those prescribed for the posts they may be holding. Taking into account all the circumstances it has now been decided that the scientific and technical personnel, even if they are holding permanent posts, should be permitted to apply for outside posts twice a year instead of once only as at present.

[G. I. M. H. Affairs Memo. No. 70/60/62-Est (A), dated the 25th February 1963]

(5) It has come to the notice of Ministry of Home Affairs that candidates, whose applications for appointment to posts advertised by the Union Public Service Commission are duly forwarded by Heads of Departments under State Governments, are not readily released by the Heads of Departments concerned when they are actually selected by the Commission and offers of appointment are sent to them by the Ministries/Offices of the Government of India In such cases, the time, labour and money of every body concerned are wasted. While it is realised that exceptional circumstances may occasionlly compel a Department to refuse to release an employee even if his application has been duly forwarded to the Commission, the Govt. of India feel that the ordinary practice should be that when a Department or Office allows its men to apply for posts advertised by the Union Public Service Commission, it should release them on their selection by the Commission, provided that no unusual circumstances have arisen in the meantime.

[G I, M, H. Affairs Memo No. 60/20/63-Est (A) dated the 29th April 1963]

68 A salary or establishment bill on account of an officer, of whatever rank, required to accompany the headquarters of a Government to a hill station, or other station which has been declared to be the headquarters of Government for the time being signed or countersigned by a gazetted officer, is exempted from the operation of the preceding Article.

Pay of officers undergoing training or instruction.

68A. The Local Government may authorise an officer to undergo a course of instruction, or training ; and may, at its discretion decide what pay shall be allowed during the period of training to the limit of the salary which the officer would have drawn but for his undergoing such training, In the case of a non-gazetted officer allowed under the provision of Article 57 to proceed outside the limits of the province in which he is serving, the Local Government may, at its discretion, grant in addition an allowance not exceeding one-fifth of his salary, when it considers that the expenses of the officer exceed those to which he might be put by a temporary transfer on duty within the province in which he is employed. If the place of training has been recognised as particularly expensive by the grant of special compensatory allowances to officers stationed there, the Local Government, at its discretion, may in addition grant a non-gazetted officer an allowance similar to the compensatory allowance admissible in such place to an officer of his class. In the case of a student who is not in Governmet service, the Local Government may allow such pay, not exceeding Rs. 250 a month, as it considers suitable.

Note 1.—The Local Government may delegate its powers under this Article to Heads of Departments.

Note 2.—A Local Government may issue general orders under this Article in regard to any specified case of officers.

Subsistence Allowance.

68B. The rates of subsistence allowance of members of the

Indian Civil Service, of Military Officers subject to the Civil Rules are as follows :—

(*a*) **Members of the Indian Civil Service and Military Officers to Civil Leave Rules—**

	In sterling *per mensem	In rupees per mensem
For an officer of not more than eight years' actual residence in India	33⅓	333⅓
For an officer of more than eight but less than twelve years' actual residence in India.....	42⅔	426⅔
For an officer of not less than twelve but not more than sixteen years' actal residence in India	53⅓	533⅓
For an officer of more than sixteen years' actual residence in India	66⅔	666

Note—The amount of subsistence allowance, shall in no case exceed the amount of leave allowance which the officer would draw if he were on leave of half average salary.

(*b*) Military Officer subject to the Military Leave Rules—

For an officer of the rank of Captain or subaltern	Rs. 250 per mensem.
For an officer of the rank of Major ...	Rs. 320 per mensen
For an officer of higher rank than Major ...	Rs. 400 per mensem

CHAPTER IV.—ADDITIONS TO SALARY AND DEPUTATION.

Note—The powers of the Government of India and of subordinate authorities in regard to the creation of permanent and temporary appointments, the placing of officers on deputation in India, and the sanctioning of additions to the remuneration of officers are stated in separate Resolutions of the Government of India as amended from time to time with the approval of the Secretary State for India.

69. The Maximum Civil Salary, except of appointments of which the salary is fixed by Statute, is Rs. 50,000 a year. But sumptuary allowances, travelling allowances and the like may be granted in addition to this maximum.

70. *Cancelled.*

Additions to Salary.

71. (*a*) **Unless in any particular case it be otherwise distinctly provided, the whole time of a public officer must be held to be paid for by the State, and he may be employed in any manner required by proper authority within his own branch of duty, without claim for additional remuneration, whether the services rendered are such as would ordinarily be paid for from General Revenues or a Local Fund or from the revenues of an Indian State.**

(*b*) **All Municipalties and Funds administered under a Local Government, inclusive of Port Trust Funds and Ward's Estates, are entitled to the gratuitous advice and services of officers of the Public Works Department, and of all Government Medical, Sanitary and Educational officers whenever, these can, in the opinion of the Local Government, be given without detriment to the public service. It will rest with Local Government in each case to decide whether this last condition is fulfilled, and to indicate in each instance to what officer application for advice or assistance should be made. When a Municipality has its own Engineer or Manager, it will probably only desire to consult some superior officer of the Public Works or other Department. In other cases more direct supervision and assistance may be considered, and should be freely given without charge if the Local Government decide that such supervision and assistance can be given without detriment to the public service.**

(*c*) **This rule does not, however affect such officers as Directors of a Railway Company, Members of a Town Council or a Port Trust,**

*See footnote to Article 326.

Government Director of the Darjeeling Railway, Chairman or Vice Chairman of the Rangoon Port Trust, who are entitled under any special or local law to receive fees or other remuneration for attendance at meeting of Directors or Commissioners etc., for the transaction of business.

72—76 *Cancelled.*

Temporary Appointments.

76A. A temporary appointment is an appointment carrying a definite rate of pay sanctioned for a limited time.

Government of India's decisions. (1) Rule 5 of the Central Civil Services (Temporary Service) Rules *reproduced in the margin* indicates the procedure to be adopted in terminating the services of a Government servant who is not declared permanent or *quasi* permanent.

"5 (*a*) The services of a temporary Government sarvant who is not in a *quasi* permanent service shall be liable to termination at any time by notice in writing given either by the Government servant to the appointing authority, or by the appointing authority to the Government servant.

(*b*) The period of such notice shall be one month, unless otherwise agreed to by the Government and by the Government servant.

* * *

The question of the propriety of taking action under this rule without following the normal procedure in cases of specific mis-conduct has been considered on more then one occasion. There is. in this respect, an obvious difference between action on the ground of general un-suitability and action on the ground of mis-conduct. In either case it is necessary for the authority dealing with the matter to satisfy itself about the correctness of the charge before taking action, but any undue emphasis on this may come in the way of suitable action being taken. Subject to these considerations, the Ministry of Home Affairs is of the opinion that it is inappropriate to take action under rule 5 as a short-cut to the normal procedure in the case where the Government servant is guilty only of a specific act of *mis-conduct*. At the same time no hard and fast rule can be laid down in the matter and it will be necessary to consider each case on its merits and decide whether the circumstances indicate a charge of specific misconduct or not. While rule 5 should not be utilised in the case in which action is to be taken on the basis of an incident or a series of incidents which only form a specific *offence* or *misconduct*. the authorities concerned should not hesitate to use rule 5 merely because among the reasons justifying the termination of employment there may be some which might come under the description of specific faults or mis-conduct.

When action is taken under rule 5 to terminate the services of a temporary employee, the order of termination, which should be passed by the appointing authority, should not mention the reasons for such termination. Standard forms of notice of termination of services are enclosed.

[G. I. M. H Affairs Memo : No. 39/14/56-Est (A), dated the 22nd June 1956, as amended by Memo : No 59/4/63-Ests (A) dated the 3rd October 1963].

FORM I

Under Rule 5 of the Central Civil Services (Temporary Service) Rule, 1949, Shri/Smt.....is hereby given notice that his/her service is terminated from the date of expiry of one calender month commencing with immediate effect.

Dated.....

Signature of the Appointing Authority
Designation

FORM II

Under Rule 5 of the Central Civil Services (Temporary Service) Rule, 1949, the service of Shri/Smt.....is hereby terminated with immediate effect. He/She will be paid a sum equivalent to the amount of his/her pay plus allowances for one month, which is the period of notice due to him/her. The payment of allowance will, however, be subject to the conditions under which such allowances are otherwise admissible.

Dated.....

Signature of the appointing Authority.
Designation.

(2) An extension of the temporary post necessary to cover the period of leave granted to its holder is expendient only when the grant of leave involves, 'no expense to Government' but improper in the absence of this condition.

[G. I, E. D. No. F. II (5)-RI/33. dated the 2st April, 1933.]

(3) The practice of making appointments on a substantive basis in temporary posts, in any of the grades under the Government of India, should be discontinued altogether.

[G. I M. F. Memo : No. F. 2 (2) Est, (Spl]/52 dated the 19th April, 1952 and Comptroller and Auditor General letter No : 540-A II/49—60, dated the 2nd May, 1960].

76B. When a temporary appointment of like character to existing permanent appointment is filled by an officer in the service of Government, his salary will be determined as follows :—

(*a*) **If the existing appointments are divided into grades or classes, the temporary appointments will be treated as a temporary addition to the corresponding grade or class of the cadre ; and the salaries of all officers concerned will be regulated according to promotions within the carde under the rules in Chapter V.**

(*b*) **If the appointments are not graded, the salary of the offier filling the temporary appointment will be equal to that which he would draw if he were acting in a permanent appointment on the same pay, The promotions made in such arrangements may in certain cases be substantive *pro tempore*, if the temporary appointment is for not less than six months, in accordance with the provisions of Articie 90.**

Note—A temporary addition to a clerical establishment for the performance of work falling within the ordinary duties of the establishment comes under clause (*a*) above.

The Government of India may sanction the drawal by the holder of temporary appointment, of salary in excess of what is permissble under the above rules, subject to the maximum limit of the appointment.

The Local Government may sanction the drawal by the holder of temporary appointment the pay which does not exceed Rs. 800 a month, of salary in excess of what is permissible under the above rules, subject to maximxm limit of the pay of the appointment, and provided that no special orders of the Government of India are thereby infringed.

76C. When a temporary appointment not of like character to existing permanent appointments is filled by an officer in the service of Government his emoluments will, subject to the maximum limit of the pay of appointment, be regulated as if he had been deputed on special duty under Article 81. The authority appointing him will declare whether any increase in emoluments drawn by him is to be treated as a deputation (duty) or deputation (local) allowance.

The Government of India may, subject to the maximum limit of the pay of the appointment increase the amount of the deputation allowance to such an extent as is considered necessary.

If the pay of the appointment does not exceed Rs. 800, the Local Government may increase the amount of the deputation allowance to such an extent as is considered necessary, subject to the maximum limit of the pay of the appointment and provided that no special orders are thereby infringed.

Note—In the case, however, of an officer not belonging, to an Imperial Service (as defined in Article 29B, a Provincial Government may in exceptional cases, where the cost is chargable to Provincial or divided heads of expenditure exercise this power even if the pay exceeds Rs 800.

76D. The authority which appoints an officer to a temporary appointment may declare that the officer shall hold the appointment substantively for purposes of acting allowance rules. The effect of such a declaration will be that if the officer officiates in another appointment

while continuing to retain a lien on the temporary appointment, his emoluments in respect of the temporary appointment will be regarded as his substative pay for the purpose of calculating his salary.

Government of India's decision :– See Government of India's decisions below Article 76A.

Deputation in India

77. An officer is said to be on Deputation when he is detached on special temporary duty for the performance of which there is no permanently or temporarily sanctioned appointment.

77A—78 *Cancelled.*

78A. *See* Article **76B.**

79.– 80A. *Cancelled.*

81. An officer deputed on special duty may be allowed to draw the pay or salary which he is drawing at the time of his deputation or which he would have drawn from time to time if he had not been so deputed ; provided that an officer who, while on deputation, is nominated to an appointment outside the regular line, shall not be admitted to the pay or salary of that appointment until he joins it. The officer may in addition be allowed to draw (1) if the special duty involves a decided increase of work or responsibility in comparison with the duties of his regular appointment, a deputation, (duty) allowance, (2) if, the special duty involves a change of station, a deputation (local) allowance. If the special duty involves both increased work or responsibility and a change of station, the allowance will be classed as duty or local according as it is given mainly for increased work or responsibility or for a change of station. In either case it may not, except with the special sanction of the Government of India. exceed one-fifth of salary or Rs. 10 a day. whichever is less.

Note 1.—Provincial Governments, however, may in exceptional cases, where the cost is chargable to Provincial or divided heads of expenditure, grant to an officer not belonging to an Imperial Service (as defined in Article 29-B) a deputation allowance in excess of this amount.

Note 2.—The following are instances of appointments considered to be outside the regular line for the purposes of this rule :—

Members of the Boards of Revenue and Financial Commissioners.
Judges of High Court and Chief Courts and Judicial Commissioners.
Heads of Departments including Chief Conservators of Forests and Chief Engineers.
Secretariat appointments
Agents to the Governor General and Residents of the first class.

Note 3—Rule governing the appointment and allowances of Settlement Officer and Assistant Settlement Officers are contained in *Appendix 4-A

Government of India's orders:– (1) Although an officer, while on deputation will continue to draw the personal allowance which he would have drawn, had he not been so deputed, it should not be taken into account in calculating the deputation allowance admissible under Article 18, C. S. R.

[G.I F. D No. 5016-C.S. R, dated 15-10-1911]

(2) The Government of India are of opinion that the tendency to regard all appointments to special duty as constituting a claim to extra remuneration is contrary to the spirit in which the provisions of the Civil Service Regulations were framed; and that such allowances should be granted only when it is clearly established that the special duty involves a greater share of hard work and responsiblity than would ordinaily fall upon the officer concerned if he were performing the ordinary duties of his station. The fact that the transfer to special duty involves a change of headquarters, affords, in the opinion of the Government of India, a reason for the grant of a deputation allowance only if the officer is placed at unusual expense owing to the fact that the period of deputation is a short one, or to some other exceptional cause. A change of station is an ordinary incident of service in India and does not in itself constitute a reason for an addition to an officer's

*Not printed.

emoluments.

[G.I.H.D., (Police No. 87, dated 21-1-1911]

(3) See appendices 11 and 32 to Chaudri's Compilation of Civil Services Regulations Volume II.

82. Deputation allowance does not include re-imbursement of cost of travelling, and an officer who draws deputation allowance is not thereby debarred from drawing any travelling allowance which would be admissible to him, if the duty on which he is deputed were treated as a new permanent appointment.

Private Secretary to a Lieutenant-Governor

83. Only an officer already in the service of Government can be appointed to be a Private Secretary to a Lieutenant-Governor. The pay and staff pay of Military officer appointed from Military employ are laid down in the Army Regulations. A Military officer in Civil employ, a member of the Indian Civil Service or other officer rppointed to be a Private Secretary from Civil employ, is, while so employed, entitled to a duty allowance of Rs 350 a month in addition to the salary to which he would, but for his appointment as a private Secretary, be entitled. Provided that (1) the officer's total emoluments (including the allowance of Rs. 350) shall in no case exceed Rs 1, 250 a month plus exchange compension allowance ; (2) no extra expenditure shall be caused to Goverment beyond the duty allowance of Rs. 350 per mensem and the grade place, substative or officiating, held by the officer on the establishment to which he is attached shall not be filled up and (3) no Military officer in Civil employ, or member of the Indian Civil Service, may be employed as Private Secretary whose substative appointment in the regular line is above the grade of a Joint Magistrate or Assistant Commissioner.

84. *Not printed.*

Deputation outside India

84A *Cancelled.*

85. No deputation of a Government servant out of India shall be sanctioned without the previous approval of the Central Government.

85A. (I) When a Government servant is with proper sanction temporaily deputed for duty out of India either in connection with the post held by him in India or in connection with any special duty on which he may temporarily be placed his pay shall be regulated as follows :—

(A) If he is deputed for duty in Europe or his deputation elsewhere is declared by the Central Government to be under *quasi*-European conditions and if he is sent from India for the purpose of his deputation, and does not include any leave within the period of his absence from India, he shall receive, for the first three months of his absence from India the pay which he would have drawn if he had remained on duty in India and thereafter ⅔ths of such amount

(B) If he is deputed for duty in Europe or his deputation elsewhere is declared by the Central Government to be under *quasi*-European conditions and if he is not sent from India for the purpose of his deputation, or having been so sent, includes a period of leave within the period of his absence, from India, he shall receive throughout his deputation ⅔ths of the pay which he would have drawn if he had remained on duty in India.

(C) If he is deputed for duty elsewhere than in Europe and his deputation is not declared by the Central Government to be under *quasi*-European conditions, his pay shall be determined by the Central Government with due regard to the provisions of Articles 76B and 76C of these regulations as though a temporary post had been created—

provided that—

(*a*) No Government servant on deputation out of India shall

draw pay at a rate exceeding Rs. 5,500 per month ;

(*b*) **A Government servant having his domicile in India may in any case be allowed by the Central Government to draw during the period of his deputation out of India pay not exceeding the full amount of the pay which he would have drawn had he remained on duty in India, in lieu of the pay admissible to him under sub-clause (A) or sub-clause (B) of this clause ;**

(*c*) **A Government servant who is placed on deputation while already on leave out of India on full pay may be allowed the option of continuing to consume such leave and receive, in addition to leave salary, an honorarium of one-sixth of the pay which he would have drawn had he remained on duty in India subject to the condition that the cost of passages from and to India shall be borne by him.**

(2) In addition to the pay or honorarium admissible under clause (1) of this Article, a Government servant on deputation may be granted a compensatory allowance of such amount as Central Government may think fit.

(3) The sterling equivalent of the pay or honorarium admissible under clause (1) of this Article, shall be calculated at such rate of exchange as the Central Government may by order prescribe.

Government of India's decisions :—(1) Officers on deputation out of India, whether, sent on deputation from India or placed on deputation while on leave in United Kingdom, may, if average pay leave would otherwise be admissibe convert deputation into leave on average pay *plus* an honorarium of 1/6th of Indian pay, on the condition that in both cases the cost of passages both from and to India is borne by the Officer. The Secretary of State agrees that the High Commissioner may be authorised to act on this decision.

Periods of deputation converted into leave should count for pension as leave and not as deputation.

[G. I. F. D. No. F. 120-C.S.R./25 dated the 4th November, 1925, and 19th November, 1925.]

(2) Officers serving under the Civil Service Regulations are eligible for the privilege of cunsuming leave during deputation, should they so desire, and of receiving an honorarium of one-sixth of their pay. In their case leave on full pay would take the place of leave on average pay.

[G. I. F. D., Endorsement No. F-139-C.S.R./27, dated the 28th April, 1927].

(3) The option of consuming leave on average pay during a period of deputation and of drawing an honorarium of one-sixth Indian pay shall be limited to cases in which officers are placed on deputation while already on leave out of India on average pay.

[G. I. F. D. No. F. 4-R. 1/29, dated the 22nd January 1929.]

85B. When a Government servant is with proper sanction deputed for duty out of India to hold a regularly constituted permanent or *quasi*-permanent post, other than a post borne on the cadre of the service to which he belongs, his pay shall be regulated by the orders of the Central Government.

CHAPTER V.—ACTING ALLOWANCES—GENERAL RULES.

SECTION I.—DEFINIONS AND LIMITATIONS.

86. "Acting Allowance" is the allowance given, in addition to substantive pay (if any), to an officer who is appointed to officiate in an appointment of which either there is no holder or of which the holder is an absentee.

1. A Local Government may, at its discretion allow *acting* appointments to be made in place of officers ordered or permitted to undergo a course of training. It may delegate its power under this rule to Heads of Departments.

2. A Local Government may also issue general orders authorising acting appointments to be made in the place of any specfied class or officers under training.

Government of India's decisions—(1) The Government of India have sanctioned the adoption of the following guiding principle of the purpose for clarifying the position for the working in future of the "next below" rule as affecting officaiting promotions under the Civil Service Regulations :—

"The intention of the so-called rule is that an officer out of his regular line should not suffer by forfeiting acting promotion which he would otherwise have received had he remained in his regular line. From that it follows that the fortuitous acting promotion of some one junior to an officer who is out of the regular line does not, in itself, give rise to a claim under the 'next below" rule. Before such a claim is established it should be necessary that all the officers senior to the officer who is out of the regular line have been given acting promotion, and also the officer next below him, unless in any case the acting promotion is not given because of inefficiency, unsuitability or leave. In the event of one of these being applicable to the officer immediately below the officer outside his regular line, then some officers even more junior, should have received acting promotion and the officers, if any, in between should have been passed over for one of these reasons."

[F. A. M. F. U. O. No. 2493-P A. of 1936 and Army Instruction (India) No. 82, dated 28-7-1936]

(2) It has been noticed that in some instances claims have been supported for the protection of more than one officer in respect of a single officiating appointment in cases where a consecutive series of two or more officers in a cadre are on deputation to posts outside the regular line, and the officer next below them is promoted to officiate in a higher post in the cadre. In order to eliminate any doubt in the matter, it has been decided in consultation with the Secretary of State, that one officer and one officer only, namely, the most senior fit officer who is not debarred by the conditions prescribed for the application of the rule should be allowed the benefit under the 'next below' rule.

It may happen that the senior most officer serving outside the regular line does not require to be protected under the 'next below' rule by his belonging to one or other of the types indicated below :—

(*i*) An officer serving outside the ordinary line holds a post carrying a scale of pay indentical with that of an administrative post in the ordinary line, and is, by virtue of a declaration in terms of the exception below Fundamental Rule 22, eligible for the pay and incremental benefit of the higher post in the ordinary line and also for the benefit of the additional pension by virtue of a declaration under Article 475A of the Civil Service Regulations.

(*ii*) An officer outside the regular line holds a post (generally temporary) carrying better pay than the 'identical' scale, and qualifying *per se* or by special declaration, for special additional pension as for the higher post in ordinary line.

In such cases, it has been decided in consultation with the Secretary of State that the protection under the 'next below' rule in respect of any one vacancy occurring in the regular line may go to the next seniormost fit officer serving outside the cadre who is not independently protected in respect of pay, increment or pension by belonging to one or other of these types.

[G. I. M. F. No. F. 2(2)-Est—III/46, dated 9-5-1946.]

(3) Doutbs have frequently been expressed by Provincial Governments and Audit Officers regarding the exact scope of the various rulings issued by the Secretary of State in connection with the operation of the "next below rule." For avoidance of doubt, the extent of decisions on this subject have been summarised below :—

2. The working rule subjoined to this paragraph may be taken to ex-

press the convention which is commonly known as the "next below rule" as originally approved, and its provisos, the modification made from time to time by the Secretary of State. The intention underlying the "rule" is that an officer out of his regular line should not suffer by forfeiting the officiating promotion which he would otherwise have received had he remained in original line. The so-called "rule" is not a rule of any independent application. It sets out only the guiding principles for application in any case in which the Governor-General in Council or the Governor exercising his individual judgment proposes to regulate officiating pay by special order under the second proviso to Fundamental Rule 30 (1). The conditions precedent to the application of the "next below rule" must therefore be fulfilled in each individual case before action may be taken under this proviso. It also follows that the benefit of officiating promotion is to be given only in respect of the period or periods during which the coditions of the "next" below rule" are satisfied.

"Rule—When an officer in a post (whether within the cadre of his service or not) is for any reason prevented from officiating in his turn in a post on higher scale or grade borne on the cadre of the service to which he belongs, he may be authorised by special order of the appropriate authority *pro forma* officiating promotion into such scale or grade and thereupon be granted the pay of that scale or grade, if that be more advantageous to him, on each occasion on which the officer immediately junior to him in the cadre of his service (or if that officer has been passed over by reason of inefficiency or unsuitability or because he is on leave or serving outside the ordinary line or foregoes officiating promotion of his own volition to that scale or grade then the officer next junior to him not so passed over) draws officiating pay in that scale or grade.

Provided that all officers senior to the officer to whom the benefit under the substantive part of this rule is to be allowed are also drawing unless they have been passed over for one or other of the reasons aforesaid officiating pay in the said or some higher scale or grade within the cadre :

Provided further that, except in cases covered by any special orders of the Secretary of the State, not more than one officer (either the senior-most fit officer in a series of adjacent officers outside the ordinary line, or, if such an officer either foregoes the benefit of his own volition or does not require the benefit in virtue of his holding a post outside the ordinary line which secures him at least equivalent benefits in respect of pay and pension then the next below in the series) may be authorised to draw the pay of the higher scale or grade in respect of any one officiating vacancy within the higher scale or grade in respect of any one officiating vacancy within the cadre filled by his junior under this rule."

3. The "next below rule" set out in the preceding paragraphs should be applied with due regard to the rulings or decisions mentioned hereunder :—

(*i*) A purely foruitous officiating promotion given to an officer who is junior to an officer outside the regular line does not in itself give rise to a claim under the "next below rule."

(*ii*) The expression "outside the ordinary line" occurring in Fundamental Rule 30(1) is not intended to be rigidly interpreted as necessrily involving a post either "outside the cadre of a Service" or "outside the ordinary time scale."

(*iii*) Although certain special posts in cadre may be considered to be posts outside the ordinary line for the purpose of applying the "next below rule," there are no orders to cover the converse type *viz.*, the treating as cadre posts of those posts created by Government of India which are declared to be equivalent in status and responsibility to permanent posts included in Secretary of State's cadre. Now that the powers of Governments in India to

add temporary posts to the cadre of a Secretary of State's Service have been withdrawn under the Constitution Act of 1935, the benefit under the "next below rule" may not be allowed, without the sanction of the Secretary of the State, (*now* President) to an officer outside the ordinary line if an officer junior to him is appointed to a post created and declared by the Government in India to be so equivalent.

(*iv*) If Government have approved in any department a list of officers in order of merit for promotion to administrative rank or a selection grade, then that order will prevail as the order of seniority of the officers in the ordinary gradation list of their cadre.

4. The Secretary of State has held that holders of special (*e.g.* tenure) posts such as Secretaryship to a Governor or a Provincial Government should be ready to accept loss of officiating promotion for short periods to posts on a higher scale or grade in the ordinary line in the consequence of their incumbency and that, when the stage is reached at which their retention involves loss of substantive or lengthy officiating promotion the proper course is to make arrangements to release them from the special posts rather than to compensate them for the loss of officiating promotion under the "next below rule." 'Short periods" should be interpreted as meaning periods not exceeding three months.

If in such a case the conditions of the "next below rule" are not satisfied and an officer is deprived of officiating promotion owing to its being impracticable for the time being to release him from the special post, he may be granted with the approval of the Governor-General in Council or of the Governor acting in his individual judgment, according as the officer concerned is serving at the Centre or in the Province, such compensation for loss of officiating promotion as would have been admissible under the "next below rule" for the period or in excess of first three months of his retention in the posts in the public interest. No specification or declaration in terms of the second proviso to Fundamental Rule 30(1) by the Governor-General in Council or the Governor will be necessary in these cases and it will suffice if those authorities issue the requisite orders granting the officers concerned the compensation on that basis. As in the case of the "next below rule" the period for which compensation equivalent to the "next below rule" benefit is allowed will count for increment in the higher scale or grade in which the officer would have officiated, had he not been holding the special posts in the public interest.

If however, in such a case the conditions of the "next below rule" are satisfied, the officer concerned may be granted under the second proviso to Fundamental Rule 30(1), the concession admissible under the "next below rule" but save in exceptional circumstances, such an officer should not be retained in the special post if the pay attached thereto is lower than that admissible to him under the "next below rule" for more than 6 months beyond the date from which the "next below rule" begins to operate. The sanction of the secretary of State (*now Government of India or State Government as the case may be*) is however, necessary for exceeding this time limit in individual cases in exceptional circumstances.

[G. I. F. D. No. F 2 (25)-Est. III/46, dated 2-4-1947].

Note :– Government of India have under consideration for some time the question of protecting the seniority and chance of promotion under the 'next below rule' of Government servants who join the Territorial Army and are on deputation there either on annual training or for course of instruction or during an emergency etc. It has been decided that the period of service rendered by them with the Territorial Army may be treated as service outside the ordinary line for the purpose of proviso 2 to F. R. 30 (1): accordingly they will be entitled to *pro forma* promotion in their parent Departments, under the 'next below rule'. They will also get the seniority in the higher posts to which they would otherwise be entitled, if they had not been away for training etc. in the Territorial Army.

[G. I. M. H. Affairs Memo No : 47/2/56-Est: (A), dated the 20th January 1958].

(4) According to the provisions of Fundamental Rule 51-A when a Government servant is, with proper sanction, deputed for duty out of India to hold a regularly constituted permanent or *quasi*-permanent post, other than the post borne on the cadre of the service to which he belongs, his pay shall be regulated by the orders of the Central Government.

2. The Government of India have had under consideration the question as to what extent the benefit under the second proviso to F. R. 30 (1) (*i.e.* Next Below Rule') as clarified in the late Finance Department letter No. F. 2(25)-Estt.III/46 dated the 2nd April, 1947, [*decision No. (3) above*] could be given to Government servants deputed abroad.

After a careful examination to this question the President has been pleased to decide that the benefits under the 'Next Below Rule' shall not be admissible to Government servants deputated to hold regularly constituted ex-cadre posts abroad. In such cases, however, on the reversion of the officer to the post whether in or out of India in the parent cadre which he would have held but for his deputation to an ex-cadre post abroad, that portion of the period of deputation during which the conditions precedent to the grant of benefit under the 'next below rule' are satisfied shall be taken into account in fixing the pay of the Government servant. For this purpose, the deemed date of promotion in the post which may fall during the tenure of deputation shall be arrived at by applying all the conditions of 'next below rule' and the pay on the date of actual appointment to that post immediately on reversion from deputation to an ex-cadre post abroad shall be fixed under F. R. 27 by assuming that the officer had been promoted from the deemed date of promotion.

3. In order to ensure that the benefit of promotion to a higher post, is not unduly denied to the Government servants, it has been decided that the administrative Ministries, etc., should screen the officers to be deputed abroad so that only such officers are sent abroad, as are not likely to be promoted to any higher grade or post in their parent department during the period of deputation.

4. These orders shall be applicable in respect of all cases of deputation abroad commencing on or after the date of issue of this decision.

[G, I. M. F. Memo ; No, F. 2(10)-E. III/ 60, dated the 17th October 1960]

87. In certain cases; as defined in Articles 89 to 92, it is permissible to appoint an officer 'provisionally' or substantively *pro-tempore*" instead of appointing him to officiate.

88. It is also permissible, instead of appointing an officer to officiate, to appoint him to be in charge of the current duties of the vacant appointment. In such cases a "charge allowance" is given as explained in Articles 94, 95, 165, to 169A and 174A.

Government of India's decisions :—(1) The Law Ministry has since advised that an officer appointed to perform the current duties of an appointment can exercise administrative or financial powers vested in the full-fledged incumbent of the post but he cannot exercise statutory powers, whether those powers are derived direct from an Act of Parliament (*e. g.*, Income Tax Act) or Rules, Regulation and Bye-Laws made under verious articles of the Constitution (*e.g.*, Fundamental Rules, Classification, Control and Appeal Rules, Civil Service Regulations, Delegation of Financial Powers Rules etc).

[G. I. M. F. Memo No. F.7/14/61-Est V (A). dated the 24th January 1963].

(2) The primary object of notifying any item in the Gazette is to make it known to the public. The notifications relating to Government servants, however, also enable the audit authorities to regulate their pay, allowance, etc, as well as maintain History of Services. Accordingly, every important event in the official carreer of a gazetted Government servant affecting his pay and other conditions of service *e.g.* leave, reversion, suspension, removal, dismissal etc. requires to be notified in the Gazette. Appointment of an officer to hold current charge of the routine duties of a gazetted post

does not involve any change in his emoluments and from the audit point of view a gazette notification may not strictly be called for. Such appointment should still be notified if it is considered desirable to publicise it or if the Officer concerned is required to countersign bills as a Controlling Officer or exercise statutory or other powers conferred on holders of the post.

[G. I. M. H. Affairs Memo No. 12/41/53- Est, dated the 14th August. 1954].

(3) It has been decided that with immediate effect short term vacanices may be filled in the normal manner only if their duration exceeds two months.

Officiating promotions in vacancies of two months duration or less may be made only in very exceptional circumstances, and after obtaining the perior personal approval of the Secretary of the Ministry or the Head of the Department concerned, as the case may be. No officiating promotions should however, be made in appointments within the purview of the Central Establishment Board till the approval of the Board has been obtained to the filling of the vacancy.

[G. I. M. F. Memo No, F. 11(29) Est III/59, dated the 22nd September 1959 as amended by memo : or even number dated the 14th June 1961.]

(4) See Government of India's order below Article 162.

(5) Instances have come to notice in which vacancies exceeding two months by just a few days are filled as a matter of course. This would be contrary to the spirit of the orders contained in decision No. (3) above. Officiating promotions in future should be made in the normal course only when the vacancies exceed two months by an appreciable margin and subject to the other conditions mentioned in Government of India's decision No. (3) above.

[G. I. M. F, Memo ; No F. 11 (29) Est. III/ 59, dated the 22nd December 1960].

(6) Government of India's Instruction below Article 162 on pages 94-95.

Provisional Appointment

89. If an officer is transferred to duty which is such that he retains no connection with his own appointment and which, there is reason to believe, will not terminate within three year, the local Government may if it thinks fit, suspend his lien upon his own appointment altogether, and fill up that appointment substantively reserving only the right to reverse the arrangements thus made in case the absent officer at any time reverts to his original appointment.

Note :—A Local Government may delegate its powers under this Article to Heads of Departments in respect of officer whom they can appoint.

Government of India's decisions.—(1) The limit of three years mentioned in this Article refers to the duration of duty itself and to the tenure of appointment by a particular officer.

[G. I. F. D. 4143-P. dated 14-8-1900.]

(2) The date from which the lien of an officer may be suspended under Article 89 of the C. S. R. may at the discretion of the Local Government be held to be the date on which he was actually so transferred and not necessarily any later date on which it is determined that the appointment will last for more than three years.

[G. I. F. D. 850-C. S. R. dated 6-12-1912.]

(3) See Government of India's decision No. (2) and Auditor General's decision No. (2) below Article 376.

Substantive *pro tempore* Appointments.

90. An officer to whom the rules in Section I of Chapter VI do not apply may be appointed substantively *pro tempore* on full pay, without prejudice to the lien of the absentee, in place of an absentee who draws no part of the pay of the appointment or of an officer on deputation, provided that when the absence is due to a temporary appointment or the officer is on deputation, the temporary appointment or deputation lasts for six months or more.

The full pay of an officer thus appointed substantively for a time may, in like manner and upon the same condition be given to a substitute similarly appointed. The status of an officer appointed substantively *pro tempore* under this Article is that of an Acting officer,

and, if he is appointed to officiate in a higher appointment, his salary is reckoned upon his substantive pay proper and not upon the pay of the appointment he held substantively *pro tempore*.

Note 1. This rule is subject to the proviso that the salary of an officer is substantive *pro tempore* in one appointment and who is appointed to officiate in a higher appointment shall not be less than that which he drew while holding the substantive *pro tempore* appointment. While appointed to officiate in a higher appointment or in a higher class the officer does not cease to hold the former appointment substantively *pro tempore* unless expressly reverted ; and unless the officiating appointment is expected to last for at least three months the authority appointing him may not revert him to his substantive appointment merely for the purpose of appointing another officer to the substantive *pro tempore* appointment.

Note 2.—Full pay is not to be drawn under Articles 89 and 90 as a matter of course, or unless the officer claiming it has been formally appointed 'provisionally" or "substantively *pro tempore*" by competent authority.

Government of India's decisions.—(1) Substantive *pro tempore* promotions are not permissible for the period of overstayal of leave under Article 229. (*ii*).

[G. I. F. D. 270-A., dated 25-4-1899].

(2) Joining time should be excluded in determining whether the period of deputation exceeds six month or not.

[G. I. F. D. No. 109 P., dated 15-1-1903].

(3) An officer who holds an appointment substantively *pro-tem* loses his lien on the sub. *pro-tem* appointment if while so holding it, he proceeds on long leave. Another officer can then be appointed sub. *pro-tem* in the appointment.

[G. I. F. D. 26 0-P., dated 17-5-1901].

91. An officer appointed to act in another office is not an absentee within the meaning of Article 90 unless the full pay of that office is available and he is appointed to it substantively *pro tempore*.

92. An absentee who receives absentee allowances draws, within the meaning of Article 90, "part of the pay of his appointment" ; and that Article is not to be construed as conflicting with Article 214.

93. *Omitted.*

Charge Allowances.

94. An officer appointed to be in charge of the current duties of an office independently, *i. e.* **under orders which expressly relieve him of the charge of his own office, is entitled to a charge allowance of three-quarters of the acting allowance which would be admissible to him if he were appointed to officiate in the office. An officer cannot be thus appointed to be in charge of a "grade".**

Note—The rules laid down in Articles 168 and 169 apply here also.

95. The Local Government may, if it thinks fit, assign to the officer a charge allowance of less than the amount thus admissible, and, on the other hand, if it thinks this amount too small, may grant him for special recorded reasons, the full acting allowance. Charge allowance under this Article must never exceed what an officer would draw as acting allowance if appointed to officiate in the appointment.

Note—The rules laid down in Article 168 and 169 apply here also.

1. The Local Government may delegate its power under this Article to the Head of a Department or Commissioner of a Division.

SECTION II. MAXIMUM AND MINIMUM SALARIES

96. The minimum salary of an officiating officer is half the pay of the appointment, and, except in cases where the rules in Section I of Chapter VI apply, the maximum salary is the pay of the appointment.

Government of India's decision :—See Government of India's decision below Article 39.

97. *Cancelled.*

SECTION III.—PRIVILEGE LEAVE VACANCIES.

98. As a general rule, the duties of an officer absent on Privilege

leave taken separately and not combined with other leave under Article 232 shall be discharged by another officer in the same station or district. Only in exceptional cases where there is absolutely no officer available on the spot, can the transfer of an officer from another station or district to act in consequence of the absence of an officer on Privilege leave be allowed. In the case of appointments held by members of the Indian Civil Service or a Commission, if a member of that Service or Commission is not available on the spot, a Provincial Service officer should be placed in charge of the vacant appointment.

99—103. *Cancelled.*

CHAPTER VI—ACTING ALLOWANCES—RULES FOR CALCULATION.

SECTION I.– IMPERIAL SERVICES AND SERVICES ORGANISED ON A TIME-SCALE BASIS.

104. The rules in this Section apply to all Imperial Services and to any other Service, except the Indian Finance Department, which is organised on a time-scale basis.

Note—The officiating promotion and acting allowances of officers of the Indian Finance Department are regulated by the rules which were in force prior to 11th September, 1920.

105 Subject to the provisions of Article 162, an officer holding one appointment substantively, who is appointed to officiate in another, shall not draw acting allowance unless the officiating appointment involves the assumption of duties or responsibilities of greater importance or of a different character. This condition is not fulfilled if the two appointments are on the same scale of pay.

Note—Two appointments are said to be on same scale of pay when they fall within or a class having been created in order to fill appointments involvivg duties of approximately the same character or degree or responsibility in a service or establishment or a group of establishments, so that the pay of the holder of any particular appointment is determined by his position in the cadre or class and not by the fact that he holds that appointment.

Exception—Officers who on the 10th September, 1920 were in the receipt of acting allowances as officiating in the selection grade of judges may be permitted by the Local Government to continue to draw acting allowances for so long as they officiate continuously and a similar concession may be given to officers in other services similarly situated,

106. Subject to the provisions of Articles 105 and 108, the acting allowance of an officiating officer will be the difference between his pay and the pay of the appointment in which he officiates. If, however, his substantive pay is greater than the pay of the appointment in which he officiates, he will continue to draw his substantive pay.

Government of India's decision. (1) The main principle of the acting allowance rules contained in Section I of Chapter VI CSR (* * *) is that the salary of an officiating officer shall be the pay of the appointment in which he officiates (Art 106 CSR) the pay of the appointment being defined to mean the pay which an officer would receive if he held the appointment substantively (Art 39 *ibid*), Thus on each occasion an officer is appointed to officiate in a higher appointment his salary shall be limited to the pay he would draw if he were substantively appointed to the post on that occasion.

For facility of dealing with the case the acting allowance rules are summarised as follows :—

(*a*) When an officer officiates for the first time his officiating salary shall be equal to the stage of the time scale next above his substantive pay (first two lines of Art 107) read with Art 156 (*a*)(*i*) CSR.

(*b*) When he officiates on the second or subsequent occasion—

(*i*) If his present substantive pay does not exceed the salary which he drew when last officiating he shall draw that salary (first sentence of Art 156 (*b*) (CSR),

(*ii*) If his present substantive pay exceeds the salary which he drew

when last officiating his officiating salary shall be equal to the stage of the time scale next above his substantive pay (first sentence of Art 107 and Art 156 (*a*) (*i*) (CSR).

(*c*) If his substantive pay is increased while officiating in the higher appointment either for the first time or on subsequent occasion, he shall draw the same salary that he was drawing immediately before his increment fell due or his substantive pay whichever is greater (last sentence of Article 107 CSR).

[MGO. Simla letter N. 810/MG 3, dated the 29th May 1934].

(2) The question as to whether the provisions of the late MGO Simla letter No. 810/MG-3 dated 29-5-34 [*decision No. (1) above*] are still applicable in spite of orders contained in AI 190/58/NI 143/58/AFI-110/158 was examined in consultation with the Ministry of Finance (Defence). It has since been clarified by them that with the issue of Army Instruction 190/58 (and corresponding NI/AFI), the provisions of late MGA's letter dated 29-5-34 which are based on Article 156 CSR may be deemed as superseded and the fixation of pay under Article 107 CSR may be carried out under that Article as it stands amended at present.

It has been intimated by the Ministry of Finance (Defence) that the question of amending Art 156 CSR on the lines of FR 22 is engaging the attention of the Government and a decision when reached in this regard will be communicated to all concerned in the usual manner.

[Controller General of Defence Accounts letter No. 2008/A T-P, dated the 27fh October 1960].

107. An officer officiating in an appointment on a time-scale draws as initial salary the stage of the time-scale next above his substantive pay, if any; provided that, if he has previously officiated in the appointment or in an appointment in the same cadre on the same time-scale, his initial salary shall not be less than the salary which he drew when last officiating. All officiating service in any stage of the time-scale, whether continuous or not, counts for increment in that stage. If the salary drawn during any period of past officiating service was intermediate between two stages of the time-scale, that period will count for increment in the lower of the two stages. On any enhancement in the substantive pay of a Government servant as a result of increment or otherwise, his officiating pay shall be refixed from the date of such enhancement, as if he were appointed to officiate in that post on the date provided such refixation is to his advantage and this concession relating to refixation of pay shall be deemed to have taken effect on the 22nd January, 1958.

Provided that the provisions contained in Article 156-A shall not applicable in the matter of refixation of pay under this Article.

Note 1.—This Article does not apply to any-scale sanctioned by the Secretary of State in Council in so far as it is inconsistent with the terms specially so sanctioned for such time-scale.

Note 2.—Where the increment of a Government servant in the post in which he is officiating has been withheld under article 152 without any reference to the increments that will accrue to him in the post held by him in a substantive capacity, the provisions contained in the last sentence of this Article shall not apply before the date from which the orders withholding the increment finally cease to be operative. However, the Government servant may be allowed, during the period of penalty of withholding of increment, his substantive pay from time to time if the same happens to be more than the officiating pay. These provisions shall also apply in respect of a Government servant whose pay in the post held by him in an officiating capacity has been withheld at a particular stage or at the efficiency bar stage of the time-scale of that post for failure to pass a departmental examination.

[G.I.M.F. Notification No : F. 2(70) F III/61, dated the 2nd January, 1962.]

Government of India's decisions. *(1) It has been decided that the pay of a Government servant, while officiating in a higher post, shall be refixed

*See decision No. (4) on page 82 of this volume which has effect from 1-4-1961.

from the date his substantive pay is enhanced as a result of increment or otherwise, as if he is appointed to officiate in that post on that date provided such refixation is to his advantage. This liberalisation of the provisions of Article 107 CSR does not interfere with the powers conferred on the Local Government *vide* Article 108 CSR.

In cases where refixation of officiating pay under para 1 of this decision is of immediate advantage to the Government servant concerned, the pay may be refixed with effect from 22nd January, 1958 without waiting for further enhancement in his substantive pay.

* * * *

3. This instruction also applies to civilians employed in organisations under the C.G.D.P.

Case No. 87593/AG/Org. 4 (Civ) (d)/8315/D(Civ-I).
M. of F (D) u. o. No. 4109-PE of 1958.

[Army Instruction No 190, dated the 23rd August 1958.]

(2) †A Government servant shall be deemed to have automatically crossed the efficiency bar, if his officiating pay on refixation under Army Instruction 190/58 [*decision No.* (1) *above*] carries his pay above the efficiency bar. The question of application of efficiency bar shall not arise in such cases unless the competent authority decides to restrict the pay under Article 108 C.S.R., for reasons of unfitness of the individual to cross the Efficiency Bar or for any other reasons.

In the case of a Government servant whose officiating pay in a post is fixed/refixed under decision No. (1) above and who is confirmed in that post from a retrospective date, the refixation of his pay under decision *ibid* after the date of his confimation shall have to be revised and consequently overpayment, if any, shall be adjusted against the arrears, if any, that might become due to the Government servant for the period from the date of confirmation to the date of issue of orders of confirmation. The un-adjusted balance of the over-payment, if any, shall be waived.

Refixation of pay under decision No. (1) above will also be admissible in respect of a post in which a Government servant was not actually officiating at the time of enhancement of his substantive pay, but in which he would have officiated under the 'next below rule' but for his deputation to some other post/officiating appointment to a still higher post. As and when the Government servant reverts to that post from deputation/higher post, the actual pay to be given to him on the date of reversion will be arrived at with reference to the notional pay so re-fixed.

The provisions of decision No. (1) above will not be applicable to cases in which initial pay is fixed under Govt. of India decision No. 4 below.

[Army Instruction No. 294 of 1959 as amended by No. 200 of 1962].

(3) †A question has been raised in regard to the manner in which the officiating pay is to be regulated in a case where an increment in the substantive post falls due during a period of leave and the refixation of officiating pay is to the Government servants advantage. The position is clarified as under :—

(*a*) In the case of a person proceeding on leave, if the period of leave counts for increments in the officiating post-under Ministry of Defence office Memorandum No. 2(38)58/8156/D(Civ-I) dated the 7th September 1959 subject to the fulfilment of the condition and production of necessary certificates, his officiating pay may be refixed from the very date of increment or in case in the substantive pay as if he was appointed to officiate in that post on that date. The benefit of the increase in officiating pay can be had by him only form the date of resumption of duties but his next increment in the officiating post-will accrue to him from an earlier date in the next year calculated with reference to the date of refixation of pay.

(*b*) If, however, period of leave does not count for increment in the officiating post, the Government servant loses all connection with

†See decision No : 4 on page 82 which has effect from 1-4-1961.

that post during that period and he will be entitled to get his officiating pay refixed only from the date he returns from leave in which case the next increment will fall due only after completion of one year's duty from the date of resuming charge unless he becomes entitled to refixation of pay once again with reference to increase in pay in the substantive post from an earlier date.

[Army Instruction No. 258 of 1960].

(4) The Government of India have had under consideration the recommendation of the Pay Commission contained in paragraph 6 of Chapter X of their report that on promotion to a higher post, upto and inclusive of those from the present class II to the level of class I, the pay of the employee should first be increased by one increment in the lower scale and then fixed in the higher scale at the stage next above, and that no distinction should be made for this purpose on the ground that the lower post was held in a *quasi*-permanent or temporary and not permanent capacity.

It has been decided to accept the recommendation of the Pay Commission and the President has accordingly been pleased to decide that in respect of all promotions occuring on or after the 1st April 1961 the fixation of pay shall be done in the manner indicated in the preceding paragraph.

The relevant provisions in the CSR and other Government orders issued from time to time in respect of refixation of pay on promotion may be deemed to have been modified accordingly in so far as persons covered by these orders are concerned. Necessary amendments to CSRs will be notified in due cource.

These orders will not apply to cases of Government servants who are appointed to higher posts with the approval of the U.P.S.C. and in whose case the Commission have made a specific recommendation regarding the pay to be given.

[G.I.M. of Defence Memo : No. 11(4)61/3783/(Civ-1) dated the 6th March 1961].

108. A Local Government may grant to an officiating officer an acting allowance less than that admissible under these rules.

Audit Instruction. One class of case falling under F.R. 35 (*corresponds to this rule*) is that in which a Government servant merely holds charge of the current duties and does not perform the full duties of the post.

[Para 12 (*i*) Chap. IV, Section I of the Manual of Audit Instructions (Reprint).]

109—137. *Cancelled.*

SECTION II - OTHER SERVICES.

138. The following rules are applicable to officers in Civil employ whose cases are not provided for in Section I of this Chapter, or by rules peculiar to the Services concerned, such as—

(1) Lieutenant Governors and Members of Council (see Chapter XXII).

(2) Judges of the High Courts (See Chapter XXIII).

(3) * * * * *

(4) Law Officers (see Chapter XXXI).

139—139A. *Cancelled.*

Officers having a substantive appointment.

140. An officer with a substantive appointment, officiating in an appointment to which this Section applies and of which the pay is not less than Rs. 100, is entitled to an acting allowance of one-fifth of the appointment : Provided that no officer may under this Article be appointed to officiate in the higher grade of his own class.

1. A Section writer or a Press servant who is paid for piece work is, for the purpose of the rules in this Section, held to be an officer without a substantive appointment.

141. For the purposes of this Section, the pay of an appointment which belongs to a graded class is the average pay of the grades, calculated without reference to the number of appointments in each grade ; but the officiating officer's salary shall not exceed the pay of

the lowest grade unless he belongs to another department, and is specially appointed to officiate in a grade other than the lowest

The provisions of the Article are not to be applied in the case of temporary acting appointments not lasting longer than three months so as to give the officiating officer a lower salary than his salary in the appointment he would have continued to hold but for the acting appointment.

Government of India's orders :—See Government of India's decision below Article 39.

Medical appointments.

142 A Military Assistant Surgeon while officiating in charge of a Civil Station is entitled to draw the full minimum pay of the post and to count the period of officiating service towards increment.

Note—In Bengal, the Punjab, the Central Provinces, Bihar and Orissa, Assam and Burma, the under-mentioned allowances may be granted under the order of the Local Government to a Military Assistant Surgeon performing the duties of the Civil Surgeon at headquarters while the latter is absent for more than seven days on duty :—

		Rs.
(*a*)	If the substantive holder of the charge is a Commissioned Medical Officer—To a Senior Military Assistant Surgeon, or Militrary Assistant Surgeon first class, a duty allowance of	75
	To a Militaty Assistant Surgeon of the second, third or fourth class. a duty allowance of	50
(*b*)	If the substantive holder of the charge is a Civil or Military Assistant Surgeon—in all cases, a duty allowance of	50

143 *Cancelled.*

143A. Military Assistant Surgeon officiating at the Presidency General Hospital, Calcutta or as Assistant Apothecary, Medical College Hospitnl Calcutta, is entitled to a fixed acting allowance of Rs, 50 a month.

Officers without substantive appointment.

144· (*a*) An officer without a substative appointment, officiating in an appointment the pay of which is not less than Rs. 100, is ordinarily entitled to an acting allowance of half the pay, or, if the pay of the appointment is progressive, half the minimum pay, of the appoinment.

(*b*) In special cases, however, the acting allowance may, with the previous sanction of the Local Government, be increased to an amount not exceeding the full pay of the appointment.

Note I.—The Local Government may delegate its power under clause (*b*) of this Article to Heads of Departments in respect of non-gazetted officers under their control.

Note 2.—The salary of an officer without a substantive appointment who does not devote his whole time to the duties of the appointment in which he officiates, is regulated by clause (*a*) of this Article, If the appointment is not ordinarily a whole time post, the Local Government may increase his salary up to the full pay of the appointment under clause (*b*) of this Article but otherwise no allowances in excess of the minimum laid down in clause (*a*) may be given to such an officer without the sanction of the Government of India.

Note 3. A report of the circumstances of each case in which sanction is accorded by the Local Government or subordinate Heads of Departments under clause (*b*) of this Article should be fowarded at the beginnig of each year through the audit officer to the Government of India in an amalgamated schedule.

Government of India's decisions :—(1) Government of India's decisions below Article 39.

(2) The words "full pay of the appointment" in article 144 (*b*) means, in the case of appointment on progressive pay the minimum pay of the appointment.

[G. I. F. D. No. 1429 C. S. R., dated 24-8-1909.]

(3) The pay of an appointment which belongs to a graded class should be calculated for the purpose of Article 144 with reference to the provisions of Article 141.

[G. I, F. D. No. 5189 C. S. R. dated 22-8-1911.]

145—146. *Cancelled.*

Appointment on less than Rs. 100.

147. The salary of an officer officiating in an appointment of which pay is less than Rs. 100 should, as far as practicable, be regulated by Articles 140 and 144. The following conditions must be observed :—

(*i*) If the officiating officer has a substantive appointment his salary must not exceed what it would be if Article 140 were applied.

(*ii*) If he has no substantive appointment, the officer who appoints him may grant him such allowance, not exceeding the pay or if the appointment is progressive, the minimum pay of the appointment, as he considers necessary.

(*iii*) If the vacancy is caused by the absence on leave of an officer in inferior service, the absentee allowance of such officer must not exceed the difference between his pay and the sum of the acting allowances paid in consequence of his absence, except when, in the resulting acting arrangements, an officer who has no substantive appointment is given more than half the pay of the appointment in which he acts – in which case the excess over half pay granted to him may, at the discretion of the Local Government, be disregarded altogether in calculating the sum available for the leave allowance of the absentee and the acting allowances paid in consequence of his absence.

1. The Local Government may delegate its powers under tnis clause to Heads of Offices and Depaartment.

Government of India's decisions :—(1) The meaning of the term "pay of appointment" in Article 147 (*ii*) is that given in the definition of that term in in Article 39.

[G. I. F. D- No. 32, dated 3-1-1890.]

(2) In those offices in which a leave reserve of inferior personnel exists and whose cost is debitable to the Defence Service Estimate, the personnel governed by the old leave rules shall not be subject to the restrictions in Article 147 (*iii*) and 321. Civil Service Regulations.

These orders will have effect from the date from which the leave of inferior servants was sanctioned.

This instruction applies to D. G O. F's Organisations also.

[Army Instruction No. 21, dated the 31st January 1953.]

148 The third of the conditions above mentioned is not enforced in the case of :—

(*i*) Officers on hospital leave under Chapter XII, Articles 287 to 294.

(*ii*) Female warders or matrons employed in Jails

Appointments on Progressive Pay.

148A. In the case of progressive appointments, acting allowances are fixed as follows :—

(*a*) An officer whose substantive pay is progressive, and who acts in an office of which the pay is fixed. In this case the officer's acting allowance is calculated as if his substantive pay were a fixed one, equal to the amount at which from time to time it stands.

(*b*) An officer whose substantive pay is fixed, and who acts in an office of which the pay is progressive. In this case the officer's acting allowance is calculated upon the pay to which he would from time to time have risen if he had held the officiatihg appointment substantively.

(*c*) An officer whose substantive pay is progressive, and who acts in an office of which the pay is progressive. In this

case the officer draws :—

(*i*) His substantive pay, with the increments there of as they fall due ;

(*ii*) The acting allowance which he would have drawn if the substantive and officiating appointments were both on fixed pay equal to the minimum.

Note 1. No officer shoud be transferred to officiate in progressive appointment the value of which calculated under Article 150 is less than that of his substantive appointment, save for special reasons of a public nature, to be recorded by the authority appointing him.

Note 2. – The maximum limit of salary is not that prescribed in Article 96 but the officer's substantive pay or the pay to which he would have a risen if his officiating tenure had been substantive, whichever is the greater.

Note 3.—When calculating the salary of an officer who acts in an appointment, the whole of the acting tenure, whether continuous or not, should be taken into account.

Example– An officer who is substantively in the Rs. 170 stage of an appointment on Rs. 150—10—200 is appointed to act in an office of which the pay is Rs. 200—8—240. His salary is thus fixed—

	Rs.	
Pay	170	|
Acting allowance (one-fifth of Rs. 200)...	40	| But this is limited for the first
	——	| year to Rs. 200.
Total	210	|
	——	|

Next year he gets pay Rs. 180+acting allowance Rs. 40=total Rs. 220. But this is limited for a year to Rs. 208.

CHAPTER VII—REGULATION OF PROGRESSIVE PAY

149. *Not Printed.*

149A. *Not Printed.*

150. *Not Printed.*

Accrual of Increment.

151. An increment accrues from the day following that on which it is earned.

Exeption ;—An officer appointed in England by the Secretary of State for service in India receives the increment in his pay in acccordance with the terms of his engagement.

152. (*a*) Subject to the provisions of clause (*b*) below, an increment shall ordinarily be drawn as a matter of course unless it is withheld by the authority empowered to withhold such increment in accordance with the relevant provisions of the C. D. S. (C. C. & A) Rules. Any order withholding an increment shall state the period for which it is withheld and whether the postpone-ment shall have the effect of postponing future increments.

(*b*) Where an efficiency bar is prescribed in any time-scale. the increment next above that bar shall not be given to a Government servant without specific sanction of the authority empowered to withhold increments. When a Government servant is allowed to cross an efficiency bar which has previously been enforced against him, he shall draw the pay in the time-scale at such stage as the authority empowered to withhold increment may fix, provided that the pay so fixed shall not exceed the pay that he would have drawn had he not been stopped at the efficiency bar.

Government of India's decisions (1) As the postponement of all future increments is a very severe cumulative penalty, the Government of India have decided that when the authority passing orders to withhold an increment fails to specify clearly for what period the officer is to be deprived of his increments, the deprivation should be held to cease on the expiry of the period during which the officer would have drawn the increment withheld. For example, if on the lst July, 1919 an officer already drawing a pay of Rs. 110 in a grade of Rs. 100-110—150 and in ordinary course entitled to an increment of Rs. 10 on the 1st July each year is punished by refusal of the next increment

to which he would otherwise have been entitled on that date, he will, in the absence of special orders to the contrary, be entitled on the 1st July, 1920 to draw Rs. 130 and not Rs. 120 only.

In the case of increments granted in advance, it is usually the intention that the officer should be entitled to increments in the same manner as if he had reached his position in the scale in the ordinary course and in the absence of special orders to the contrary, he should be placed on exactly the same footing as regards future increments an officer who has so risen.

[G. I F. D. No. 752 C. S. R., dated 16-7-1919.]

(2) Officers employed on contract on being called for military service in connection with World War II are allowed to count the period of military service for increments in the time scale (if any) applicable to the contract post to the extent the scale as sanctioned for the officer permits, provided that no pay scale may be extended to enable this concession to have material effect.

[Para I (*iv*), G. I. F. D, Memo No-F. 20 (2)-Ex. 1/41, dated 24-2-1941.]

(3) Advice is frequently sought on the point whether an order imposing the penalty of withholding of increment can be made operative in respect of an increment to which the officer had become entitled on a date prior to the order imposing the penalty but the increment was not actually drawn that is, cashed at the time of imposing the penalty for some reason such as, for example, when the officer is on leave on the date of order of penalty.

This point was considered in consultation with the Ministries of Finance and Law and the Comptroller and Auditor General.

F. R. 24 provides that an increment shall ordinarily be *drawn* as a matter of course unless it is withheld. It is apparent from a close study of the other Rules that when they speak of 'drawal' of pay or increment they mean "entitlement" to pay or increment as the case may be. Obviously an order imposing the penalty of withholding an increment can be operative only in respect of an increment to which the officer had not become entitled on the date of such order. Such an order cannot, therefore, have the effect of with holding an increment to which the officer had already become entitled on the date of the said order although, for some reason, it was not actually drawn or cashed.

[G. I. M. H. Affairs letter No. 30/5/60-AVD, dated the 1st April 1960].

(4) Fundamental Rules are not applicable to the civilian employees of the Defence Services who are governed by the Civil Service Regulations. Never-the-less, both in Fundamental Rule 24 and in Art 152 (*a*) of Civil Service Regulations which are relevant to the context it is provided that an increment shall ordinarily be drawn as a matter of course, unless it is withheld.

[G. I. M. Defence Memo : 15(5)/60/46058/D (lab), dated the 7th May 1960].

(5) The question as to how a decision to impose the penalty to stop an employee's annual increment as a result of disciplinary proceeding should be given effect to in the following cases has been under consideration for some time :—

(*a*) Where decision to impose the penalty is taken after the date of accrual of increment in the ordinary course;

(*b*) Where increment across the efficiency bar had been withheld on account of unsuitability before the decision is taken to impose the penalty.

It has been decided that in the cases mentioned at (*a*) above, the decision to stop the increment will be enforced in respect of the next increment which becomes due to the individual. The one which had already accrued before the decision to impose the penalty was taken will be allowed to him regardless of the fact that the increment had not actually been drawn.

In cases where increment across the efficiency bar has already been stopped by the competent authority as an administrative act, and if in the mean time as a result of decision taken on a disciplinary case, it is decided to withhold an increment, and if such orders are issued, such an order will be

enforced from the date the competent authority allows an individual to draw increment across the efficincy bar on review of the case.

4. This issues with the concurrence of the Government of INDIA.

[Army Head Quarters letter No. 81138/ORG-4(Civ) (D), dated the 19th January 1961/6th February 1961].

153 (*a*) A proposal to grant an increment of progressive pay in advance of the due date should always be scrutinised with special jealousy, it is contrary to the principle of progressive pay to grant an increment before it is due, and such a grant should not be recommended or allowed, excepting under circumstances which would justify a personal allowanee to an officer whose pay is fixed that is to say, seldom if ever.

(*b*) **The powers of Government of India, of Local Governments and of subordinate authorities to grant a premature increment to an officer are subject to the limits up to which each such authority can raise the officer's remuneration.**

Government of India's decision :-See Government of India's decisions below Article 152.

154. An officer reduced to a lower grade or appointment on account of misconduct or inefficiency cannot, without the sanction of the authority by whom he is reinstated or promoted, count for increments previous service in grade or appointment from which he was reduced.

Government of India's decision. It is laid down in FR 29, as recast by the Ministy of Finance (Department of Expenditure) Notification No. F. 2 (1)/Est. III/57 dated the 20th February, 1957 that :-

(*i*) If a Government servant is reduced as a measure of penalty to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments and if so, to what extent and.

(*ii*) If a Government servant is reduced as a measure of penalty to a lower grade or post, the authority ordering the reduction may or may not specify the period for which the reduction shall be effective.

2. Although FRs are not applicable to the civilain employees paid from Defence Service Estimates it is considered that the above provisions may advantantageously be applied in their case also, as they describe with some precision the nature and extent of the penalty that may be awarded by the competent authority under the provisions of Civilians in Defence Services (Classification, Control and Appeal) Rules.

3. Thus whenever the competent authority wishes to pass an order reducing a Government servant, as a measure of penalty to a lower stage in his time-scale, that authority should invariably state the period for which such reduction shall be effective and whether on restoration, it shall operate to postpone future increments and, if so, to what extent. In other words, the specification of the period for which the said penalty will be effective and of the future effect of the penalty, whether it will have cumulative effect or not, is mandatory.

4. In case, however, of reduction of a Government servant to a lower grade or post, the competent authority may or may not specify the period for which the reduction shall be effective. In other words, the specification of the period for which the said penalty shall be effective is permissive and not mandatory. This is because there may be a case in which it may not be found practicable to re-promote the Government servant concerned after a definite period *e. g.* in case a Government servant is reduced on the ground of inefficiency, he cannot obviously be re-promoted unless and until his efficiency is increased to the extent necessary and therefore no time-limit for the period of his reduction can be fixed. Therefore, such reduction may be for either specified or unspecified

period. In either case the provisions of Article 154 – CSR will apply in regulating the pay on restoration to the higher post/grade.

[G. I. Ministry of Defence Memo No. 23 (29 /12518/D (Lab/57 ; dated the 2nd December, 1957]

155. *Omitted.*

Initial Pay.

156. When an officer is appointed substantively to a post on progressive pay—

(*a*) (*i*) If he has not previously officiated in the post ; or

(*ii*) if he has officiated in it but his present substantive pay exceeds the salary which he last drew in it,

he will draw as initial pay the pay of the stage in the progressive scale next above his present substantive pay, and will draw increments after the period usually required; and

(*b*) if he has previously officiated in the post, but his present substantive pay does not exceed the salary which he drew when last officiating,

he will draw initial pay equal to that salary, and will count for increment in that stage the period during which he was drawing the said salary.

156-A *Not withstanding anything contained in these Regulations, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity or another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale 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 ;

(*i*) where a Government servant immediately before his promotion or appointment to the higher post was drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time scale of the higher post shall be fixed at the stage in that ime-scale next above such maximum in the lower post.

(*ii*) the provisions of the Article shall not apply where a Government servant holding a Class I post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to higher Class I post.

(*iii*) the provisions contained in Article 107 shall not be applicable in any case where the initial pay is fixed under this article.

Note In this Article the expression 'Class I post' has the meaning assigned to it under the Civilians in Defence Services (Classification, Control and Appeal) Rules, 1952.

157 –157–A—*Cancelled.*

157B. (*a*) When, however, the conditions of an officer's service are such that he is liable to be transferred in the same department between appointments of which the pay and increment are identical, his service will, the case of such a transfer, count for increments as if he had not been transferred.

(*b*) The authority which orders the transfer of an officer, as a penalty from a higher to a lower appointment, may allow him to draw any salary not exceeding the maximum of the lower appointment, as it may think proper provided that the salary allowed to be drawn by a Government servant under this clause shall not exceed the salary which he would have otherwise drawn in the lower post under the normal rules.

Government of India's decision. A question has been raised whether

* Added vide G.I.M.F. Notification No ; 2(70)-E.III/61, dated 26-3-1963.

a competent authority ordering the transfer of a Government servant from a higher to a lower grade or post as a penalty can fix the pay of the Government servant concerned, in the lower post, even at a rate higher than he would have drawn in the lower post, in the normal course.

2. The question has been carefully considered by the Government of India and it is clarified that it is not the intention that under Article 157B(*b*) CSRs a Government servant can draw, in the lower post, pay higher than that to which he may normally be entitled in the lower post. In order to make the position clear the Article in question has been amended suitably.

3. Once the pay is fixed in the lower post in the manner indicated above, the regulation of increments in the lower post will be made under the normal rules unless the increment in the lower post also is withheld.

4. It is further clarified that every order passed by a competent authority imposing on a servant the penalty of reduction to a lower service, grade or post, or to a lower time-scale should indicate :—

(*i*) the date from which it will take *effect and in cases where the reduction is proposed to be imposed for a specified period,* the period (in terms of years and months) for which the penalty shall be operative. It should be noted that the reduction may be for an unspecified or an indefinite period and in cases where no period has been specifie in the order of penalty, the conclusion is that the penalty is for an unspecified period.

(*ii*) the extent (in terms of years and months), if any, to which the period referred to at (*i*) above shall operate to postpone future increments on restoration, after the specified period. The period specified under this sub-clause shall in no case exceed the period specified under sub-clause (*i*) above.

5. In cases in which the period of reduction is specified in the order of penalty, the Government servant concerned shall be automatically restored to his old post/grade, time-scale etc. after the expiry of the specified period and the question as to what should be the pay of a Government servant on restoration to higher post/grade, shall be decided as follows :—

(*i*) If the order of reduction lays down that the period shall not operate to postpone future increments the Government servant shall be allowed the pay which he would have drawn in the normal course, but for his reduction to the lower post. If, the pay drawn by him immediately before reduction was below the efficiency bar, he shall not be allowed to cross the bar except in accordance with the provisions of Art 152(*b*) CSRs.

(*ii*) If the order lays down that the period of reduction shall operate to postpone his future increments, for any specified period which shall not exceed the period of reduction to the lower post/grade the pay of the Government servant on restoration shall be fixed in accordance with (*i*) above but after treating the period for which increments are to be postponed as not counting for increments.

6. In cases where the reduction to the lower post/grade is for an unspecified period, if and when the Government servant is re-appointed to the higher post in the normal course the pay in the higher post will be regulated only in accordance with the normal rules relating to pay refixation.

[G.I.M. Defence Memo. No. 1(1)/61/8129D(LAB), dated the 7th October 1961].

158. The incumbent of an a appointment the pay of which is changed shall be treated as if he were transferred to a new appointment on the new pay. Provided he may at his optain retain his old pay until the date on which he has earned his next or any subsequent increment on the old pay, or until he vacates his appointment. This option once made is final.

Government of India's decisions. (1) The expression "old pay" in Article 158, Civil Service Regulations. is to be interpreted to mean the pay of the appointment with its increments as they fall due, and not merely the particular stage in the pay of the appointment to which the officer had attained at the time of the change. The spirit of the rules is to protect an officer the pay of whose post is reorganized from personal loss and either to let him continue on his old scale or to bring him on the new scale with such personal allowance as may be necessary to make up his emoluments whether fixed or progressive, to those which he formerly enjoyed.

[G.I F.D. No. 4461 P. dated 17-7-1907.]

(2) In connection with applicatlon of Fundamental Rule 23 [corresponds to Article 158, C.S R] and Audit Instruction below it, a question was raised whether an official officiating in a higher scale on the date from which different posts on different scales in the same cadre were merged in a common scale, could exercise under Fundamental Rule 23 the option of retaining his officiating pay on old higher scale when all the posts of the different categories were on the same new scale from that date and no higher responsibility was involved.

The Government of India have decided with the concurrence of the Auditor General that the words "his old pay" in the proviso of the rule should be held to include not only the rate at which the individual was drawing his officiating pay on the crucial date but also the time scale of pay in which he was drawing that pay. Thus for the period of option the old scale of pay in which he was drawing his officiating pay should be treated as continuing for the individual concerned and since he is entitled to retain his old pay during that period his drawing of that pay under the option need not depend on whether the constructive officiating appointment after the crucial date does or does not involve the assumption of duties and responsiblities of greater importance. The option, however, ceases to operate, once the individual concerned constructively ceases to officiate in the post or ceases to draw pay in the particular scale in which he was drawing the officiating pay.

Both the substantive part of Fundamental Rules 23 and its proviso cannot be operative at one and the same time. For the period during which the option exercised under the proviso operates, the substantive portion of the rule remains inoperative. Failure to exercise the option from whatever cause arising entails forfeiture of the benefit of the rule.

[G. I. F. D. letter C. No. 246-Admn I. T./42. dated 30th September 1942, to the Commissioners of Income-tax, Central and United Province]

***Audit Instruction:** This rule applies to an officiating as well as to a substantive holder of post.

[Para 4 (i). Chap. IV., Sec I of Manual of Audit Instructions (Reprint).]

Time Spent on Leave under Suspension

159 The time spent on leave with allowance counts towards increments in the same manner as if during it the officer had actually held or officiated in (as the case may be) the appointment on which he has a lien.

Note.—The last sentence of Article 31 must not be held to conflict with this Article. Subject always to the provisions of article 60, the phrase "the appointment on which he has a lien" means the appointment which the officer relinquished when he proceeded on leave and does not refer to an appointment to which an officer has been nominated during his absence on leave.

Government of India's decision. Government servants under certain specified circumstances can count periods of leave and leave followed by joining time granted under Art 182 CSR towards increments in officiating, quasi-permanent and substantive temporary appointments. This is subject to the grant of a lien certificate by the appointing authority relevant to the post in

*The decision was given in respect of F.R. 23 which corresponds to Article 158. C.S.R. and must therefore apply to cases covered by this article.

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which leave is allowed to be counted for increments. In case, however, where no officiating arrangement is made in the leave vacancy and the Government servant returns to the same post after leave, the lien certifiacte can be issued by the leave sanctioning authority instead of the appointing authority. A specimen of the lien certificate to be used for this purpose is given in annexure to this decision.

The various categories of employees and the extent to which they can count periods of leave for increments are as follows :—

(*a*) Purely temporary/offg Government servants. — 4 months privilege leave or 120 days earned leave, as the case may be, and also privilege/earned leave followed by joining time under Art 182 CSR upto 4 months/120 days subject to the grant of lien certificate referred to in para 1 above,

(*b*) Permanent Government servants

(*i*) Permanent Government servants are eligible to count periods of all kinds of leave other than EOL towards increments in post in which they are declared permanent. Lien certificate is not necessary.

(*ii*) Permanent Government servants who have been continuously officiating in another post for more than three years are eligible to count periods of all kinds of leave, other than extra-ordinary leave for increments in the higher officiating appoinments to the same extent as they count in respect of their permanent posts subject to the grant of lien certificate referred to in para 1 above. For the purpose of calculating the period of more than 3 years, spells of EOL will also be included. This decision will take effect from 14th August 1959.

(*iii*) In case the period of continuous officiation is less than three years, they will count periods of 4 months privilege leave/120 days earned leave taken at a time or the aforesaid leave combined with joining time under Art 182 CSR provided the total period does not exceed 4 months/120 days on the basis of the lien certificate. The above benefit will also be admissible in respect of any intermediary appointment(s) which they might have held before appointment provided the authorities concerned certify that they would have held the intermediary appointment(s) but for their proceeding on leave

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from the higher officiating appointment(s).

(*c*)	Quasi-permanent/substantive temporary Government servants.	(*i*) Quasi permanent employees are eligible to count periods of all kinds of leave other than EOL towards increments in the posts in which they are quasi-permanent in the same way as permanent employees. Lien certificate is not necessary. This decision is effective with effect from the 16th June 1958.
		(*ii*) The quasi-permanent employees who have rendered more than 3 years' service in higher offg appointment(s) are eligible to count periods of all kinds of leave, other than EOL. for increments in the higher officiating appointment to the same extent as they count in respect of their quasi-permanent posts on the authority of the lien certificate referred to above. For the purpose of calculating the period of more than 3 years spells of EOL will also be included. This decision is effective with effect from the 14th August 1959.
		(*iii*) In respect of offg post higher than those in which they are quasi-permanent, if the period of continuous officiation is less than three years, the procedure explained in clause (*b*) (*ii*) above will apply.

3. Whenever lien certificate is issued by the administrative authority, a very concise entry to that effect such as certified that the individual would have continued to officiate in the higher post for the period from..... to....." will be recorded after the entry regarding leave/joining time in the service book of a non-gazetted Government servant.

4. The contents of this decision are for information and guidance only and will not be quoted as authority.

[G.I.M. Defence Memo. No. 4(8)52/5718/D(Civ-I) dated 16th January 58, 2(83)58/8156/D(Civ-I) dated 7th September 59, 4(8)52/D(Civ-I)/4106/D(Appts) dated 10th Sep. 59/12616/D(Civ-I) dated 26th December 53 and 4 (8)52/77 6/D(Civ-I) dated 5 October 60].

ANNEXURE

Certified that on.....*.....Shri/Shrimati/Kumari .....has been continuously officiating in the posts ....†.....for more than three years inclusive of the following periods during which he/she would have officiated in that post but for the following events :—

	From	To
(1) Periods of officiation in the specified post.		

*The date preceding the date of commencement of leave to be specified.
†Designation of the post to be specified here.

	From	To
(2) Period of officiation in equivalent or higher post in the same department		
(3) Periods of deputation		
(4) Foreign service.		
(5) Periods of leave		

Signature.....
Designation.....

160. *Omitted.*

Officers under training.

160A. A Local Government may at its discretion decide, in the case of an officer who is selected to undergo a course of training, whether the time spent in training shall count as service qualifying for increment of pay.

Note 1. The Local Government may delegate its power under this Article to Heads of Departments.

Note 2.—A Local Government my issue general order under this Article in regard to any specified class of officers under training.

Officers on a Time-scale of pay.

160B. (*a*) **Leave without allowances taken by an officer prior to his admission to a time-scale of pay, and overstayals of privilege leave to the extent of one week in similar circumstances, count for increment under the time-scale.**

(*b*) **Leave without allowances taken by an officer while he is on a time-scale of pay, or overstayal of privilege leave, do not count towards increments ; but Local Government and Departments of the Government of India which have the power of Local Governments, may exempt an officer from the operation of the rule, on proof being furnished to them that the leave was taken on account of illness or other cause beyond the officer's control.**

Government of India's decisions. (1) Under the provision of Article 160.-B (*b*) CSR extraordinary leave availed of by permanent Government servants for the purpose of undertaking higher scientific and technical studies may be allowed to count for increments.

The extraordinary leave availed of by temporary and officiating Government servants for purpose of higher scientific and technical studies may be allowed to count for increments in the officiating appointment if an officer has put in at least three years service under Central Government at the time of proceeding on such leave provided that a certificate is given by the appointing authority that the officer would have continued to officiate in that post or a post on the same time scale but for his proceeding on leave.

[G.I.M. of Defence Memo No 4(1)59/12012/D)Civ-I) dated 8th December 1959]

CHAPTER VIII—COMBINATION OF APPOINTMENTS AND SALARIES.

SECTION I.—AN OFFICER PERFORMING PERMANENTELY THE DUTIES OF ONE OR MORE SANCTIONED APPOINTMENTS IN ADDITION TO THE DUTIES OF HIS OWN APPOINTMENT.

161. A Local Government may appoint an officer to hold permanently two or more appointments at the same time if the aggregate remuneration does not exceed the maximum limit up to which it can increase an officer's remuneration. The salary of an officer appointed to officiate in two or more appointments which under due sanction have been combined as a single charge is calculated upon the pay fixed for the combined appointment, Article 162 being inoperative in such case.

Note—A Local Government may delegate its power under this article to a Head of a Department in cases where he is competent to fill up the appointment.

SECTION II—AN OFFICER PERFORMING TEMPORARILY ADDITIONAL DUTIES WHICH ARE OUTSIDE THE DUTIES OF HIS OWN APPOINTMENT.

Performance of additional duties for which there are one or more sanctioned appointments.

162. A Local Government may without the sanction of the Government of India, appoint one officer to hold substantively as a temporary measure, or to officiate in, two or more independent appointments at one time. In such cases, the emoluments are regulated as follows:—

(*i*) He draws the highest salary to which he would be entitled if he held, or, as the case may be, officiated in, any one of the appointments alone.

(*ii*) For the other appointmet or appointments he draws such allowances as the Local Government may fix, not exceeding for each appointment half the salary which he would draw if he held, or, as the case may be, officiated in, it alone.

(*iii*) Provided that his aggregate salary shall not exceed the pay which he would draw in the most highly paid of the appointments, if he held it substantively and alone.

1. The Local Government may delegate its powers under this Article to the Head of a Department or Commissioner of a Division.

2. The Proviso in clause (*iii*) of this Article may be dispensed with if the Local Government declares that for special reasons (which shall be recorded) it is necessary on public grounds to entrust to the one officer the duties of the several offices at once, and that the salary to which he would be limited by this proviso is not enough.

Note —This Article does not apply to the allowance given to a Government officer for holding a Professorship or Lecturership in any Government institution conjointly with another office.

Government of India (Defence Ministry's) Instructions :—(1)

(A) *Combination of Appointments.* With reference to Article 162, C.S.R., it has been decided that the powers to make arrangements involving combination of appointments, without sanction of the Government of India, should be restricted to such arrangements for a maximum period of three months, in cases where an additional allowance is granted in terms of that Article Combination of appointments involving grant of additional allowance for a period of excess of 3 months should be made only with the sanction of the Government of India.

(B) *Filling up of short-term vacancies.*

(*a*) Short-term vacancies, the duration of which is 70 days or more and which may be caused as a result of the incumbent handing over charge of his office on account of his proceeding on leave, deputation or as a result of suspension or officiating promotion or for any other reasons may be filled in the normal manner, where unavoidable, by the authority competent to make appointments against the post. In all cases, it should be examined as to which of the following arrangements should be adopted from the point of view of effecting as much economy as possible :—

(*i*) To keep the vacancy unfilled ;

(*ii*) To appoint an officer to be incharge of *routine* duties of the vacant higher post in addition to his own, no additional allownce being admissible ;

(*iii*) To appoint an officer to be incharge of the current duties of the vacant higher post in addition to his own, charge allowance being regulated under Article 165, *et. seq* C.S.R.

(*iv*) To appoint an officer to perform the full duties of the vacant higher post in addition to his own duties, with additional allowance under Article 162 and 162A C.S.R., unless the competent authority reduces the acting allowance under Article 108 C.S.R.,

subject to the clarification as contained in section 'A' of this Instruction.

(*v*) To appoint an officer to officiate fully in the vacant higher post.

(*b*) No officiating arrangements should be made against vacancies, the duration of which is less than 70 days and the duties of the vacant post should be carried out by making internal adjustments within the office establishment. This equally applies to a continuous chain of vacancies in the same grade each of a duration of less than 70 days but which taken together extend to 70 days or more.

(*c*) In the cases falling under (*a*) above where officiating arrangements are considered unavoidable prior approval of the competent authority should be obtained before individuals are detailed to carry out duties of the higher posts. In no case should it be assumed that the competent authority will accord *ex-post-facto* approval to officiating arrangements made without their approval. The responsibility for the consequences of irregular officiating arrangement will devolve on the authority ordering such arrangements.

2. These instructions are eqully applicable to Industrial personnel.

3. This A.I. also applies to DGOF/CGDPR & D Organisation.

[Army Instruction No ; 187, dated the 22nd July, 1961].

(2) See Government of India's decisions below Article 88.

162A Article 162 does not apply to the case of an officer discharging the duties of more than one appointment in the same office or on the same establisbment. An officer so employed is entitled to the highest salary to which he would be entitled if he held or officiated in any of the appointments alone, and to nothing more.

Examples.—An under Secretary discharging the duties of a fellow Under Secretary in the same office or department as well as his own.

A Joint Magistrate appointed in addition to his own duties, to officiate as Magistrate of the District. In this case he gets allowances only as Officiating Magistrate.

A District Judge deprived of the help of an Additional or Assistant Judge and therefore doing the additional or Assistant Judges work.

A Joint Magistrate doing the work of second Joint Magistrate in the Dirtrict as well as his own.

163. The allowances for his Civil duties of a Millitary Officer, appointed to officiate in a Civil office other than a Cantonment Magistracy without being relieved of his Millitary duty, are regulated in accordance with article 162 and Rule 2 under it and are drawn in the Civil Department. If he has no substantive appointment in the Military Department the pay of his rank is held to be his substantive pay for the purpose of Article 162.

Note—This Article does not apply to cases of Medical appointments falling under Article 171.

164. An officer holding two or more independent appointments, to all or any of which Local or duty allowance is attached, will ordinarily draw the highest allowances (whether it is local allowance or duty allowance) attached to any one of the appointments. In case, however, the highest allowance is a local allowance, the difference between this and the highest duty allowance, if any, will be treated as a local allowance and the balance as duty allowance. But the Local Government may, for special reasons, allow him to draw all such allowances attached to the different appointments held by him.

Charge of Current Duties

165. An officer appointed to be in charge of the current duties of an office in addition to his own duties may, if the charge in the opinion of the Local Government entails a substantial increase of responsibility and some additional work, be granted a charge allowance, to be fixed by the Local Government, not exceeding one tenth of the pay of the office ; provided that if the office is open to, and may in practice be held

by a member of the Indian Civil Service or a Military Officer, the allowance shall not be less than Rs. 100

Note The Local Government may delegate its power under this Article to Heads of Departments.

166. The salary of an Officer appointed to be in-charge of the current duties of an additional office shall never exceed the salary which he would receive for officiating in the office. One effect of this rule is that an officer is not entitled to an allowance for taking charge of an office the pay of which is not more than that of his own substantive office. But the Local Government may for special reasons, which shall be recorded, relax this restriction.

Government of India's instruction. See Government of India's decision and instruction below Article 88 and 162 respectively.

167. The amount of "charge allowance" has been fixed in the cases shown in *Appendix 6

168. (*a*) No allowance is admissible under Article 165 unless the incumbent has actually given over charge of the office under the orders of competent authority, and is absent on leave or deputation or is under suspension. For instance, no allowance is admissible to a subordinate officer empowered to dispose of routine business while his superior is on tour.

(*b*) But in the Northern India Salt Revenue Department, charge allowance is granted to an officer placed in charge of the current duties of an Assistant Commissioner's office during the absence of the incumbent on tour.

169. An officer placed in charge of the current duties of an office is not entitled to any local or duty allowance attached to the office, except under the special orders of the Local Government (See also Article 1010).

Note—The Local Government may delegate its power under this Article to the Head of a Department or Commissioner of a Division.

169A. *Not Printed*

170—174A. *Not Printed*

CHAPTER IX- JOINING TIME.

SECTION I—GENERAL RULES

175. Joining Time is the time allowed to an officer to proceed from one station to another when his appointment is changed, or when, being unemployed, he is appointed to any office, or to an officer returning from long leave out of India (whether combined with privilege leave or not), who is not entitled to subsidiary leave to travel from the port of debarkation and reorganise his domestic establishment. In the latter case the minimum Joining Time is 10 days. An officer is held to be on duty during Joining Time.

Government of India's decisions : – (1) Joining Time is not admissible in cases where the change of appointment does not involve an actual change of office.

[G. I. F. D. 3136-P, dated 29-6-1900]

(2) Joining time is admissible to an officer for organising his domestic establishment even if he does not make any journey from the port of disembarkation.

[G. I. F. D. letter No. F. 50 R. I/29, dated 2-5-1929.]

(3) It has been decided that joining time and joining time pay should be granted as follows to Government servant appointed to posts under the Central Government on the results of a competitive examination which is open to both Government servants and others.

(*a*) joining time should ordinarily be permitted for all Government servants serving under the Central Government and for Provincial Government

*Not printed.

servants who hold permanent posts in substantive capacity and that,

(*b*) no joining time pay should be garanted except,

(*i*) when the Government servant holds a permanent post under Government (including a Provinicial Government) in a substantive capacity, or

(*ii*) in the case of appointments through the Home Department to the ministerial establishment of the Government of India Secretariat and attached or subordinate offices when a candidate originally nominated to a vacancy likely to become permanent is renominated to another such vacancy owing to the cessation of the former.

Travelling allowance under Supplementary Rule 114, should also be granted in cases where joining time pay is granted under clause (*b*) above.

This also applies to a Government servant selected after an interview for appointment to a post under Central Government.

[G. I. F. D. endorsement No. F. 3(4)-R II/44, dated the 27th May 1944 and No. F. 3 (4)-R II/44, dated the 17th July 1945]

Audit Instruction.—Joining time under Article 175 C. S. R is admissible to military officers in Civil employ whose pay is debitable to Defence Services Estimates, for example, officers of the Cantonments Departments, on their return from military furlough out of India.

[Para. 2 (ii), Section III of Manual of Audit Instructions (Reprint),].

176. In cases involving a change of station, Joining Time is calculated as follows, subject to a maximum of thirty days :—

(*i*) **Six days for preparation, and in addition thereto :—.**

(*a*) For the portion of the journey which the officer travels by aircraft.	...	Actual time occupied in the journey.
(*b*) For the portion of the journey which the officer travels or might travel.		
By railway	500 Kilometers.	... a day for each.
By ocean steamers ...	350 Kilometers.	or any longer time actually occupied in the journey.
By river steamers ...	150 Kilometers.	
By motor vehicle or horse drawn conveyance ...	150 Kilometers.	
In any other way ...	25 Kilometers.	

Note 2.—For purposes of journey by air under clause (*i*) (*a*) above, a part of a day should be treated as one day.

Note 2.—An extra day is allowed for any fraction of any distance prescribed in clause (*i*) (*b*) above-

(*ii*) **When a part of journey is by steamer, the days intervening between the officer being set free from his office, or, if he has no office, receiving his orders, and the departure of the steamer, or his start duly regulated to catch the steamer shall be added.**

Note 1.—Sundays are not included in the above calculations, though they are included in the maximum limit of thirty day.

Note 2.—A journey by road of eight kilometers or under, to or from a railway station, from or to the point which may be prescribed under Article 998 does not count for joining time.

Note 3.—An officer whose salary does not exceed Rs. 100 a month should not ordinarily be required to travel by mail cart or other public stage conveyance drawn by horses.

Government of India's decisions (1) If an officer, after transfer, continues to live in the same place or locality as he was transferred, then the transfer is held to have involved no change of station and the joining time under this article is inadmissible.

[G. I. F. D. No. 2033-P., dated 8th May, 1895].

(2) The Government of India have had under consideration the question as to how (*i*) the period of taking over charge of a new post by a relieving officer is to be treated and (*ii*) the pay and allowances for such period should be regulated in cases where the charge transferred consists of several stores and/or scattered works which the relieving and the relieved Government

servants are required to inspect together before the transfer of charge is completed. The President, after consultation with the Comptroller and Auditor General of India, has been pleased to decide that the relieving Government servant should be treated as on duty if the period spent in carrying out these inspections is not considered excessive by the Head of the Department, while so taking over, the relieving officer will draw :—

(*a*) (*i*) If he is transferred from a post which he held substantively his presumptive pay in that post or.

(*ii*) if he is transferred from a post which he held in an officiating capacity, the officiating pay admissible in that post or the pay he would draw after the transfer is complete, whichever is less, and

(*b*) City Compensatory allowance/House rent allowance as admissible at the new station on the basis of the pay drawn as at (*i*) or (*ii*) above, as the case may be.

[G. I. M. F. Memo No. F. 2 (9).Est, III/59 dated the 4th April, 1959.]

(3) The pay of a Government servant, transferred to a post on return from leave, should during the period of taking over charge be regulated as follows :—

(*i*) If he went on leave while working in the post held by him substantively, the presumptive pay of that post ; and

(*ii*) If he went on leave while working in a post in an officiating capacity, the officiating pay of that post or the pay which will be admissible to him in the new post, after taking over charge, whichever is less.

[G. I. M. F. Memo ; No. F. 2 (9)-Est III/59 dated the 19th August 1959.]

(2) Joining time of a day is admissible when there is an actual change of office in the same station. It is for the Local Government to decide whether or not in any particular case there is a change of office.

[G. I. F. D. No. 6366. P., dated 17th November, 1905.]

(4) The joining time under Article 176, Civil Service Regulations is to be calculated on the actual mileage only of journey between the two stations and *not* on the assumed or weighted mileage for which railway fare is charged by the Railways.

[Army Instruction No. 190 dated the 25th August 1962.]

(5) The following concessions shall be granted to the temporary Government servants who are discharged due to reduction of establishment from one Central Government office and re-appointed in another Central Government office :—

(*i*) If the orders of appointment to the new post are received by the Government servant concerned while in his old post, or while on terminal leave Joining time with pay and travelling allowance on transfer scale will be admissible in all cases where the appointing authority certifies that the transfer is in the public interest and the previous service rendered under Government is one of the considerations justifying his appointment to the new post. In casses where this certificate is not forthcoming, the Government servant shall be allowed only joining time without joining time pay and transfer travelling allowance.

(*ii*) If the orders of appointment to the new post are received by the Government servant concerned soon after discharge from his old post, or after the expiry of terminal leave, and the Government servant joins his new post without delay.

No travelling allowance will be admissible, but the period of break may be converted into joining time without pay by the Head of Departments under whom the Government servant concerned is presently employed, provided that the period of break does not exceed 30 days and that the Government servant has rendered not less than three years continuous service on the date of his discharge.

2. In all cases in which there is no break or the break, if any, is converted into joining time with or without pay, the past service will count for pension and carry forward of leave will be permissible. The carry forward of leave in the case of Government servants retrenched from one Central Government Department and appointed in a Railway Department or *vice versa* may be regulated under Finance Ministry's Office Memorandum No. F. 7(165)—E. IV/59 dated the 28th October 1959.

3. The cases in which the period of break in service exceeds 10 days will require to be examined for the condonation of break separately for purposes of pension, carry forward of leave and seniority, under the orders issued on the subject from time to time. The Administrative Ministries will have to specify in each case the purpose or purposes for which break is desired to be condoned and they may decide such cases in consultation with the Ministry of Finance in respect of condonation for purposes of pension and carry forward of leave ; and Home Affairs in respect of condonation for purposes of seniority.

4. In all cases in which the break in service is condoned, an entry to that effect will be made in the service book of the person concerned, quoting reference to the authority condoning the break.

5. The benefit of previous service will not be allowed for fixation of seniority in the new post, even if the break in service, if any, is condoned.

[G. I. M. F. Memo : No F. 12 (19)—E. IV (B)/63. dated the 17th September 1963]

Audit Instructions—(1) The intention is that a day's joining time should be allowed when the total journey performed by any one mode of conveyance is less than the distance for which a day is authorised.

[Para 3. Section III of Manual of Audit Instructions (Reprint)]

(2) A second period of 6 days for preparation should not be allowed in calculating the joining time of a Government servant who is appointed to a new post while in transit from one post to another.

[Para 27, Section II of Manual of Audit Instructions (Reprint).]

177. Except in the case of journey performed by air, by whatever route the officer travels, his Joining Time shall unless the Local Government specialy permit otherwise, be calculated by the route which travellers habitually use.

Note—The Local Government may delegate its powers under this Article to Heads of Departments.

178. (*a*) **The Local Government may in any case extend the Joining Time admissible by rule provided the general spirit of the rule is observed.**

(*b*) **Within the maximum of thirty days, Heads of Departments and Commissioners of Divisions in the case of officers of Provincial, service and non-gazetted subordinates under their control, may extend the Joining Time admissible by rule—**

(*i*) **if the officer has been unable to avail himself of the usual mode of travelling, or if, notwithstanding due diligence on his part, the journey has occupied more time than is allowed by the rules—to the extent of the time actually taken ;**

(*ii*) **if such extension is considered necessary for the public convenience or for the saving of public expenses, as, for example, to prevent unnecessary and merely formal transfers to the extent necessary ;**

(*iii*) **if the rules have in any particular case operated harshly, as for example, if an officer has through no fault on his part missed a steamer or fallen sick on the journey—to extent necessary, on such conditions as to allowances or otherwise as the sanctioning authority may think fit**

Note—A Local Government may delegate the powers of Heads of Departments under clause (*b*) of this Article to other subordinate authorities in respect of non-gazetted officers serving under the latter.

179. The Audit Officer shall move the Local Government to report to the Government of India any concession made under the preceding Article, which appear to him contrary to the spirit of the rules. The Local Government may not, finally, over rule the Audit Officer without a reference to the Governor General in Council.

SECTION II.—JOINING TIME ON FIRST APPOINTMENT OR TRANSFER.

180. Only one day is allowed for joining appointment which does not necessarily involve a change of residence from one station to another.

Note - Sundays are included in the calculation of the joining time of one day admissible under this Article. An officer who gives over charge on Sunday forenoon must, therefore, take charge on Sunday afternoon, and an officer who gives over charge on Saturday afrernoon must take charge on Monday forenoon.

181. If an officer is authorised under Article 53 to make over charge of an office elsewhere than its headquarters, and Joining Time to which he may be entitled shall be reckoned from the place at which he actually makes over charge.

Government of India's decision :—See Government of India's decision under Article 53.

When Leave Intervenes.

182. When an officer after giving over charge of his office at one station on tranfer, or reversion to another office, takes Privilege or Examination leave before joining the office to which he has been transferred or to which he has reverted or when an officer while on Privilege or Examination leave is transferred to a station other than that from which he took leave, he is entitled to Joining Time in addition to his Privilege or Examination leave. The Joining Time of an officer transferred during Privilege or Examination leave will be counted from his station, or from the place where he receives the order of transfer, whichever calculation would entitle him to the less Joining Time.

Government of India's decisions : (1) In the case of an officer whose appointment is changed while on privilege leave, the full joining time admissible under rules should be allowed irrespective of the date on which the orders of transfer were received by the officer concerned. Should the officer join his new appointment before the expiry of the privilege leave sanctioned *plus* the joining time admissible, the period short taken should be considered as privilege leave, and not joining time, not enjoyed, and a corresponding portion of the privilege leave sanctioned should be considered as cancelled without any reference to the authority which granted the leave.

[G. I. F. D. No. 5119-P., dated 4-10-1901].

(2) It has been decided that the principle underlying decision No. (1) above is applicale also to the balance of joining time admissible on return from leave in the case of a Civilian employee in Defence Services who proceeded on privilege leave on medical certificate while in transit from one post to another.

The balance of joining time to which the Civilian employee will be entitled is the full joining time as admissible under Article 182 C.S.R. reduced by the period of joining time actually availed of prior to the commencement of the leave on medical certificate. Should the Civilian employee join his new appointment before the expiry of such leave *plus* the balance of joining time admissible the leave should be readjusted, on the analogy of decision (1) above.

This will also apply to D. G. O. F's Organisations.

[Army Instruction No. 53 of 1957].

(3) Joining time for a Government servant transferred to a new post while on privilege/earned leave, is calculated from his old station or from the place in which he received the order of transfer whichever entitles him to less joining time, *vide* Article 182 CSR. If, however, such a Government servant

retains his establishment at the old headquarters during leave and returns to that place for winding up personal affairs, before joining the new headquarters he should be allowed joining time as admissible from old headquarters to new headquarters.

A Certificate to the effect that the Government servant had actually performed the journey from the station where he was spending leave to the old headquarters for winding up personal affairs should be furnished by him with his charge report for assumption of the post at the new headquarters. The responsibility for obtaining the certificate from a gazetted officer would rest with the Audit Officers concerned and for that in respect of the non-gazetted staff, with the Head of office.

3. This instruction also applies to D. G. O. F's Organisation.

[Army Instruction No. 42 of 1963].

183. If an officer, during transit from one appointment to another, obtains Furlough on medical certificate (with or without Privilege leave prefixed), he may be allowed Joining Time calculated for the journey from his old station to the farthest place to which he has proceeded on his route to his new station.

Government of India's decision :—The expression "Furlough on medical certificate" as used in Article 183 is intended to include "Leave on medical certificate,' under the Indian Service Rules.

[G. I. F. D. 6182-C.S.R., dated 13-10-1911.]

Appointment changed.

184. The Joining Time of an officer whose appointment is changed while he is in transit from one appointment to another begins on the day following that on which he receives his orders,

Government of India's decisions :– (1) When an officer's appointment is changed during privilege leave out of India, the joining time should count from the port in India at which he landed, if that is less than if counted from the station at which he last served, thereby indicating that in dealing with questions of joining time, circumstances that happen in India can alone be taken into account.

[G. I. F. D. No. 6886-P., dated 13-12-1905.)

(2) A second period of six days for preparation should not be included in the joining time of an officer whose appointment is changed while he is in transit from one appointment to another.

[G. I. F. D. No. 4795-P., dated 21-1-1896].

Allowances.

185. Except in the case mentoined in Article 188, an officer draws, during Joining Time, the pay or salary which he would have drawn if he had not been transferred or that which he will draw on joining his new appointment, whichever is less : Provided that an officer transferred from one officiating appointment to another shall not draw any acting allowances during Joining Time if he had not a superior lien on either of the officiating appointments to that of the officer relieved by or relieving him. If the officer is entitled to tentage in his old appointment and tentage is also attached to his new appointment, he may draw tentage during Joining Time at the lower of the two rates. If the officer in his old appointment drew a local allowance granted on account of special expensiveness of living or unhealthiness of climate, in any district, province or locality, and the transfer is to another appointment within the same district, province or locality he may draw the local allowance during Joining Time. Provided that, if the rates differ in the two appointments or parts of the local area, he may draw the lower rate only. If an officer, drawing a duty allowance in one appointment is transferred to another appointment similarly carrying a duty allowance, he may draw the same during the period of transit

provided that if the rates differ, the allowance to which he is entitled is the lower of the two.

Note :—An officer transferred from service under His Majesty's Government in the United Kingdom to service to which these Regulations apply draws, for the period of the voyage to India and from the date of debarkation to the date preceding that of assumption of charge, pay at the rate last drawn by him in his appointment under His Majasty's Government.

Government of India's decisions :—(1) An officer transferred from one officiating appointment to another is entitled to acting allowance while in transit only if he has a superior lien on either of the officiating appointments to that of the officer relieved by or relieving him. The question of the acting allownace of such an officer is thus determined solely with reference to the relative position of the three officers concerned in the particular transfer charge; and the fact that an officer junior to the officer so transferred happens to be acting elsewhere at the time has no bearing on the acting allowance of the latter.

[G. I. F. D. No. 1667-P., dated 15-4-1903.]

(2) An officer holding a post to which a duty allowance is attached may be allowed to draw duty allowance during the period of transit when he is transferred to another similar appointment also carrying a duty allowance, provided that, if the rates of the duty allowance differ he should draw the lower of the two.

[G. I. F. D. No. 650-C.S-R. dated 11-7-1917.]

Audit Instruction :—The words "if he had not been transferred" should be interpreted in the sense "if he had continued in the old post."

[Para 7 (*ii*) Chapt. XI, Section I of Manual of Audit Instructions (Reprit).]

186. When, under Article 182, an officer combines Privilege or Examination leave and Joining Time, his allowances during Joining Time,—that is to say for the period not exceeding the Joining Time admissible by rule, in excess of his Privilege or Examination leave, during which he is absent from duty,—must be calculated at the rate at which his Joining Time allowance would have been calculated if he had joined the office to which he is transferred directly.

187. If a member of the Indian Civil Service, on first arrival in India, is unable, from illness, to proceed to the seat of the Government to which he is attached or to any other station to which he is, ordered to proceed direct, the Local Government in whose jurisdiction he is, may, on medical certificate, grant him a subsistance allowance of Rs. 250 a month for not more than two months. Time thus spent is not Active Service.

188. An officer who is not in the Indian Civil Service or in the Army and who has no substantive appointment is not entitled to any allowance during Joining Time ; but if such an officer officiating in an office is transferred to another office under the same Local Government the officer who orders the transfer may allow him to draw, during his transit, the allowance to which he would be entitled under the first sentence of Article 185.

Note :—A Provincial Government may issue general orders applicable to officers to any particular class holding no substantive appointment, permitting them to draw the allowances admissible under the first sentence of Article 185, when transferred from one office under it to another.

Government of India's decisions :—(1) The sanction of the Local Government is necessary to enable an officer who has no substantive appointment to draw acting allowances during transit.

[G. I. F. D. No 2325 P., dated 22-5-1897.]

(2) Temporary employees are not ordinarily entitled to transit pay but when a temporary officer is transferred in the interests of public service and retains a lien on his temporary appointment, he may be treated in the same manner as an officer holding an officiating appointment for purposes of this

Article, and transit pay passed to him under orders of Local Government.
[G. I. F. D. No. 2568 P, dated 14-5-1901.]

Exceeding Joining Time.

189. An officer who does not join his new appointment within his Joining Time is entitled to no allowances after the end of his Joining Time, and after a week ceases to have a lien on any appointment. But if the authority making the appointment considers that his default was due to circumstances beyond his control, it may exempt him from the loss of his appointment.

Note :—The expression "allowance" in this Article does not include travelling allowance.

Ministerial Officers.

190. A ministerial officer transferred to service in another office is entitled to Joining Time under the rules in this Chapter and his service for leave and pension is not interrupted. But unlesss his transfer has been ordered for the public convenience he is not entitled to any allowances during Joining Time and the Joining Time does not count as service for leave or pension.

Note 1.—A transfer at the officer's request for his own advantage is not a transfer for the public convenience within the meaning of this Article.

Note 2. The procedure laid down in Article 1099 should be followed when an officer is transferred otherwise than for the public convenience.

SECTION III.—JOINING TIME ON RETURN FROM LONG LEAVE OUT OF INDIA

190A. (*a*) **An officer returning to India, without the permission of the authority which granted him leave, more than fourteen days before the end of his leave, is not entitled to Joining Time, save under the special orders of the Local Government**

(*b*) **An officer, serving in Persia or Arabia, reckons such Joining Time from the port or frontier town by which he returns to the country. The date of arrival at such port or frontier town must be certified by the British Consul, or, if there be no British Consul, by the officer himself.**

(*c*) **An officer either of the Persian or the Persian Gulf Section of the Indo-European Telegraph Department, who returns from leave by an Indian port whether it be Karachi or Bombay, may reckon Joining Time from such port.**

190B. During Joining Time granted to an officer returned from long leave out of India he is entitled to allowances as follows :—

(*a*) **If the leave from which the officer returned was (*i*) furlough other than furlough on average salary or (*ii*) extraordinary leave granted in extension of furlough for a period not exceeding 14 days; the officer retaining a lien on his substantive appointment, he is entitled to the allowances which he would have drawn for the last day of his furlough had that day been spent on furlough in Asia. These allowances are subject to no maximum if the officer is a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules. Otherwise they are subject to the maxima prescribed for allowances during leave spent in Asia. If the furlough was furlough on average salary under Article 316A or 325A, the allowances admissible are as for furlough on half average salary.**

(*b*) **If the leave from which the officer returned was extraordinary leave and the conditions of clause (*a*) (*ii*) are not fulfilled, a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules is entitled to subsistence allowance, and other officers to no allowance.**

CHAPTER X.—OFFICERS DISMISSED, REMOVED, SUSPENDED OR IMPRISONED

Members of the Indian Civil Service and Military Officers.

191. **Not Printed*

Other Officers.

192. Saving as provided in Article 193(*b*), an officer under suspension is entitled to no salary while he is absent from duty, and the salary of an officer who is dismissed or removed ceases absolutely from the date of his dismissal or removal; no allowances may be granted for any period occupied in the prosecution of appeals against the order of dismissal or removal.

193 (1) An officer under suspension shall be entitled to the following payments, namely :—

(A) A subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn if he had been on furlough on half average salary or leave on half pay and in addition dearness allowance based on such leave salary.

Provided that where the period of suspension exceeds twelve months, the authority which made or is 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 twelve months as follows :—

(*i*) The amount of subsistence allowance may be increased by a suitable amount, not exceding 50 per cent of the subsistence allowance admissible during the period of the first twelve 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 Government servant ;—

(*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 twelve 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 Government servant ;

(*iii*) The rate of the dearness allowance will be based on the increased or as the case may be, the decreased amount of subsistence allowance admissible under sub clauses (*i*) and (*ii*) above ;

(B) Other compensatory allowances, if any, of which the Government servant was in receipt on the date of suspension.

Provided that the Government servant shall not be entitled to the compensatory allowances unless the said authority is satisfied that the Government servant continues to meet the expenditure for which they are granted.

(2) † No payment under sub clause (1) shall be made unless the Government servant furnishes a Certificate, that he is not engaged in any other employment, business, profession or vocation.

(*b*) (1) When a Government servant who has been dismissed removed, compulsorily retired or suspended is re-instated or would have been re-instated but for his retirement on superannuation while under suspension, the authority competent to order the re-instatement

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* Relevant rules appear in Fundamental Rule 53.

† As amended by G.I.M.F. Notification No : 19(4)-EV/55 Pt. II, dated the 20th June 1960.

shall consider and make a specific order—

(*a*) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty or for the period of suspension ending with the date of his retirement on superannuation 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 mentioned in sub-rule (1) is of opinion that the Government servant has been fully exonerated or in the case of suspension, that it was wholly unjustified, the Government servant shall be given the full pay and allowances to which he would have been entitled had he not been dismissed, removed compulsorily retired or suspended, as the case may be.

(3) In other cases, the Government servant shall be given such proportion of such pay and allowances as such competent authority may prescribe :

Provided that the payment of allowances under clause (2) or clause (3) shall be subject to all other conditions under which such allowances are admissible.

Provided further that such proportion of such pay and allowances shall not be less than the subsistance and other allowances admissible under Article 193 (*a*).

(4) In a case falling under clause (2) the period of absence from duty shall be treated as a period spent on duty for all purposes.

(5) In a case falling under clause (3) the period of absence from duty shall not be treated as a period spent on duty, unless such competent authority specifically directs that it shall be so treated for any specified purpose :—

Provided that if the Gorvernment servant so desires, such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government servant.

Note. The order of the competent authority passed under the immediately preceding proviso is final and no higher sanction would be necessary for the grant of extraordinary leave in excess of three months in so far as temporary Government servants are concerned.

(*c*) No extra cost may ordinarily be imposed on the State by the grant of an allowance under either clause (*a*) or clause (*b*) with-out the permission of the Local Government. In cases, however, where it does not exceed Rs. 500 and where the period during which the officer has remained unemployed through suspension, removal or dismissal does not exceed six, months, the excess expenditure may be admitted on the sanction of the authority mentioned in clause (*a*) or in clause (*b*) as the case may be.

Note.—The subsistence allowance referred to in clause (*a*) is authorised as a matter of grace only, and cannot be claimed as of right.

Government of India's decisions. (1) See Government of India's decision below Article 416.

(2) At present there is no provision in any rules or orders issued by the Government of India for the recovery of Government dues from the subsistence allowance granted to a Government servant under suspension. The question of making such recoveries from the subsistence allowance has accordingly been under consideration for some time past. The permissible deductions fall under the two categories :—

(*a*) Compulsory deductions ;

(*b*) Optional deductions.

2. The President has been pleased to decide that recovery of following deductions which fall under category (*a*) above, should be enforced from the

subsistence allowance :—

(*i*) Income tax and super tax (provided the employee's yearly income calculated with reference to subsistence allowance is taxable).

(*ii*) House rent and allied charges *i.e.* electricity, water, furniture etc.

(*iii*) Repayment of loans and advances taken from Government at such rates as the head of the department deems it right to fix.

3. The deductions falling under category (*b*), which should not be made except with the Government servant's written consent, are as under :—

(*a*) Premia due on Postal Life Assurance Policies.

(*b*) Amounts due to Co-operative Stores and Co-operative Credit Societies.

(*c*) Refund of advances taken from General Provident Fund.

4. It has further been decided that the deductions of the following nature should not be made from the subsistence allowance ;

(*i*) Subscription to a General Provident Fund.

(*ii*) Amounts due on Court attachments.

(*iii*) Recovery of loss to Government for which a Government servant is responsible.

5. As regards recovery of overpayments, there is no bar to effect the same from the subsistence allowance, but the competent administrative authority will exercise discretion to decide, whether the recovery should be held wholly in abeyance during the period of suspension, or it should be effected at full or reduced rate, depending on the circumstances of each case.

[G.I.M.F. Memo : No. 15(5)-EIV/57, dated the 18th September 1959].

(3) In an establishment where provisions for leave reserve exists, any vacancy caused on account of suspension of a Government servant will be filled by a "reservist" and where a "reservist" is not available, the post will be filled by an officiating appointment by the competent authority subject to the provisions of A I. 17/57 [*incorporated as Government of India's decision below Article 62*] and other orders regarding filling up of short term vacancies, issued from time to time. In case where officiating arrangements are made, the sanction of the Local Government will be necessary *vide* Art 193(*c*) CSR as clarified under Ministry of Defence OM No. 30(8)/55/839/D(Lab-I) dated 28th January 1956 *i.e.* where (*a*) the expenditure on account of the grant of subsistence allowance/pay and allowances to the Government servants exceeds, in each case, 500 irrespective of the period of suspension or (*b*) if the period of suspension exceeds six months irrespective of the amount involved.

While making officiating arrangements, the provisions of AIs 13/S and 380 of 1950 and other order regarding filling up short term vacancies should be borne in mind.

[Authority : Government of INDIA, Ministry of Defence Office Memorandum No. 25(42)58/D(Appts)/dated the 7th September 1959.

(4) The following is the clarification of the certain points arising out of the revision of Article 193 namely :—

Point raised	*Clarification*
(*i*) Whether the revised art 193 CSR applies also to persons who were under suspension on the date of issue of the Notification referred to above.	(*i*) The orders contained in Ministry of Finance Notification No. F. 19(4) East IV/55 dated the 4th March 1959 take effect from the date of issue and are also applicable to Govt. servants who were under suspension prior to that date.
(*ii*) What would be the basis of calculation of the rate of dearness allowance to be granted to a Govt servant after the expiry of the first 12 months of his suspension under the revised art 193 CSR In other words would the amount of dearness allowance also be increased/decreased correspondingly to the percentage increase/decrease in the subsistence allowance payable to the period of first	(*ii*) The subsistence allowance referred in art 193 CSR is not intended to be taken as a composite amount consisting of leave salary and dearness allowance. The intention underlying that clause is that the subsistence allowance during the first 12 months will be equivalent to the leave salary admissible to the Govt. servant concerned, if he were on leave on half average pay or on half pay. During this

twelve months of suspension ?

period he will receive, in addition dearness allowance which would have been admissible to him, if he were on such leave. The 50% increase/decrease referred to in art 193 CSR is applicable to the subsistence allowance *per se*, as clarified above, and not also to the dearness allowance. The dearness allowance admissible after the expiry of the first 12 months of suspension will be calculated on the increased/decreased amount of subsistence allowance payable from time to time.

In other words, the dearness allowance admissible to a Govt. servant under suspension will be equal to the amount admissible had he been on leave salary equivalent to the subsistence allowance payable from time to time.

(*iii*) In a case where a Govt. servant has already been under suspension for a year on a date prior to the issue of the notification referred to above and has been in receipt of subsistence allowance at the rate in force prior to 4-3-1959 (the date of issue of the notification referred to) is the authority referred to in the proviso to the revised art 193 CSR competent to alter the rate of subsistence allowance ?

(*iii*) The suspending authority is competent to alter the rate of subsistence allowance in all cases where the Government servant was already under suspension for more than one year on 4th March 1959.

(*iv*) Would an officer who had already been under suspension over one year on 4th March 1959 and in whose case the competent authority did not pass an order under Art 193 CSR continue to draw subsistence allowance at 3/4th of his leave salary on half pay or half average pay which he was drawing before 4th March 1959 or would he automatically begin to draw it at a rate equal to leave salary on half pay or half average pay until the competent authority passes the necessary order under the aforesaid rule ?

(*iv*) The suspended officer on such a case would become subject to the substantive provisions of art 193 CSR and would become entitled to draw with effect from the 4th March 1959 subsistence allowance in accordance with those provisions until the competent authority passes an order under the proviso to that rule inceasing or decreasing the amount of subsistence allowance.

(*v*) What would be the position in the case of an officer who completes one year under suspension after 4th March 1959 but in whose case also the competent authority does not pass an order under art 193 CSR immediately after the former has been under suspension for one year ?

(*v*) The suspended officer coutinue to draw subsistence allowance at the rate of his leave salary on half pay or half average pay until the competent authority passes an order under art 193 CSR.

(*vi*) Whether in the matter of payment of other compensatory allowances to Govt. servants who are under suspension from a date prior to the 4th March 1959, the competent authority should certify in each claim the fulfilment or otherwise of the condition embodied in art 193 CSR.

(*vi*) The competent authority should certify in each claim for compensatory allowance relating to the period from and after the 4th March 1959 the fulfilment of the condition stipulated in art 193 CSR even in the case of Govt. servents who are under suspension from a date prior to 4th March 1959.

(*vii*) Whether in respect of claims for subsistence allowance referred on or after 4th March 1959 both the Govt. servant and the authority which ordered the suspension should give a certificate in each bill as contemplated in art 193 CSR.

(*vii*) Each claim for subsistence and compensatory allowances should be supported by a certificate by the Government servant concerned to the effect that he was not engaged in any employment, business, profession or vocation during the period to which the claim relates. This certificate should be countersigned by the suspending authority in token of his having satisfied himself regarding its correctness.

[G. I. Ministry of Defence Memo : No : 23 (32) 10077,/59D (Lab), dated the 7th September 1959.]

(5) Para 5 of decision No. (2) above, provides that there is no bar to effect the recovery of overpayments from the subsistence allowance, but the competent administrative authority will exercise discretion to decide, whether the recovery should be held wholly in abeyance during the period of suspension ; or it should be effected at full or reduced rate, depending on the circumstances of each case.

The question whether the provisions of Treasury Rule 215 should be made applicable to recoveries of overpayments from the subsistence allowance of a Government servant under suspension has been considered and it has now been decided, in partial modification of the said orders that Treasury Rule 215 should apply by analogy in such cases and the recoveries of overpayments falling under paragraph 5 of decision No. (2) above should not ordinarily be made at a rate greater than one third of the gross amount of subsistence and other allowances admissible under F. R. 53. (*corresponds to article 193 C.S.R.*)

[G.I.M.F. Memo : No. F-15(5)-E-IV/57, date the 20th August 1960].

(6) In the case of persons arrested and detained under the West Bengal Security Act, 1948, a maintenance allowance to the dependents of the detained persons is usually allowed in consideration of their income at the time of arrest and also of their income during detention. The Provincial Government have reported that in the case of Central Government employees detained under the Act, considerable difficulty is felt by them in determining the amount of their family maintenance allowance in the absence of information regarding their income during the period of detention.

The cases of various types of arrests shall be dealt with in manner laid down in para 2 of the Government of India's order No. (2) below rule 12(1) of the Central Civil Service (Classification Control and Appeal) Rules, 1957 in Volume II of Chaudri's Compilation of Civil Service Regulations.

The Provincial Government have stated that when ever a Central Government employee is arrested under the above Act, immediate intimation will be sent by them to the head of his office. It is requested that as soon as such intimation is received, the Government of West Bengal may be informed with the least possible delay about the amount of the subsistence allowance and other allowances, if any, which it is proposed to pay to the employee concerned for the period of his detention under the Act, to enable the Provincial Government to decide whether any maintenance allowance should be sanctioned by them for the employee in question in addition, and if so, what.

[G. I. M. H. Affairs Memo No. 60/7/49, Ests, dated 22-2-1949.]

(7) Suspension period of Industrial employees in Defence Installations on their reinstatement consequent on their acquittal in criminal/departmental proceeding will neither be treated as duty nor as leave and will thus not count for increments and leave. It will also not be treated as constituting a break in service, with the result that the individual concerned will. on reinstatement be eligible to draw the same pay which he was in receipt of immediately prior to suspension.

Cases regulated in the past otherwise than in accordance with the above clarification will not be re-opened.

[G. I. Ministry of Defence Memorandum No. 23 (26)/11549/57/D (Lab) dated the 12th November, 1957].

(8) The instructions issued by the Government of India provided that with a view mainly to avoid unnecessary expenditure by way of continued payment of subsistence allowance, the question of dismissal etc. of a Government servant should be considered as soon as orders of his conviction are passed by the first trial court. To enable this instruction being complied with in practice it is necessary that the administrative authorities should be made aware of orders of conviction of any person employed under their administrative control without any avoidable delay. Actually, however, it is the experi-

ence of Government of India that not only are the heads of offices concerned not informed in most cases about the orders of conviction of any Government sarvants employed under them but they fail to get replies reasonably expditiously even when the authorities concerned are specifically requested for information in the matter. The Ministry of Home Affairs have accordingly desired that the State Governments should cause instructions to be issued to prosecuting officers under them that in future they would ensure that prompt intimation is sent to the administrative authorities concerned whenever orders convicting any Government servant of a criminal offence are passed in cases handled by them.

[G. I. M. H. Affairs letter No. 39/72/51-Est., dated the 23rd October, 1951.]

(9) There have been repeated references in Parliament and in Parliamentary committees to the delays in the disposal of departmental proceedings against deliquent Government servants, and to cases in which technical and procedural grounds, the accused persons ultimately escape the punishment they deserve. The general impression is that the prescribed procedure is too elaborate and requires to be replaced by something more simple and summary.

2. After careful consideration the Ministry of Home Affairs have come to the conculusion that this impression is not wholly justified. The procedure prescribed in rule 55 (*now* Rule 15) of the Central Civil Services (Classification Control and Appeal) Rules is applicable only to cases in which the charges are so serious as to call for one of the major punishments, *i. e.* Dismissal, Removal or Reduction the Rank etc. (A mere summary procedure is already available for less serious cases). The provisions of Rule 15 are merely designed to ensure compliance, with a salutory principle of justice and public policy which has also been incorporated it Article 311 of the Constitution of India *viz* that no man should be condemned are punished without a reasonable opportunity to defend himself. The prescribed procedure therefore requires that the accused officer should be told in the form of written charges exactly what he is alleged to have done and on what evidence oral or documentary the allegation are based that he should have an opportunity to inspect the documentary evidence, to test the oral evidence by cross-examination and to furnish such evidence as he may wish to adduce in his own defence. If, as result of the enquiry, it is decided that the officer should be dismissed removed or reduced in rank, he has to be given a further opportunity to show cause, if any, against the actual punishment proposed. Anything less than this would amount to a denial of the reasonable opportunity which is guaranteed by Article 311.

3. There is however, nothing in these minimum requirements which must necessarily lead to unduly protracted proceedings or to a failure to secure just punishment to the guilty. The officer conducting a departmental inquiry has to hold the balance even between the interest of the State and the avoidance of injustice to the accused. He is free to take a responsible, reasonable and prudent view of the facts and the circumstances of the case and is not bound by the rigid limitations regarding the admissibility of evidence and the degree of proof applicable to prosecution before Criminal Courts. Provided the inquiry officer gives the necesssary time and effort, confines his attention to the main points at issue and firmly resists any attempt by the accused officer to introduce irrelevancies or to adopt deliberate dilatory tactics—there is no reason why satisfactory expendition in disposal should not be achieved in all cases without departing from the prescribed procedure.

4. The various factors which may contribute to undue delays and faulty disposal are :—

(*i*) Officers conducting the departmental enquiries may be so preoccupied with other duties that they can only spare a few hours at a time at long intervals for the enquiry itself.

(*ii*) Unfamiliarty with the procedure or inadequate appreciation of the difference between a departmental inquiry and a trial in a Criminal Court, may lead to over-elaboration. or lack of firmness dealing with dilatory tactics.

(*iii*) Avoidable delay may sometimes occur at the stage when the enquiry officer has submitted his report and the appropriate authorities have to make up their minds whether the findings are to be accepted and if so what the punishment should be.

(*iv*) Where, under the rules, consultation with the Union Public Service Commission is necessary some undue delay may occur in making the reference to the Commission, and in the consideration of the case by that body.

5. As regards the factors mentioned in (*i*) and (*ii*) above the Ministry of home Affairs have considered the feasibility of setting up separate Administrative Tribunals for enquiring into the more important departmental proceedings. Although such bodies have worked satisfactorily in the States of Uttar Pradesh and Madras, it is felt that Central Government machinary is so vast and widely scattered that a similar experiment will hardly justify the expenditure incurred. In cases of extreme complexity or importance it will always be open to Government to set special committees of enquiry or to have recourse to the Public Servants Enquiries Act, 1850. For all other departmental enquiries the delay caused by excessive pre-occupation or unfamiliarities with the procedure could be easily avoided by adopting the following measure :—

(*i*) In each Ministry or Department a specified officer or officers of appropriate rank shall be nominated and ear-marked for the purpose of conducting all the departmental inquiries arising within that Ministry/Department.

(*ii*) As soon as occasion arises for taking up such an inquiry the nominated officer will be relieved of his normal duties to such extent as may be necessary to enable him to devote full and careful attention to the completion of the enquirers and the submission of his report. During this time the work of which the officer is relieved may be distributed amongst other officers.

(*iii*) The nominated officers should familiarize themselves with the rules and essential procedural requirements and appreciate the difference between Departmental inquiries and Trials in the Criminal Courts. The maintenance of close personal contact with the Ministry of Home Affairs will enable them quickly to resolve any doubts or difficulties which may arise.

6. As regards the causes of delay mentioned in (*iii*) and (*iv*) of para, 4, much improvement will be effected if, (*a*) it is impressed upon all concerned that both public interest as well as humanitarian considerations demand that no avoidable delay should occur in the disposal of disciplinary cases ; and (*b*) any failure to give such cases due priority is itself regarded as a derelication of duty and suitably dealt with.

7. As to possibility of delay occuring in the considerations of a case and tendering of their advise by the Union Public Service Commission the Ministry of Home Affairs are in correspondance with the Commission and they have every hope that satisfactory arrangements will be made to secure all possible expendition on the part of the Commission.

[G. I. M. H. Affairs Memo No. 39/40/52-Est, dated the 4th October 1952.]

(10) The Government of India have had under consideration for some time, in consultation with the Union Public Service Commission, the question whether in departmental inquiry an officer charged with corruption should be presumed to be guilty of that charge in case he is unable to satisfactorily account for possession by himself or by any other person on his behalf *e. g.*, dependants, of pecuniary resources or property disproportionate to his

known sources of income. It is considered that a presumption of corruption fairly and reasonably arises against an officer who can not account for large accretion of wealth which he could not possibly have saved from his known sources of income. Such principle has received statutory recognition in section (5)3 of the Prevention of Corruption Act, 1947, and it is considered that its application in a departmental inquiry would not be unjust or inequitable. Accordingly, it has been decided that if an officer against whom a departmental inquiry is held is unable to explain satisfactorily the large wealth amassed by him, the officer holding the enquiry is entitled to act on the presumption that such wealth was ammased by corrupt means.

[G. I. M. H. Affairs Memo No. 39/19/52 Est., dated the 8th October 1952.]

(11) It has been decided and it is hereby laid down that it shall be the duty of Government servant who may be arrested for any reason to intimate the fact of his arrest and the circumstances connected therewith to his official superior promptly even though he might have subsequently been released on bail. On receipt of the information from the person concerned or from any other source the departmental authorities should decide whether the facts and circumstances leading to the arrest of the person call for his suspension. Failure on the part of any Government servant to so inform his official superiors will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone. apart from the action that may be called for on the out-come of the police case against him.

It requested that the above position may kindly be explained to all Government servants with whom the Ministry of Defence, etc. may be concerned.

[G. I. M. H. Affairs Memo No. 39/59/54-Ests-(A), dated the 25th February, 1955]

Note. 1. State Governments have been requested to issue necessary instructions to the police authorities under their control to send prompt intimation of arrest/or and release on bail etc. of Central Government servants to the latter's official superiors as soon as possible after the arrest or release indicating also the circumstances of the arrest etc. to enable them to decide what action, if any, should be taken against such employees.

[G. I. M. H. Affairs letter No. 39/59/54. Est (A) dated the 25th February 1955]

Note 2. The cases of various typs of arrests shall be dealt with in the manner laid down in para 2 of the Government of India's decision No:(2) below rule 12(1) of the Central Civil Service (Classifications Control and Appeal) Rules, 1957 in Volume II of Chaudri's Compilation of the Civil Service Regulations.

(12) In the Finance Department leltter No. D. 248/A. dated the 21st June 1929, general principles were laid down to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of Government servants. It was therein stated (among other things) that it is of the greatest importance to avoid delay in the investigation of any such loss, that, where it appears that recourse to judicial proceedings is likely to be involved, competent legal advice should be taken as soon as the possibility emerges; that where there is a reasonable suspicion of fraud or orther criminal offence, a prosecution should be attempted unless the legal advisers consider that the evidence available is not such as will secure a conviction ; and that where loss is due to delinquencies of subordinate officials and where it appears that this has been facilitated by laxity of supervision on the part of a superior officer, the latter also should be called strictly to account.

2. These principles were supplemented by instructions contained in the memorandum attached to the Home Department letter No. F. 317/34-Judicial dated the 19th April 1934. These intructions had special reference to cases in which prosecutions in the criminal courts are, or are likely to be, necessary and laid down (among other things) that, as soon as a reasonable suspicion exists that a criminal offence has been committed, the senior officer of the department will report to the District Magistrate and ask for a regular police investigation; and explain the procedure that should follow the investigation.

3. For convenience of reference these two memoranda are attached to this

letter (*not printed*). It is now desired to explain as clearly as possible what is necessary to be done in the way of departmental enquiry where a prosecution is or is likely to be, instituted. It has been found that, where fraud or embezzlement of Government Funds has occurred, there is a tendency for the head of the office or department to regard the institution of criminal proceedings as absolving him from the unpleasant and often laborious task of conducting immediately a thorough departmental enquiry. This natural reluctance may be enhanced by an apprehension that an enquiry may prejudice the result of trial in a court of law. As a result, there has sometimes been great delay in taking departmental proceedings and the results have been inconclusive. The Public Accounts Committee in their report on the accounts of 1933-34 have agreed with the Auditor General that departmental enquires should not necessarily be delayed pending decision of criminal cases, as at a later stage the evidence might disappear and the departmental enquire could not be brought to any conclusion at all.

4. Experience shows that departmental proceedings cannot as a rule proceed concurrently with a criminal prosecution. Much of the evidence in a case of fraud or embezzlement is documentary. As soon as the criminal proceedings begin the documents go to court as exhibits, and there they must remain till the case is over and (if an appeal is filed) till the appeal is over. But it is essential that every thing should be done to carry the departmental proceedings as far as possible before prosecution begins. The stage to which departmental proceedings, prior to prosecution, should be taken must depend on circumstances and cannot be precisely defined. The normal procedure is laid down in rule 33 of the Civil Services (Classification, Control and Appeal) Rules ; and the stage which departmental proceedings can reach may according to circumstances be any one of the stages described or implied in the Rule *i. e.*, the preliminary recording of evidence, the receipt of the deliquent's written statement after the framing of a charge, the personal hearing or the enquiry. If it is intended to prosecute, a finding and sentence should not be recorded in the departmental proceedings till after the disposal of the criminal case ; but it must be emphasised that the proceedings should be completed up to the point that can properly be reached.

5. A common type of case is that where a number of persons are involved one or more criminally, and others in such circumstances as show negligence or warrant the suspicion of criminal abetment without sufficient proof to justify prosecution, or have similar features which necessitate a criminal prosecution of one or more and a departmental enquiry against others. In such cases the authority has sometimes neglected to institute a formal departmental enquiry or to carry it to the requisite stage, before criminal proceedings are taken with the result that many months later, when the criminal case is over effective departmental action has been found impracticable.

6. The general rule should be that in all cases of fraud, embezzlement or similar offences dapartmental proceeding should be instituted at the earliest possible moment against all the deliquents and conducted with strict adherence to the rules up to the point at which prosecution of any of the delinquents begins. At that stage it must be specifically considered whether further conduct of the departmental proceedings against any of the remaining delinquents is practicable, if it is, it should continue as far as possible (which will not as a rule, include finding and sentence). If the accused is convicted, the departmental proceedings against him should be resumed and formally completed, if the accused is not convicted, the departmental proceedings against him should be dropped unless the authority competent to take disciplinary action is of the opinion that the facts of the case disclose adequate grounds for taking departmental action against him. In either case, the proceedings against the remaining delinquents should be resumed and completed as soon as possible after the termination of the proceedings in court.

7. The proceedings contempleted in these instructions are those which

are regulated by the Civil Service (Classification, Control and Appeal) Rules. Where action is taken under the Public Servants (Inquiries) Act XXXVII of 1850, this ordinarily takes the place of a criminal prosecution as regards the person or persons accused, but the procedure as regards other persons involved against whom the Act is not employed should be in accordance with the instructions given above.

[G. I. M. H. Affairs letter No. F. 312/35 Public, dated the 15th November 1935 as amended by letter No. 196/40-Public, dated the 8th May 1948.]

(13) In the Home Department letter No. F. 312/35 Public, dated the 15th November 1935 [decision No 12 above], it was laid down that in a case where it was intended to prosecute employee for acts committed by him as a Government servant, everything should be done to carry the departmental proceedings to as advanced a stage as possible before prosecution began. It was also laid down that the finding and the penalty in the departmental proceedings should not be recorded till after the disposal of the criminal case. This matter has been reviewed. The postponement of decision in the departmental proceedings till after the criminal case is finally disposed of, leads to undue delay in the completion of the proceedings. Moreover, if the officer is placed under suspension, he has to be paid subsistence allowance during the entire period of prosecution, and if there is an appeal against the conviction till the appeal is decided. If action is taken immediately after the conviction in the trial court difficulties sometimes arise when the conviction is appealed against. In order to avoid these difficulties, as well as to ensure the earliest possible decision in such cases, it has now been decided that the following procedure should normally be adopted in cases of alleged criminal misconduct of Government servants.

2. As soon as sufficient evidence is available for the purpose in the course of investigation in cases of misconduct, whether such investigation is conducted departmentally or through the police (including the Special Police Establishment), action should be taken under the Civil Services (Classification, Control and Appeal) Rules or other appropriate disciplinary rules and disciplinary proceedings should be initiated forthwith. Such departmental proceedings need not interfere with the police investigation, which may be continued, where necessary. After the departmental proceedings are concluded, and the penalty, if any, imposed as a result thereof, the question of prosecution should be considered in the light of such material as may have become available as a result of the investigation.

3. In suitable cases criminal proceedings should thereafter be initiated. Before initiating such proceedings advice on evidence should be obtained from Government Counsel, and in more important cases from the Attorney General or the Solicitor General. Where the conduct of an officer discloses a grave offence of a criminal nature, criminal prosecution should be the rule and not the exception. Where competent authority is satisfied that there is no criminal case which can be reasonably substained against such officer, criminal prosecution should not of course, be resorted to, but prosecution should not be avoided merely on the ground that the case might lead to an acquittal.

4. Should the decision of the trial court or the appellate court, as the case may be, lead to the acquittal of the accused, it may be necessary to review the decision taken earlier as a result of the departmental proceedings. A consideration to be taken into account in such review would be whether the legal proceedings and the departmental proceedings covered precisely the same ground. If they did not, and the legal proceedings related only to one or two charges, *i. e.* not the entire field of departmental proceedings, it may not be found necessary to alter the decision already taken. Moreover, it should also be remembered that while the court may have held that the facts of the case did not amount to an offence under the law, it may well be that the competent authority in the departmental proceedings might hold that the Government servant was guilty of a departmental misdemeanour and he had not behaved

in the manner in which a person of his position was expected to behave.

5. In this connection, attention is invited to the requirements of Article 311(2) of the Constitution in regard to penalties of dismissal or removal or reduction in rank. This Article provides that no person, who is a member of Civil Service of the Union or holds a civil post under the Union, shall be dismissed, removed or reduced in rank until he has been given a resonable opportunity of showing cause against the action proposed to be taken in regard to him. A proposal to amend Article 311 (2) is under consideration, but pending such amendment the provisions of this clause as judicially interpreted must be strictly followed. According to judicial pronouncements, these provisions are mandatory and the words underlined contemplate that after the enquiry against the accused officer has been completed and the competent authority has come to provisional conclusions regarding the action to be taken against him, he should be given an opportunity of showing cause against such action, if it is dismissal, removal or reduction in rank. For this purpose, he should be supplied with a copy of the report of the inquiring authority and be called upon to show cause within a reasonable time against the action proposed to be taken. Any representation submitted by him in this behalf should be duly considered before final orders are passed. Failure to observe these statutory requirements renders the orders passed *nul* and void and, therefore, legally inoperative. In case of such failure, the Government servant concerned is deemed to have continued in service, or in the grade from which he was reduced, and subject to compliance with the provisions of any rules regarding allowances, he is entitled to the pay and allowances he would have drawn if such action had not been taken. According to the ruling of the Supteme Court in the case of Abdual Majid, it would be open to him to obtain a decree from a civil court against the Government for payment of these amounts. It is, therefore, necessary for the competent authority to observe strictly the statutory requirements of Article 311(2) in all cases in which it is attracted. This should be impressed on all concerned. Compliance with these requirements is not, however, required in cases covered by clause (*a*), (*b*) or (*c*) of the proviso to that Article. Where, however, action is taken under clause (*a*) of this proviso on the basis of the conviction of a person in a court of law and the conviction is set aside on appeal the orders passed under the proviso automatically become inoperative. If departmental action against him is considered desirable, it will be necessary to follow the provisions of the relevant disciplinary rules, and, where necessary, substantive provisions of Article 311(2).

[G. I. M. H. Affairs Memo No. F 39/30/54-Ests., dated the 7th June, 1955.]

(14) Decision No (13) above lays down *inter alia* that as soon as sufficient evidence of criminal misconduct of Government servants is available in the course of investigation either departmentally or through police, action should be taken under the C S. (CCA) Rules or other appropriate discipline rules to initiate departmental proceedings and only after such proceedings are contemplated, the question of prosecution should be considered in the light of such evidence as may have become available as a result of such investigation. All earlier instructions issued by Home Ministry on the subject including those contained in the directive enclosed with Ministry of Home Affairs Office Memorandum No. 22/1/50-P. II, dated the 14th January, 1954 regarding procedure in cases dealt with by the Special Police Establishment should be deemed as superseded to this extent

Where the necessary papers are to be obtained from the Special Police Establishment, the Vigilance Office concerned may contact the Special Police Establishment direct. As regards investigation conducted by the State Police, State Governments are being requested to ask District Magistrates and the Police authorities to assist in giving effect to this policy.

[G. I. M. H. Affairs Memo No ; 39/30/54 Ests (A) dated the 20th October 1955.]

(15) The instructions given in decision No. (13) above to authorities under the control of the Central Government supersede all earlier instructions

on the subject, the State Government may also consider adopting the principles laid down therein in respect of disciplinary cases involving their employees.

In regard to cases in which Central Government servants are involved the investigation by police may take place either by the Special Police Establishment of the Government of India or by the State Police authorities. So far as the former are concerned, the Inspector General, Special Police Establishment, is being instructed to make the necessary records and other data available to departmental authorities for action under the Classification Rules before the question of prosecution is considered. In cases in which the investigation is conducted by the State Police (whether in respect of cognisable offences or others) similar assistances by the State Police authorities will be necessary. Necessary instructions may kindly be issued to the District Magistrates and the police authorities under the State Government's control to extend all possible co-operation to the departmental authorities by way of supplying them with the necessary documents and other data to enable them to take timely departmental action against deliquent officers.

[G. I. M. H. Affairs letter No. 39 (30)/51-Est. (A), dated the 20th October, 1955 to the Chief Secretaries to all State Governments and Chief Commissioner, Andamans.]

(16) An officer under suspension is regarded as subject to all other conditions of service applicable generally to Government servants and *can not leave the station without prior permission.* As such, the headquarters of a Government servant should normally be assumed to be his last place of duty. However, where an individual under suspension requests for a change of headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of travelling allowance etc. or other complications.

[G. I. M. H. Affairs Memo : No. 39/5/56/-Ests. (A), dated the 8th September, 1956].

(17) As the various Ministries of the Government of India are aware it has not so far been the practice for Departmental Promotion Committees in the case of selection posts and the competent authority in the case of other posts, to consider for promotion officers who are under suspension or whose conduct is under investigation or against whom departmental proceedings are about to be initiated. In cases where the officer is completely exonerated on conclusion of the departmental proceedings, his earlier non-consideration for promotion affects his future prospects adversely. Even if he is promoted subsequently, he loses his seniority as compared to officers who were junior to him in the lower grade and were promoted during the period of his suspension.

It has therefore been decided in consultation with the Ministry of Finance and the Comptroller and Auditor General, that in such cases the officer's suitability for promotion should be assessed at the relevant time by the Departmental Promotion Committee or other authority as the case may be and a finding reached whether, if the officer had not been suspended or his conduct had not been under investigation, he would have been recommended/selected for promotion. Where a select list is prepared, the competent authority should also take a view as to what the officer's position in that list would have been but for his suspension. The findings as to the suitability and the place in the select list should, however, be recorded, not in the proceedings of the Departmental Promotion Committee or other authority, but in the personal file of the officer concerned. The proceedings of the Departmental Promotion Committee etc. need only contain the note "please see the personal file of the officer." [*See decision No. 18 below*]

No action should be taken on the finding recorded in the personal file of the officer until after the conclusion of the departmental proceedings against him. If he is completely exonerated and it is held that the suspension was wholly unjustified, he should be promoted thereafter in the first vacancy that can be made available for the purpose and his seniority in the higher grade fixed as if he had been promoted in accordance with his position in the select list as given in his personal file. The seniority so fixed will, however, not affect

the pay of the officer which will be fixed under the normal rules as from the date of actual promotion.

These orders will apply to future cases and past cases which have already been decided will not be re-opened :—

[G. I. M. H Affairs Memo No. 39/4/56-Est. (A) dated the 3rd November, 1958].

(18) In partial modification of decision No. (17) above the following decision are brought to the notice of all concerned.

The findings as to the suitability and the place in the select list of the officer should be recorded separately and attached to the proceedings, in a sealed envelope superscribed "Findings regarding merit and suitability for promotion to/confirmation in (*Service/grade/post*) in respect of Shri (*name of the officer*)." and "Not to be opened till after the termination of the suspension of/disciplinary proceedings against Shri (*name of the officer*)". The proceedings of the Departmental Promotion Committee, etc. need only contain the note "The findings are contained in the attached sealed envelope". The authority competent to fill the vacancy should be separately advised (*i*) to fill the vacancy only in an officiating capacity, where the findings as to the suitability of the officer are for his promotion and (*ii*) to reserve a permanent vacancy, where such findings are for his confirmation.

The vacancy that could have gone to the officer but for his suspension or the departmental proceedings against him should be filled only on an officiating basis by the next person in the approved list. If the officer concerned is completely exonerated and it is held that the suspension was wholly unjustified, he should be promoted thereafter to the post filled on an officiating basis, the arrangements made previously being reversed. Where however the post which could have gone to the officer but for his suspension or the departmental proceedings against him, ceases to exist before the conclusion of the departmental proceedings, he can only be promoted to the first vacancy that may be available in future and if the officer concerned is found fit for promotion at that time.

The procedure laid down in paragraph 2 of the decision No ; (17) above as modified by the decisions in the preceding paragraph should also be followed, in considering claims for confirmation of an officer under suspension, an officer whose conduct is under investigation, or an officer against whom departmental proceedings are about to be initiated. For this a permanent vacancy should be reserved for such an officer till a final decision is reached on the proceedings against him, or, where in rank such an officer is reduced in rank for a specified period, till he is actually restored to his original post.

[G.I.M.H. Affairs Memo No. 39/3/59-Est-(A), dated the 31st August 1960]

Note. The orders in decisions No : (17) and (18) also apply to Ministry of Defence vide G. I. M. of Defence Memo : No II (6) 58/1834D (Appts) dated the 28th December 1958 and No : II (6) 58/1292/D (Appts), dated the 15th October 1960 respectively.

193A. The preceding Article applies also to officers in temporary employ, but in deciding whether an allowance should be granted to such officers, the period for which the temporary appointment has been sanctioned should be taken into consideration.

Suspension during pendency of Criminal Proceedings or Proceedings for Arrest for Debt or during detention under a law providing for Preventive Detention.

194. **Omitted.*

194A. A servant of Government against whom a criminal charge

*[Omitted *vide* G.I.M.F. Notification No : F.5.(13) EIVA/62, dated the 25th January 1963].

or a proceeding for arrest for debt is pending should also be placed under suspension by the issue of specific orders to this effect during periods when he is not actually detained in custody or imprisoned (*e. g.*, while released on bail). if the charge made or proceeding taken against him is connected with his position as a Government servant or is likly to embarrass him in the discharge of his duties as such or involves moral turpitude. In regard to his pay and allowances, the provisions of Article 193 shall apply.

Leave while under Suspension.

195. Leave of absence for a definite period is not admissible to an officer who has been suspended from duty. If permission to proceed to England is granted in such a case, it should only be for such period as the Secretary of State may determine.

PART III. LEAVE RULES.

CHAPTER XI—GENERAL CONDITIONS OF LEAVE.

SECTION I.—GENERAL RULES.

196. The rules in this Chapter apply to all officers in Civil employ except in as far as they are inconsistent with, or overriden by, the special conditions of leave which obtain in the case of the following classes of officers :—

(*a*) **Lieutenant-Governor and Members of Council (see Chapter XXII)**

(*b*) **Judges of High Courts (see †Chapter XXIII.)**

(*c*) **Barristers and Pleader holding the appointments specified in Article 547 (see Chapter XXIV.)**

(*d*) * * * * * * *

(*e*) * * * * * * *

(*f*) **Officers subject to Military Leave Rules (see Chapter XXVIII).**

(*g*) **Army Veterinary Officers of the Civil Veterinary Department (see Chapter XXIX).**

(*h*) **Law Officers (see Chapter XXXI).**

(*i*) **State Railway Establishment (see Chapter XXXII).**

(*j*) **Bengal Covenanted Pilot Service (see Chapter XXXIII).**

(*k*) **Port Blair Police (see Chapter XXXIV).**

(*l*) **Assam and Military Police (see Chapter XXXV).**

(*m*) **Calcutta and Suburban Police Force (see Chapter XXXVI).**

(*n*) * * * * * *

(*o*) **Officers serving under Special Contracts (their contracts).**

1. An officer appointed under contract for any term of years without prospect of permanent employment is not entitled to leave, other than privilege leave and leave on medical certificate (regarding which see Note below) except in accordance with the terms of his contract (*see* Note under Article 352).

Note.—If the health of an officer who is serving under an agreement which does not give a title to leave until the expiry of a fixed period fails during that period, his engagement should be terminated, unless—

(*i*) he has exhibited such special ability that it is desirable on public grounds to retain him even at the cost of difference between a leave allowance and any passage money etc. due under his agreement ; and

(*ii*) it is certified that he will in all probability be able to return to duty at or before the end of six months.

In cases in which the engagement is not terminated, leave may be granted for a period not exceeding six months and on allowance not exceeding half-pay].

Government of India's orders.—The Revised Leave Rules for Civilians of the Defence Services published with Army Instruction (India) No. 2/S., dated the 12th September, 1959 have been incorporated as Appendix 39 to this Compilation.

Government of India's decisions :—(1) In the case of the civil Government servants which term includes military officers in permanent civil employ) called to military duty during the World War II, Defence Depart-

†See Appendix 40·40A and 40B.

ment should pay to the Civil Department or Government concerned leave salarly/contribution at the usual rates for the period of Military Service (excluding leave,) calculated on the actual pay drawn during that period and the Civil Department or Government concerned will bear the actual leave salary paid to the individuals.

[G. I. F. D. letter No. F. 7 (2)—R I/42, dated 13-1-1942.]

(2) For the purpose of the foregoing decision, it has been decided that in the case of all Civil Government servants (including military officers in permanent civil employ) the items shown in column 1 of the following schedule should be included in actual pay and that those in column 2 should not be so included.

SCHEDULE.

1	2
Staff Surgeon's Allowanc e.	Separation Allowance.
Registrar's allowance.	Rangoon Compensatory Allowance Burma
Specialist Pay.	Field Allowance.
Charge Pay.	Burma Special Pay.
Command Pay.	Special Compensatory Allowance.
Second-in-Command Pay.	Technical Pay.
Additional Pay.	Military Compensatory Allowance.
Registrar's Pay.	Ration allowance.
Corps Pay.	Messing Allowance.
Family Allowance.	Hair Cutting Allowance.
Trade Pay	Washing Allowance.
Engineers Pay.	Expatriation Allowance.
War Pay.	Batta.
Adjutants Allowance.	Japanese Compaign Pay.
Special Allowance.	Japanese Campaign Pay Compensatory Allowance.
Emergency Allowance.	
Cipher Allowance.	Dearness Allowance.
Indian Army Allowance.	Compensatory Allowance.
War Service Increments.	War Allowance.
Overseas Pay.	Deferred Pay.
Intelligence Allowance.	Clothing Allowance
Censor allowance.	Hindustani Clothing Allowance.
Proficiency Pay.	Mineral water and ice Allowance.
Grade Pay.	Conservancy Allowance.
Good Service Pay.	Compensation in lieu of quarters.
Infectious Disease Ward Allowance.	Special Allowance V. C-O of the A.R.D.
Lodging Allowance.	Meals Allowances-Embarkation staff.
Marriage Allowance.	Compensation for water, light and furniture when free accomodation is provided but their services are not available.
Personal Allowance.	
Extra Duty Pay.	
Badge Pay.	Road and sea conveyance Allowance.
Addition of Rs. 20 on Family Allowance.	Subsistence Allowance.
Qualification Pay.	Conveyance Allowance.
Air Observation Pilot's Pay.	Special Allowance-Indian Soldiers Batmsn
Special Parachute Pay.	Allowance for toilet requisites
War Excess in issue.	Tibet Allowance.
Kit maintenance Allowance.	Allowance to Recruiters.
Special disturbance Allowance.	

Note—The amount on account of deferred pay for the entire period, including leave, shall be borne by the Defence Services Estimates, as it is part of an individual's entitlement which is not disbursed along with pay.

As the rates of leave salary contributions do not take into account dearness allowance, war allowance and other compensatory allowances, which may form part of leave salary as defined in Fundamental Rules 9 (12), the whole expenditure in respect of any of these allowances for periods of leave in or at the end of military service shall be borne by the Defence Services Estimates.

[G.I.M.F. letter No. 7 (2)-R-1/42, dated 27-3-48 as amended by letters of even number dated 24-9-48, 15-4-50 and 3-7 51.]

(3) With effect from the 3rd September, 1939, the following principles will govern the grant of leave and the incidence of the cost of leave and pension charges in respct of *All* Civil Government servants (which term includes military officers in permanent civil employ) other than the railway servants, who have been called to or employed in service paid for from the Defence Services Estimates during the War, either in a military or in a civil capacity.

(A) *Leave.*

1. Leave of all permanent civil Government servants called to military duty as combatants will be regulated under Para A of Army Instruction (India) No. 378 of 1943. Leave of civil Government servants employed with Defence Services in a civilian capacity will be governed by the civil rules applicable to their parent services in the Civil Department. Leave salary contribution, in respect of all Superior servants including Gazetted Officers of the Posts and Telegraphs Department employed in a Civil capacity at the rates laid down in Government of India's decision No : (2) below F. R. 116 in the Chaudri's Compilation of the Fundamental and Supplementary Rules as amended from time to time or at the rates prescribed by respective Provincial Governments for their servants, as the case may be, will be paid from the Defence Services Estimates. This contribution will be calcuted on the total period of leave granted while so employed ; in the case of officers of A.I.R.O. who are Crown servants the period of war leave (which is paid from the Defence Services Estimates) will, however, be included in the period of service. The contribution will be based on the actual pay drawn during that period except in the case of an A. I. R. O. in respect of whom the leave salary contributions will be based on *PAY* which be would have received in lieu if he had not been called up for army service. The Civil Department or Provincial Government concerned will bear the actual leave charges except as stated below—

(*i*) Leave charges for special disability leave referred to in A. I. (1) 378/43 of personnel called to military duty as well as charges in respect of disability leave granted to other personnel while in service paid from the Defence Services Estimates will be borne by these estimates. No leave salary contribution from the Defence Services Estimates will be paid for these periods.

(*ii*) Leave charges for all leave granted under military rules to gazetted and non-gazetted personnel of the Posts and Telegraphs Department and non-gazetted personnel of the Survey of India, who are employed with the army as combatants and to the officers of the A. I. R. O. who hold substantive appointments, will be borne by the Defence Services Estimates.

2. No leave salary contribution will be paid from the Defence Services Estimates in respect of inferior Government servants except those of the Post, and Telegraphs Department. Leave charges for leave granted to and enjoyed by inferior servants of all the Civil Departments or Provincial Governments during their service paid from the Defence Services Estimates will be borne by those estimates. In addition, leave salary contribution at the rate of 5 per cent of actual pay drawn during that period, will also be paid by the Ministry of Defence in respect of inferior servants of the Posts and Telegraphs Department. This contribution will be based on the total service rendered with the army less any leave granted while so employed.

3. Temporary civil Government servants will be governed by military leave rules if employed in a military capacity, or by the appropriate civil leave rules applicable to civilian personnel of the Defence Services, if employed in a civilian capacity. In the former case the actual leave salary will be paid from the Defence Services Estimates and in the latter case the leave salary will be adjusted in accordance with the late Government of India, Finance Department letter No. F. 7 (43)-R/1/44/dated the 13th September, 1944, (reproduced as annexure to A. I. (1) No. 19/45).

In case a temporary civil Government servant is made permanent in a civil post while he is in military employ he should, for the purpose of leave and leave salary contributions, be treated from the date of his permanent appointment as a permanent civil Government servant.

(*i*) The pensionary liability of the Defence Services Estimates in respect of all permanent civil Government servants (other than railway servants) will be met by paying pension contributions at

the rate of 12·5 *per cent* of the emoluments (as defined in Article 486 of the Civil Services Regulations) actually drawn in the cases of Posts and Telegraphs Department ; at the rates laid down in Government of India's decision No. (2) below F R. 116 in the Chaudri's Compilation of the Fundamental and Supplementary Rules, as amended from time to time in the case of other Central Departments ; and the Provincirl Government rates in the case of permanent Provincial Government servants. In the case of temporary civil Government servants who may be made permanent in civil appointments while they are in service paid for from the Defence Services Estimates or on reversion to their civil appointments, and who count their temporary civil service including service paid for from the Defence Services Estimates towards pension. debits against the Defence Service Estimates in respect of the period of temporary service paid for therefrom which qualify for civil pension should be raised by the Civil Department or Government concerned only after the individuals are confirmed in their civil appointments.

(*ii*) The above contributi ons cover all liabilities in respect of all kinds of pensions including the disability and family pensions payable under the relevant Civil Extra-ordinary Pension Rules or under the Central Civil Services (War Injuries Pension) Rules 1942 or under the War Injuries Scheme or under the appropriate military rules.

No pension contribution will be paid from the Defence Services Estimates in respect of disability leave granted to civil Government servants for disabilities other than war injuries sustained by them during employments with the Defence Department.

Note—Commencing with the year 1944-45 and for the duration of the War the liability of the Defence Services Estimates on account of leave contributions payable in respect of Posts and Telegraph Subordinate establishments in superior service serving in establishments paid from the Defence Services Estimates in a civil capacity will be discharged on the basis of Posts and Telegraphs Department Memorandum No. S 288-4/43/R, dated the 19th April, 1944. The liability of the Defence Services Estimates on account of Pension Contribution in respect of all personnel of the P & T Department employed under the Ministry of Defence commencing with the year 1944-45 and for the duration of the War, be also discharged on the bassis of P and T Department Memorandum referred to above.

(*iii*) In the case of civil Government servants transferred to military duty during the War who are subsequently absorved in the post-War Army, the Defence Services Estimates will cease to pay leave and pension contribution from date of such absorption. The Civil Department will remain responsible for the leave salary of the individual in respect of the leave at his credit on the date of his absorption in the Post-War Army. Similarly, the Civil Department will bear pensionary charges of the individual on the basis of length of service up to the date of absorption in the Post-War Army as the pensionary libility for the service rendered in military prior to the date of absorption would have already been discharged by the Ministry of Defence by payment of pension contributions.

[G.I. Ministry of Defence (Army Branch) letter No. 4279-A/D S, dated 19-5-1948.]

Discretion of Government.

197. (*a*) Leave of absence cannot be claimed as of right; Nothing in these Regulations must be understood to limit the free discretion of the Government to refuse, or revoke, leave of absence of any description, at any time according to the exigenecies of the public service.

(*b*) The Local Government 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 officer's return from leave as to

cause as little change as possible in administrative arrangements.

Local Government should not grant leave of any description to an extent which would unduly deplete the strength of a service or department available for active duty. Consequently, when the duty strength has been reduced to a point which, in the opinion of the Local Government, is for the time being an essential minimum no further leave of any description should be given save in the cases of the most absolute necessity, such as sickness or most urgent private affairs, until the strength available for duty has increased. In applying the principle, Local Government may take into special consideration the case of officers who apply for privilege leave in India, for, as they can be readily recalled if necessary, they stand on a different footing to officers who are out of convenient reach.

1. The Local Government may lay down such conditions as it may consider administratively desirable to check any undue frequency of leave in the case of officers holding isolated appointments not filled by members of a regularly organised service.

2. When the cadre of a service includes provision for appointments under the Government of India or in an other province, the Local Government should take the particular care that the needs of other Governments are properly complied with.

(*c*) **This article gives Local Governments ample powers for regulating leave of every description, and in dealing with applications for leave the following instructions should be carefully borne in mind :—**

1. Extrat, from Circular in the Home Department No. 22 (Public), dated the 16th May. 1884.—The Secretary of State has now decided that the Civil Furlough Rules as they stand, appear to make sufficient provision against their frequent or general abuse, and that any present formal modification of those rules, is, therefore unnecessary. Officers at home on medical leave will not be permitted to return to duty without a medical certificate of fitness for duty in India. At the same time, His Lordship expresses his readiness to reconsider the subject should further experience show that more stringent precautions against abuse of the rules are necessary, and is of the opinion that the matter might be brought up by circular to the notice of Local Governments and heads of departments. It is pointed out that to grant leave on urgent private affairs in consideration of the state of an officer's health is not in accordance with the spirit of the rules. When an officer applies for repeated grants of medical leave within short intervals, the attention of the Medical Board should be drawn to his case with a view to their carefully considering the term of absence necessary for his complete recovery."

2. Home Department No. 513 (Public), dated 16th April 1883—"Two Military officers having applied for ordinary furlough within a short period after their transfer to employment in Civil Department,—namely, before they had completed one year's service in that Deparment,—the Local Government concerned felt itself justified under the terms in *clause*) (*a*) in refusing to forward the applications unless supported by medical certificate and reported its proceedings to the Government of India. The Local Government was told that ' the object of rule contained in *clause (a)* under which these applications fall to be dealt with is to give Local Governments the fullest power of dealing with applications for leave, subject to the condition that leave may be refused only on public grounds. The Local Government's action was accordingly approved."

Maximum Leave Admissible.

198. After five years continuous absence, whether with or without leave, an officer is considered to be out of Government employ.

1. *Extract from Despatch from the Secretary of State, No. 81, dated the 15th March, 1883.*—It appears to me that considerable misapprehension exists in India in regard to the meaning of the rule contained in *Article 198 of these Regulations* which was framed in analogy of the provisions Statute 33 Geo. III Cap. 52. s. 70 and which provides that after five years continuous absence whether with or without leave an officer is considered to be out of Government employ. In cases like the present, it seems to be thought that this rule mearly indicates the maximum amount of leave which, if not inconvenient to the Government, an officer may not unreasonably expect to have granted to him : where as the intention of the rule is merely to fix a limit of leave which under no circumstances can be exceeded, and to which it is undesirable that any near approach should be made in any but very exceptional cases."

Note 1.—This Article does not apply to officers transferred to Foreign Service in India.

Note 2.—The Government of India have the power to relax the rule in this Article in the case of officers who are lent to the Government of Siam and Iraq.

Government of India's decisions. (1) Under the provisions of Article 198 CSR read with Rule 5 of the Revised Leave Rules 1933, contained in appendix 39, as amended from time to time, specific sanction of the President is required

to retain in service an officer who is continuously absent from duty elsewhere than on foreign service in India, whether with or without leave, for a period exceeding five years, and without such sanction, a Government servant ceases to be in Government employ.

The provisions of Article 198 CSR or Rule 5 of the said Rules do not relate to cases where a Government servant is restrained from resuming duty by an order placing him under suspension. Sanction of the President in terms of Article 198 CSR or Rule 5 of the said Rules in such a case is not necessary.

It is essential in the interests of the Government as well as of the concerned officer that disciplinary proceedings against an officer under suspension should be expedited and final orders passed as soon as possible.

[Government of India, Ministry of Defence Office Memorandum No. 19 (7) 2416/1/D (Lab) dated the 19th, March, 1958]

Recall from Leave.

199. An officer who is recalled to duty before the expiry of leave of any kind, if the return to the duty is optional, is entitled to no concession. If the return to duty is compulsory, he is entitled—

(*a*) if the leave from which he is recalled is out of India—

(*i*) to the concessions in Article 8(*iii*) and 1127 subject to the conditions and limitations specified therein ; and

(*ii*) to leave allowances during the voyage to India; and for the period from the date of landing in India to the date of joining his appointment to the joining time allowance which he would have drawn had he not been recalled but simply returned on the termination of his leave :

(*b*) if the leave from which he is recalled is in India—

(*i*) to the concessions in Article 1127 subject to the conditions and limitations specified therein ; and

(*ii*) to he treated (if the recall is from leave other than privilege leave) as on duty from the date on which he starts for the station to which he is ordered but he is entitled until he rejoins his appointment to draw leave allowances only.

Note—All orders recalling an officer before the expiry of his leave should distinctly state whether the return to duty is optional or compulsory. Orders recalling an officer from leave out of India should be communicated to him officially through the Secretary of State'

Government of India's decisions. (1) The term "leave allowances" used in Article 199 (*b*) (*ii*) should be held to mean the allowances which would have been drawn by an officer had he continued to be on leave.

[G. I. F. D No: 1-C.S.R., dated 4-1-1915.]

(2) See Government of India's decision No: (5) below Article 234.

Employment during Leave.

200. (1) A Government servant on leave may not take any service or accept any employment without obtaining the previous sanction of:—

(*a*) the President, if the proposed service or employment lies elsewhere than in India, and

(*b*) the authority empowered to appoint him, if the proposed service or employment lies in India

Note—This article does not apply to casual literary work, or to service as an examiner or similar employment; nor does it apply to acceptance of foreign service, which is governed by Article 761 of the Regulations.

(2) The leave salary of a Government servant who is permitted to take up employment under a Government or a private employer during leave shall be subject to such restrictions as the President may by order prescribe.

Government of India's decisions :—(1) See Government of India's decision No. (1-A) below Article 509-A.

(2) Under the orders now in force, Government servants who are permitted to accept private employment during leave prepartory to retirement

continue to get their leave salary, while those who are employed by Government in a department other than their own and draw leave salary in addition to pay, have their leave salary restricted to the anticipated amount of their pension ; and those who are employed in their own departments are treated as having been recalled from leave and thus forego their leave and leave salary except to the extent admissible under F. R. 86. The question of removing these disparities to the extent possible, and to suitably limiting the period for which a Government servant may be permitted to draw leave salary in addition to the pay of the post in which he is employed during leave preparatory to retirement has been under consideration for some time. The President-has now decided that in supersession of all previous orders on the subject, such cases will be regulated in the following manner ;—

(1) When a Government servant who has proceeded on leave preparatory to retirement before the date of compulsory retirement is required for employment during such leave in any post under the Central Government, in or outside India and he is agreeable to return to duty, he will be recalled to duty and the unexpired portion of his leave from the date of rejoining duty will be cancelled. The leave so cancelled will be treated as leave refused and, s ibject to the provision of F. R. 86, it may be granted from the date of compulsory retirement of the Government servant. Such recall will be treated as optional for the purposes of F. R. 70.

(2) When a Government servant is emloyed in any post under the Central Government, while he is on leave under F. R. 86, he may continue to enjoy, his leave concurrently with such employment but his leave salary, which may be drawn in addition to pay of the post in which he is employed, will be restricted *[to the amount of leave salary admissible in respect of leave on half average pay]

In respect of the fresh employment during leave the pay of the Government servant will be regulated as if he were a post 1931 entrant in temporary employ. No leave will be earned in respect of such period of employment during leave.

During such employment he may also be granted dearness and compensatory allowances, if any, admissible on the basis of pay. These allowances will neither be admissible on leave salary, nor will be taken into account in calculating the allowances.

*(3) The leave salary of a Government servant who is permited, during leave preparatory to retirement before attaining the age of superannuation, or during leave under F. R. 86 to take up employment under a State Government, or under a private employment or employment payable from a Local Fund, will also be restricted during such employment as in (2) above.

2. These orders will also apply to officers who were initially appointed by the Secretary of State in Council or by the Secretary of State, and who may be employed during leave preparatory to retirement except that when any such officer accepts 'Crown' employment outside India and Pakistan the expression 'Crown employment' being taken to mean employment under the Government of the U.K. or under the Government of any of its Dominions, Colonies or Protectorates, the restrictions on leave salary will not apply.

3. Cases in which officers on leave preparatory to retirement may have already been permitted to accept employment on a basis different from the prescribed above will not be affected.

4. These orders will also apply *mutatis mutandis* to Government servants subject to leave rules other than those contained in Fundamental Rules.

[G. I. M. F. No. 7(5)-Est-IV/52, dated the 28th March 1952.]

*As modified by G. I. M. F. Memo No. F. 7 (9)-Ests IV/58, dated the 21st. February 1958 which has effect from the 21st, February 1951, Past cases are not to be re-opened,

Note—1. The above decision also applies to Civilian personnal paid from the Defence Services Estimates *vide* Army Instruction No. 280, dated the 3rd June, 1951.

Note—2. A doubt has arisen whether clause (2) of paragraph 1 of this decision. precludes the recall of a Government servant from leave preparatory to retirement granted under F. R. 86 and the grant to him, if necessary, of further extension of service. It has been held that the intention underlying the aforesaid clause is not to fetter the discretion of the competent authority in the matter. When a Government servant who has proceeded on leave preparatory to retirement under F.R. 86, is recalled to duty during the period of such leave and is granted further extension of service, the unexpired portion of his leave will be cancelled and the leave already availed of treated as leave taken during the period of extension under F. R. 86 (*b*).

In so far as persons serving in the Indian Audit and Account Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General.

[G. I. M. F. Memo No. F. 7(5) Est. IV/52, dated the 11th August, 1954.]

Note—3. It is stated in sub para 2 (*ii*) of this decision that no leave will be earned by a Government servant in respect of period of concurrent re-employment during leave preparatory to retirement. A doubt arose whether the first year of service for the purpose of calculating half pay leave under the Revised Leave Rules will commence from the date of taking up the current re-employment while on leave preparatory to retirement or after the expiry of such leave. The Government of India held that the first year of service should commence from the date following the date of his retirement from Government service [See Government of India's decision No. (6) below Article 510.]

[G. I. M. F. letter No. F. 7 (46)-E. IV/54, dated the 1st September 1954.]

(3) Under paragraph 1 (*i*) of G. I. decision No. (1-A) below Article 509-A a Central Civil Government servant can be permitted to avail himself of the refused leave under Fundamental Rule 86 (or any other corresponding rule) on termination of re-employment in a Central Civil Department.

In view of the provision in the preamble of the aforesaid decision to the effect that the orders contained therein supersede the earlier orders on the subject, a doubt has arisen whether the orders contained in paragraph 1 (*i*) supersede also the orders contained in Finance Ministry's office Memorandum No. F. 7 (5)-Est. IV/52, dated the 28th March 1952 (embodied in the Chaudri's Compilation of C. S. R. as Government of India's decision No. 2 below Article 200 of C. S. R.) whereunder a Government servant can avail himself of the refused leave concurrently with re-employment.

The position is that the orders contained in paragraph 1 (*i*) of decision No. (1-A) below Article 509-A do not supersede the orders contained in decision No. 2 below Article 200 of C. S. R. but on the other hand give an option to a Central Civil Government servant to avail himself of the refused leave either concurrently with re-employment or on the termination of his period of re-employment in a Central Civil department.

2. The intention underlying paragraph 1(*iii*) of decision No. (1-A) below rule 7 in appendix 4 also is to give an option, to a Government servant, who while on refused leave is offered re-employment under a body corporate owned or controlled by Government, either to avail of the refused leave concurrently with re-employment or on the termination of re-employment. The word "may", therefore, be substituted for the word "should" occurring in paragraph 1 (*iii*) of decision No. (1-A) *ibid*.

[G. I. M. F. Memo : No. F. 7 (38) E-IV/59, dated the 18th February 1960.]

(4) Under paragraph 1 (*i*) of decision No. (1-A) below Article 509-A and paragraph 1 of decision No. (3) above a Central Civil Government servant can be permitted to avail himself of the refused leave under Fundamantal Rule 86 (or any other corresponding rules on termination of the period of re-employment in a Central Civil Department.

The President has now been pleased to decide that the concession regarding the deferment of refused leave till termination of the period of re-employment may, in accordance with paragraph 1(*i*) of decision No. (1-A) below Article 509A referred to above, also be allowed in the case of :—

(*i*) Central Civil Government servants (including the Government servants of a Post and Telegraphs Department) re-employed under a State Government or in a Railway Department or a Defence Department or a Posts and Telegraphs Department ; and

(*ii*) the Government servants of a Posts and Telegraphs Department re-employed in a Central Civil Department.

[G. I. M. F. Memo : No F-7 (38)-E-IV/59, dated the 29th April 1960].

(5) The Accountant General, Jammu and Kashmir raisd a question as to how the case of Government servants who were re-employed after retirement and before the issue of the orders contained in Government of India's decision No. (1-A) below Article 509A of the C. S. R. and whose pension was held in abeyance will be regulated after the issue of decision No. 1-A *ibid*, if they take extra-ordinary leave. The Government of India Ministry of Finance in their letter No. D-5873-Est. IV/A/60, dated the 15th November 1960 held that the entitlement of retired and re-employed Government servants to leave salary or pension in respect of earned leave, half pay leave, commuted leave and extraordinary leave taken by such Government servants during the period of their re-employment may, continue to be regulated under Finance Ministry's office Memorandum No. F-7(84)-Est.IV/58, dated the 15th September 1958 *reproduced below* which are still operative and have not been superceeded by their Memo : No. F. 8(34)-Est. III/57, dated the 25th November 1938 (*decision No. 1-A below Article 509*) :—

"1. Doubts have been raised about the correct entitlement of a retired and re-employed officer to leave salary or pension in respect of earned leave, half pay leave, commuted leave and extraordinary leave taken by such an officer during the period of his re-employment. The position is as follows.

2. During re-employment after retirement from pensionable service, an officer's pension is either held in abeyance or is allowed to be drawn separately, a suitable reduction being made in the re-employed pay wherever necessary. An officer whose pension is drawn separately during re-employment and who proceeds on earned leave or half pay leave or commuted leave, will be entitled to leave salary based on the net re-employed pay (*i e.* exclusive of the/pension and/or pension equivalent of gratuity) and will continue to draw the pension separately in addition. An officer whose pension has been held in abeyance will draw the leave salary based on the *net* re-employed pay (*i.e.* pay minus the amount of the uncommuted pension and/or pension equivalent of gratuity) and in addition an amount equivalent to the pension which was held in abeyance. In either case the leave salary (exclusive of the pension or the amount equivalent to pension which was held in abeyance, and/or pension equivalent of gratuity) admissible during half pay leave or commuted leave will be subject to the monthly maxima of Rs. 750 and Rs. 1500, respectively.

3. During the period of extraordinary leave, an officer whose pension has been held in abeyance will be allowed to draw only an amount equivalent to the pension which was held in abeyance. Where the pension is drawn separately it will continue to be so drawn during the period of extraordinary leave also.

4. The leave salary in respect of earned leave, half pay leave and commuted leave of officers, who were governed by the Contributory Provident system prior to retirement, will be based on their *net* re-employed pay. They will not draw any leave salary during the period of extraordinary leave.

5. Cases dealt with differently in the past need not be re-opened.

[Accountant General Jammu and Kashmir's endorsement No. ML/3-1/122, dated January 1961 to the address of S. Lakhi Singh Chaudri.]

SECTION II.—SERVICE QUALIFYING FOR LEAVE.

Service of India.

200A. Time spent on duty in any part of Asia under Articles 85 and 85A counts for leave in the absence of special directions to the contrary. Time spent on duty in any other place out of India is not an interruption of service for leave but it does not, without the special sanction of the Secretary of State, count as service for leave.

Temporary Service.

201. Temporary and officiating service if it counts for pension counts also for leave.

Note.—The rules providing for the grant of leave to an officer who has a temporary or officiating appointment only are contained in Article 242 and 320 (*b*).

Government of India's orders.—(1) An officer without a substantive appointment officiating sub-*pro tem* in a vacancy caused by the deputation of and officer to Settlement duty does not count such sub-*pro tem* service towards leave and pension.

[G. I. F. D. No. 2417-P., dated 6-6-1896].

(2) If the for purpose of reckoning seniority of an officer the length of his continuous officiating service has to be determined, any period of leave including study leave should be treated as officiating service in the higher posts if it is certified by the authority competent to fill up the higher post that the officer would have continued to officiate in that post but for his absence on leave for overseas training and if he resumes that or any higher appointment on return from leave.

[G.I.M.H. Affairs Memo No. 186/47-Est. dated 18 9-1947.]

Note.—The provisions of the above decision have also been made applicable to Civilian personnel of Defence Service *vide* Army Instruction (India) No. 61, dated 21-4-1948].

Probationer and Apprentices.

202. (*a*) An officer appointed as probationer for a certain period before formal appointment is entitled to the same leave as if he held a substantive appointment.

1. Officers appointed under contract in England on probation in view to permanent service in India are entitled to leave as follows :—

(*i*) Officers appointed for three years or more (*see* * Appendix No. 33), the same leave as if they held permanent appointments.

(*ii*) Officers appointed for less than three years (*see* * Appendix No. 33), privilege leave and, if necessary, furlough on medical certificate, not more than six months of such furlough carrying allowance.

Note 1. Officers appointed in England to posts created temporarily but with the prospect more or less definite, or their being eventually made permanent, are entitled to leave under clause (*i*) of this rule, if thay are otherwise qualified.

Note 2. Furlough under clause (*i*) or (*ii*) shall not be granted for a period extending beyond the term of an officer's contract unless or until at has been decided to retain him in permanent employment.

Note 3. The Government of India have the power to revise *Appendix 33 without reference to the Secretary of State.

(*b*) ******Not printed.*

Government of India's decisions. (1) A question recently arose to the date from which the prescribed period of probation should commence in the case of a Government servant who is already holding a post in a temporary or officiating capacity and who is later selected by the Union Public Service Commission for permanent appointment thereto. During the period of officiation prior to formal selection for permanent appointment to a post the officer concerned merely carries on the duties of the post and his work and conduct is not particularly watched with a view to eventual confirmation. It is reasonable therefore that after formal selection for a post and before confirmation therein there should be specific period of probation during which the work of the officer could be carefully watched, and his suitability for confirmation decided on the basis thereof. It has accordingly been decided, after careful consideration, that the period of probation in such cases should commence from the date of formal selection by the Union Public Service Commission of an officer for a post and not from the date from which he began to officiate in that post prior to such selection.

[G. I. M. H. Affairs Memo : No. 44/21/51-Est ; dated the 17th March, 1951.]

(2) The appointment of a person already in permanent Government service to another service or post 'on probation', or as a probationer, does not imply that he will have to give up his lien on his permanent post. The relevant provisions relating to liens are contained in rules 12 to 15 of the Fundamental Rules. Under F. R. 14-A(*a*) a Government servant's lien on a post may in no circumstances be terminated, even with his consent, except in the circumstances provided therein, if the result is to leave him without a lien or a suspended lien upon a permanent post. It is, therefore, clear that irrespective of whether he is appointed as a probationer or on probation or on an officiating basis, to another post or service, a permanent Government servant continues to retain a lien, either active or suspended, on his substantive post and there is no question of his forfeiting his lien merely because of his appointment to another post or service. Where such person is appointed as a probationer or 'on probation' to another post, the termination of his employment in that post would not have

*Not printed.

the effect of terminating his employment in Government service altogether but would only result in his reversion to the post held by him substantively. Moreover, a specified period of probation subject to specified conditions, is more advantageous than an indefinite period of trial which an appointment in an officiating capacity until further orders, implies. At the same time it would be anamolus to deny the benefits of the probationery status (which has, unless otherwise stated all the attributes of a substantive status) merely because the Government servant holds lien on another post.

After careful consideration of all aspects of the case, it has been decided that appointments of persons in permanent Government service may also be made as 'Probationers' or 'on probation' against permanent vacancies in other services in the light of the explanation given in Audit Instruction 2 (*d*) below F. R. 9 (6).

[G. I. M. H. Affairs Memo No. F. 82/52-Est., dated the 8th October. 1954.]

(3) A question has been raised whether the appointments made on an officiating bases prior to the issue of decision No. (2) above can now be reopened in view of the revised instructions. The question has been considered in consultation with the Ministry of Finance and the Comptroller and Auditor General and it has been decided that there is no objection to this being done. Appointing authorities may, unless there are administrative difficulties, review appointments made as 'Probationars' or 'on probation' and issue orders accordingly with retrospective effect. The pay may be refixed with effect from the date of appointment but no adjustment of pay or leave salary prior to 1st July 1955 will be made.

G. I M. H, Affairs Memo No- 82/52 Est (A), dated the 6th July 1955.]

(4) All aspects of appointments on probation in various Services have been recently reviewed by Government and the following recommendations were forwarded for adoption in respect of the Services controlled by the various Ministries, etc :—

(*i*) Instead of treating probation as a formality, the existing powers to discharge probationers should be systematically and vigorously used so that the necessity of dispensing with the services of employees at later stages may arise only rarely.

(*ii*) Concentration of attention on the probationer's ability to pass the probationary, or the departmental examination tends to obscure the wider object of probation. In judging the fitness for confirmation of employees selected on the result of a rigorous written examination, passing the probationary or a departmental examination should be an essential, but not the most important part of the qualification for confirmation. There should be a very careful assessment of the outlook, character and aptitude for the kind of work that has to be done in the service before a probationer is confirmed, and only those persons who possess qualities of mind and character needed in the particular service and the constructive outlook and human sympathy needed in the public services generally should be confirmed.

(*iii*) A probationer should be given an opportunity to work under more than one officer during the period his probation and reports on his work obtained from each one of those officers. The reports for the whole period may then be considered by a Board of senior official for determining whether the probationer concerned is fit to be confirmed in service. For this purpose, separate forms of report on the probationers, which should be distinct from the usual confidential report forms may be devised for each of the Services in consultation with the O. & M. Division of the Cabinet Secretariat.

(*iv*) In every case where there is at present no departmental examination; success in which is necessary before an employee can be confirmed, it should be considered whether it would not be appropriate to introduce such an examination.

(*v*) The marks obtained by probationers at the probationary examination

and those awarded to them by the heads of the respective training institutions on the basis of their total performance during the entire probationary period may be added to their marks in the competitive examination to determine their final ranking.

(*vi*) It would be desirable to have uniformity as regards the period of probation in different Services and it is therefore recommended that the period of probation should normally be two years; but where there are any special reasons for prescribing a longer or shorter period, a suitable period may be fixed in consultation with the Ministry of Home Affairs.

(*vii*) In some services, those appointed thereto by promotion are not kept on probation. Since performance in a lower service can only indicate an employee's potentialities for a higher service, it is necessary that his suitability should be judged before he is confirmed in the higher service. It is, therefore, recommended that those promoted as well as the fresh entrants to a service should be kept on probation for a period of two years. The controlling authority may, however, have the discretion to count any period of sucessful officiation in the service as probationary period

(*viii*) While the normal probation may certainly be extended in suitable cases, it is not desirable that an employee should be kept on probation for years as happens occasionally at present. It is therefore suggested that, save for exceptional reasons, probation should not be extended for more than a year and no employee should be kept on probation for more than double the normal period.

(*ix*) The decision whether an employee should be confirmed or his probation extended should be taken soon after the expiry of the initial probationary period, that is, ordinarily with six to eight weeks and communicated to the employee together with the reasons in case of extention. A probationer who is not making satisfactory progress or who shows himself to be inadequate for the service in any way should be informed of his shortcomings well before the expiry of the original probationary period so that he can make special efforts at self-improvement.

(*x*) In case of temporary Government servants who are retained or are likely to be retained in service for more than two years there should be a screening process analogous to that of persons appointed substantively. The object of this screening would be to terminate the appointments of those who appear to be inadequate for the service ; but a person who satisfies the test would not acquire any special status, and would continue to be liable to discharge etc, in accordance with the original conditions of his employment.

[G. I. H. Affairs Memo No. F-44/1/59—Ests (A) : dated the 15th April 1959.]

203. (*a*) **Service as an Apprentice does not qualify except in the following cases** :—

Engineer or Examiner Apprentices, Qualified students of the Thompon College under practical training ; } in the Public Works or Railwa Department.

Assitant Superintendent Apprentices in the Indian Telegraph Department.

(*b*) *Not Printed*

Officers under Training.

203A. A Local Government may at its discretion decide, in the case of an officer who is selected to undergo a course of training, whether the time spent in training shall count as service qualifying for leave ; and also whether or not such time shall be regarded as an interruption entailing forfeiture of leave already earned.

Note 1—The Local Government may delegate its power under this Article to Heads of Departments in respect of officers serving under them.

Note 2—A local Government may issue general orders under this Article in regard to any specified class of officers under training.

Service under other Rules.

204. **An Officer transferred to an office to which these rules apply is not entited to Long leave under them in respect of service rendered in an office to which they do not apply. But service in the Army which under Article 356 counts towards Civil pension qualifies also for leave under Civil rules. And leave taken by an officer during such service will in the calculation of future leave be treated as if it had been taken under these Regulations.**

Note 1—A Government servant paid from Military Estimates who is temporarily transferred to service paid from Civil Estimates (including service in a tenure post) remains subject to the Rules which would be applicable to him but for his temporary transfer.

Note 2.—A Government servant paid from Civil Estimates and subject to the leave rules in the Fundamental Rules who is permanentl/ transferred to service paid from Defence Services Estimates becomes subject to the leave rules in these Regulations as if they had applied to him *ab initio*. In calculating the leave due to him under these Regulations, the following procedure should be adopted :—

(1) The leave on average pay up to four months which corresponds with privilege leave under these Regulations should be treated as privilege leave ; the period of leave on average pay taken in excess of privilege leave which would have been admissible under these Regulations should be treated as furlough on average salary although the conditions for its grant may not have been fulfilled.

(2) Leave on half average pay enjoyed under the Fundamental Rules should be treated as furlough under these Regulations. This leave will not be treated as an interruption of duty for the purpose of Article 246.

(3) Any leave already enjoyed in excess of the leave which would have been due under these Regulation should be ignored.

Government of India's decision :—See Government of India's decision No. (3) below Article 1.

Service before Discharge, Resignation or Dismissal.

205. (*a*) **An officer who is discharged on reduction of establishment from, or resigns, the public service and is re-employed after an interval, cannot without the permission of the authority sanctioning the employment, count his former service towards leave.**

(*b*) **An officer who is dismissed or removed from the public service and who is reinstated on appeal cannot count his former service towards leave unless the authority who, on revision or appeal, reverses the order of dismissal or removal, declares that his former qualifying service shall count.**

Audit Instruction :—The re-employment of a person who has retired on a superannuation or retiring pension is generally an exceptional and temporary expedient. In such cases the services of the re-employed pensioner should be regarded as temporary and his leave during the period of re-employment should be regulated by the rules applicable to temporary Government servants.

[G. I. F. D. F. letter No. 150 R. I/28, dated the 6th December, 1928 and paragraph 5, Section I, Chapter X of the Manual of Audit Instructions (Reprint).

Government of India's decisions. (1) Questions have been raised from time to time regarding the authority competent to accept a resignation, the circumstances under which resignation should be accepted, the date when a resignation becomes effective, and the authority competent to permit a Government servant to withdraw a resignation which he has already tendered. The following instructions are, therefore, issued for information and guidance of all Ministries :—

(*a*) *Authority competent to accept resignation* : The appointing authority in respect of the service or post in question is the authority competent to accept the resignation of the Government servant.

(*b*) *Circumstances under which resignation should be accepted* : It is not in the interest of Government to retain an unwilling officer in service. The general rule, therefore, is that a resignation from service should be accepted except in

the circumstances indicated below :—

(*i*) Where the officer concerned is engaged on work of importance and it would take time to make alternative arrangements for filling the post, the resignation should not be accepted straightway, but only when alternative arrangements for filling the post have been made.

(*ii*) Where a Government servant who is under suspension submits a resignation, the competent authority should examine, with reference to the merits of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as officers are placed under suspension only in cases of grave delinquency, it would not be correct to accept a resignation from an officer under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service, or where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

(*c*) *Date when a resignation becomes effective* : The competent authority should decide the date with effect from which the resignation should become effective. In cases covered by (*b*) (*i*) above, the date should be that with effect from which alternative arrangements can be made for filling the post. Where an officer is on leave, the competent authority should decide whether he will accept the resignation with immediate effect or with effect from the date following the termination of the leave. Where a period of notice is prescribed which a Government servant should give when he wishes to resign from service, the competent authority may decide to count the period of leave towards the notice period. In other cases also, it is open to the competent authority to decide whether the resignation should become effective immediately or with effect from some prospective date. In the latter case, the date should be specified.

(*d*) *Authority competent to permit withdrawl of resignation* : A resignation becomes effective when it is accepted and the officer is relieved of his duties. Where a resignation has not become effective and the officer wishes to withdraw it, it is open to the authority which accepted the resignation either to permit the officer to withdraw the resignation or to refuse the request for such withdrawal. Where, however, a resignation has become effective, the officer is no longer in Government service and acceptance of the request for withdrawal of resignation would amount to re-employing him in service after condoning the period of break. As this would involve financial commitments, concurrence of the Ministry of Finance should be obtained before a request for withdrawal of resignation which has already become effective is accepted.

[G. I. M. H. Affairs Memo. No. 39/6/57 Ests (A), dated the 6th May, 1958]

206. *Not Printed.*

207. *Not Printed.*

208. *Not Printed.*

Workmen of the R. I. N. Dockyard, Bombay.

208A. Permanent workmen of the Royal Indian Navy Dockyard, Bombay, holding appointments, the status of which was brought into line with effect from the 1st January 1933, with that of posts held by permanent civilian officers in superior service; are eligible from that date for leave as admissible to the latter under these Regulations, subject to the condition that no substitute is engaged in place of workmen on leave except in rare cases and at the discretion of the Flag Officer Commanding Royal Indian Navy.

Rule of Proportions.

209. The leave allowances of an officer not subject to the Foreign Service Rule (Part VIII) who has served in any appointment the salary of which has been derived either wholly or in part otherwise than from Indian Revenues ; is charged according to the Rule of Proportions.

SECTION III—RETENTION OF APPOINTMENT.

210. An officer on Privilege leave has a lien on his substantive appointment ; he has also a lien on his officiating appointment, so long as it is not resumed by an officer having a superior lien on it.

Government of India's decisions :—(1)The lien of an officer on privilege leave upon an officiating appointment is held to be dependent upon his seniority to others officiating in the same grade or class of appointment. As an exception, however, to this rule, the lien of an officer on privilege leave upon an officiating appointment in a class other than that to which his appointment appertains, is determined by seniority of the officer who actually relieved him. If he is relieved by a senior officer he is held to have lost his lien on officiating appointment, notwithstanding that there may be junior officers officiating in similar appointments elsewhere

* * * * *

[G. I. F. D. No. 5885-P., dated 6-11-1902.]

(2) An official who has elected to remain under the leave rules contained in the Civil Service Regulations is entitled to the benefit of this article and in his case the application of this Article has the effect of overriding the definition of the word "lien" in F. R. 9 (13) for the purpose of the interpretation of that word in F. R. 26(*b*).

[G. I. F. D. No. F. 153-C.S.R/26, dated the 20th May, 1926.]

(3) The question whether a quasi-permanent Civilian in Defence Services on transfer from one office to another, should be allowed to retain a lien on the post to which he has been appointed in a *quasi*-permanent capacity has been considered. A reference in this connection is invited to sub-paragraph (*c*) of the Explanatory Memorandum to rule 2 of the Civilians in Defence Services (Temporary Service) Rules, 1949, under which a Government Servant who is declared as *quasi*-permanent in respect of a particular post can be shifted from one post to another within the cadre or grade concerned due to reduction or other causes without his rights being affected. In other words, if a *quasi*-permanent employee is transferred from one office to another within the same grade, he will carry with him his *quasi*-permanent status. It is only when a *quasi*-permanent employee is shifted to some other post or grade that he needs some protection. After carefully examining all aspects it has been decided that a *quasi*-permanent employee who is either promoted or transferred to or permitted to go to some other post or grade will carry with him his *quasi*-permanent status in the *original* post or grade. In the event of his being reverted or retrenched from the new post or grade, he will return to his original post or grade and his place in that post or grade will be determined according to the normal standing rules, namely, seniority by length of service. If reversion or retrenchment of *quasi*-permanent employees in a grade who as a class will be senior to purely temporary employees in that grade, is contemplated, all *quasi*-permanent employees in the grade will be arranged in a merit list referred to in rule 7 of the said Rules and retrenchment will be affected in order of juniority.

This Instruction applies to D.G.O.F's Organisation also.

[Army Instruction No. 236, dated the 7th June 1952.]

(4) A question was raised as to whether and if so, under what circumstances the creation of supernumerary posts would be necessary for protecting the liens of the permanent ex-State staff who have been taken over by the Government of India consequent on the Federal financial integration. The position is that when the federal department's are recoganised and their strength fixed by the competent authority, the arrangements sanctioned in office Memorandum referred to above will be terminated and the new strength of the respective cadre/cadres of the department will come into force. Consequently, the

existing posts should be treated as having been automatically replaced by the new posts, the number of which has been determined by the competent authority and separate orders sanctioning the requisite number of posts will not be necessary.

The President has been pleased to decide that it would be necessary to create supernumerary posts for protecting the liens of the following two categories of staff :—

(*i*) Supernumerary posts to provide the liens for permanent men retained in service after integration, in excesss of the strength of permanent posts sanctioned under the new set-up but against temporary sanctions.

(*ii*) Posts supernumerary in the lower cadre against deficiency in a higher cadre as the result of (*a*) the re-organisation of the two cadres under new set up and (*b*) the results of the assessment of suitability of individuals for absorption in the general cadres (so far as the Indian Audit and Accounts Department is concerned.)

[G. I. M. F. Memo : No. 5 (51) Est. III/51 dated the 27th April 1953]

211. Except as provided in Article 212, and officer on furlough under the European Service Leave Rules or the Indian Service Leave Rules has a lien on his substantive appointment or on a substantive appointment of a like character and not less pay. He has no lien on an acting appointment.

212. A member of the Indian Civil Service or a military officer subject to the Civil Leave Rules has no lien on any appointment during any period of furlough during which he is entitled to draw subsistence allowance only.

213. An officer, during joining time on return from long leave out of India, has or has not a lien on an appointment according as he has or has not such a lien on the last day of the leave immediately preceding the joining time.

214. An officer on leave may not surrender his lien on his substantive appointment, and except as provided in Articles 89 and 90, a Local Government may not fill up substantively, even for a time, the appointment on which an officer has a lien, without transferring him to another substantive appointment which, save in cases of misbehaviour or inefficiency, must be one of not less pay than his standing in the regular line would justify.

Government of India's decisions :—(1) The principle of this Article does not apply to the case of an officer holding a sub-*pro tem.* appointment. If such an officer proceeds on long leave he loses his lien on his *pro tem.* appointment, and another officer can then be appointed thereto sub-*pro tem.*

[G. I. F. D. No : 2610., dated 17-5 1901.]

(2) Article 214 CSR, provides *inter-alia*, that a local Government may not fill up substantively, even for a time, the appointment on which an officer has a lien, without transferring him to an other substantive appointment which save in cases of misbehaviour or inefficiency must be one of not less pay than his standing in the regular line would justify. Similarly reduction to a lower service, grade or post, or to a lower time-scale, is one of the penalties prescribed in CDS (Classification Control and Appeal) Rule, 1952, which may, for good and sufficient reasons, be imposed on a Government servant in accordance with the procedure laid down in those Rules.

A question has been raised whether in the event of non-availability of a permanent post in the lower service/grade/time scale, and so on; to which a Government servant if transferred/reduced by the competent authority, a supernumerary post can be created in that service/grade/time-scale, and so on to provide a lien to the Government servant concerned on his new post,

It has been decided that it would be reasonable to create such a post in the lower service/grade/time-scale and so on to provide lien to the person

concerned in case of non-availability of a permanent post in that service/grade/time-scale and so on. It should also be noted in this connection, that so long as it is necessary to provide the reduced officer with a lien on a supernumerary post in the lower service/grade/time-scale and so the higher post vacated by him will not be filled up substantively or otherwise, and appointments/promotions against the higher post may be made only after the Government servant has been accommodated against a substantive vacancy available in the lower grade to which he has been reduced/reverted.

[Civilian Presonnel Routine Order No. 23, dated the 1st February 1961].

215. Except as provided in articles 202(*a*) and 320(*b*), an officer cannot obtain furlough unless he has substantive appointment.

Note 1.—Military officer who has officiated continuously in the Civil Department for at least 3 years is an officer with a substantive appointment for the purposes of this rule.

Note 2.—A military officer holding the appointment of Commandant or Adjutant of the Burma or Assam Police Battalions retains a lien on his appointment while on furlough under the Military Leave Rules to which he is subject.

Compulsory Retirement.

216. If a Local Government decides, before an officer whom it has the power to remove from the service leaves India, that he shall not be permitted to return to duty in India, it should give notice to him before he leaves India, so that any remonstrance which he may wish to make may be considered on the spot by an authority fully cognizant of the facts of the case. Such notice should not be postponed until after the officer's departure, and then communicated to him through the Secretary of State.

217. If when an officer is going on leave out of India it is necessary to consider the propriety of removing him for incapacity, whether mental or physical, which is of such a nature that it is not possible to say before his departure from India, whether it will be permanent or temporary, or if for any reason it is considered inexpendient that an officer who is on leave should return to India, the Local Government should report the circumstances fully in the case of the Government of Madras, Bombay or Bengal direct; otherwise through the Government of India) to the Secretary of State. A communication of this nature should not be made direct to the officer concerned. The report should be made in time to enable the Secretary of State to any necessary measures before the officer would in ordinary course be permitted to return to duty, and in any case should reach the India Office at latest three months before the end of the officer's leave.

211. Leave shall not be granted to a Government servant whom a competent punishing authority has decided is dismiss, remove or compulsorily retire from Government service.

Abolition of Appointment.

219. The abolition of the appointment of an officer absent on leave out of India should be immediately communicated to the Secretary of State.

SECTION IV—COMMENCEMENT AND END OF LEAVE.

220. Ordinarily leave begins on the day on which transfer of charges is effected, or, if charge is transferred after noon, on the following day; similarly leave other than long leave out of India ordinarily ends on the day preceding that on which charge is resumed, or, if charge is resumed afternoon, on that day. But if a Sunday or one or more gazetted holidays fall on a day immediately preceding that on which the leave begins, or on the day on which the leave or the joining time between two appointments ends an officer may leave his station at the close of the day before, or return to it at the end of, such holidays, provided his departure or return does not involve—

(*i*) the immediate transfer of an officer from or to another

station or the loss of his appointment by an officer appointed temporarily to the service.

(*ii*) **the taking over of money, unless subject to the condition that the departing officer remains responsible for the money in his charge, the local Government specially allows transfer of charge to take place before or after the holidays.**

If holidays are as above prefixed to leave, the leave and consequent re-arrangement of allowances, if any, take effect from the first day after the holidays on which the office is opened for business, and if holidays are affixed to leave or joining time, the leave or joining time is treated as having terminated on, and the arrangement of allowances, if any, takes effect from the day on which the officer would have resumed charge had holidays not followed the leave or joining time.

In cases in which the application of the above rules as to prefixing and affixing holidays to leave is doubtful or inequitable, the Local Government shall decide which officer shall be held to have been in charge and to which the salary of the office for the Sunday or holiday shall be paid.

Government of India decisions. (1) An officer who does not join his appointment on the forenoon of the first working day after the termination of holidays is not entitled to add the holidays to his joining time under Article 220.

[G. I. F. D. No. 1676-P., dated 12-3-1904]

(2) Handing over of a permanent advance is not transfer of money within the meaning of provision (*ii*) to Article 220 C. S. R. The officer going on leave continues to be responsible for the money till the formal assumption of charge by his successor.

[G. I. F. D. No. 598-P., dated 28-1-1904.]

(3) The term 'Gazetted Holidays' used in Article 220 should be held to mean :—

(1) Holidays prescribed or notified under section 25 of the Negotiable Instrument Act, 1881.

(2) Holidays on which by Government notifications in the Gazette any public office is ordered to be closed for the transaction of public business without reserve or qualification.

The term does not include local holidays which may be granted at the discretion of Heads of offices, provided there are no arears of work, nor such merely discretionary holidays as the last Saturday of each month.

[G. I. F. D. No. 4855 P. dated 13-8-1905].

(4) The principle in the second paragraph of Article 220, Civil Service Regulations, that both the officer on leave and the officiating officer should not get the benefit of the same appointment during holidays applies to joining time also. The Local Government should decide which officer is to be held to have been technically in charge during the holidays and entitled to the salary of the appointment for these days, it being of course understood that only one officer can be entitled.

[G. I. F. D. No. 1085-C S.R., dated 4-11-1916.]

221. **Long leave out of India ends on, and includes, the day before the arrival at the port where the officer last quits it of the vessel in which he returns, and joining time begins the day after.**

Note—The day of arrival of the vessel in which the officer returns is the day on which the vessels reaches her moorings or an anchorage in port.]

221A. **Special rules have been laid down in *Appendix 6A for reckoning leave in the case of officers stationed in certain remote districts outside India.**

222. **An officer taking Furlough out of India, whether by itself or in combination with Privilege leave, must report his embarkation**

*Not Printed.

through the Audit Officer, to the Local Government (or other authority) which granted his leave, and his arrival in England to the Secretary of State.

SECTION V.—RETURN TO DUTY.

Note—With the exception of Article 231, this Section applies to Military officers in Civil employ subject to the Military Leave Rules.

Permission to Return.

223. (*a*) A Government servant on leave may not return to duty before the expiry of the period of leave granted to him, unless he is permitted to do so by the authority which granted him leave.

(*b*) Notwithstanding anything contained in clause (*a*), a Government servant on leave preparatory to retirement shall be precluded from withdrawing his request for permission to retire and from returning to duty, save with the consent of the authority empowered to appoint him.

(*c*) Officers returning to India at times other than those fixed for them by their own Government, are liable to be kept on subsistence allowance until a suitable vacancy occurs to which to post them.

224. An officer on Long Leave in Europe, North Africa, America, or the West Indies must, if the leave was granted or has been extended on account of ill-health, whether it be technically leave on medical certificate or not, satisfy the Medical Board at the India Office as to his fitness to return to duty. Ordinarily he must attend at the India Office for examination by the Board, but, in special cases, particularly if he be residing at a distance of more than sixty miles from London, a certificate in a form to be obtained from the India Office from two medical practitioners may be accepted. On the required evidence of fitness being furnished, the officer will receive from the India Office permission to return to India. An officer whose leave was granted, and has not been extended, on medical grounds, does not require permission from India Office to return to India. He must, however, take steps, either personally or through his agents to obtain from the India Office a last-pay certificate, and should inform the authority in India who granted him the leave, of the date on which he expects to return to duty, at least a month before he is due to arrive in India.

Note—An officer who has taken leave on medical certificate or whose leave has been extended on medical certificate should ordinarily appear before the Medical Board at the India Office or should furnish a certificate from two medical practitioners at least two months before the expiry of his leave. An officer who fails to do so, and who is not permitted to return to India within the period of his leave will ordinarily be charged with the cost of telegram which will be sent to the authorities to India informing them of the extention of leave granted.

225. (1) An officer who has taken leave in Asia on medical certificate may not return to duty until he has produced a medical certificate of fitness in the following form :—

"Signature of applicant

We/I, the members of a Medical Committee,
Civil Surgeon,
Registered Medical Practitioner } *of* _____

_____ do hereby certify that we/I have examined A.B.C. of the _____ department whose signature is given above and find that he has recovered from his illness and is now fit to resume duties in Government service. We/I also certify that before arriving at this decision we/I have examined the original medical certificate(s) and statement(s) of the case (or certified copies there of) on which Leave was granted or extended, and have taken these into consideration in arriving at our/my decision"

(2) The original medical certificate(s) and statement(s) of the case on which the leave was originally granted or extended shall be pro-

duced before the authority asked to issue the above certificate. For this pursose the original certificate(s) and statements(s) of the case should be prepared in duplicate, one copy being retained by the officer concerned.

(3) If the officer is gazetted, the medical certificate should be obtained :—

(*i*) where the total have is for not more than three months or where the total leave is for more than three months and the Medical Committee granting the original certificate or the certificate for extension of leave state at the time of granting of such certificate that the officer need not appear before any Medical Committee for obtaining a certificate of of fitness,—from a Commissioned Medical Officer or a Medical Officer in charge of a civil station, and

(*ii*) in all other cases—from a Medical Committee.

If the officer is not gazetted, the competant authority may, in its discretion, accept a certificate of fitness signed by any registered medical practitioner or require a certificate signed by such medical officer as the authority may direct.

(4) An officer who has taken leave in Asia on account of ill health but not on medical certificate or elsewhere than in Asia, Europe, North Africa, America or the West Indies on account of ill health whether on medical certificate or not may be required by the authority who granted the leave to produce, before he is permitted to return to duty, a medical certificate, of fitness signed by such medical officer as the authority may direct.

Audit Ruling :—A temporary Government servant returning to duty from leave on medical certificate should be required to produce a medical certificate of fitness as prescribed in the rules.

[Auditor General's letter No. 533-A/182-43, dated 27-9-1943.]

Government of India's decisions. (1) No general orders exist at present to govern the admissibility of medical certificates granted by the Ayurvedic, Unani or Homeopathic Medical Practitioners to Civilian Government servants paid from the Defence Services Estimates for the grant of casual or other leave on medical grounds, for fitness to return to duty from leave on medical certificate, etc. The practice in different offices under Ministry of Defence is therefore not uniform. In supersession of all previous orders, the following general instructions are issued for guidance :—

(*i*) As a rule, medical certificates only from the "authorised medical attendant" or from a registered allopathic medical practitioner will be accepted in support of applications by Government servants for leave on medical grounds (*cf* C.S R. Article 834), or for purposes of Article 225 of C. S. R.

(*ii*) Medical certificates issued by Registered Ayurvedic, Unani or Homeopathic Medical Practitioners *i. e.* Registered Vaids, Hakims and Homeopaths will also be accepted for purpo·es of Article 834 and 225 of Civil Service Regulations, provided that such certificates are accepted for the relevant purpose, in respect of its own employees, by the Government of State in which the Central Government servant falls ill or to which he proceeds for treatment.

(*iii*) Definite orders already exist regarding the authorities from whom certificates of fitness on first appointment to, or for confirmation in Government service should be produced. Such orders require production of certificates of fitness from a registered allopathic medical practitioner, the authorised medical attendant, a Civil Surgeon or a Medical Board, as the case may be. Those orders will

not be affected in any way by these instructions.

(*iv*) Not withstanding anything contained in the preceding sub-paragraphs the leave sanctioning authority, may, in its discretion, either altogether waive the requirements of a medical certificate or may accept a certificate from a Vaid, Hakim or a Homeopath in cases of applications for leave on grounds of sickness for period not exceeding 3 days at a time. Such leave shall not, however, be treated as 'leave on medical certificate" and shall be debited against leave other than leave on medical grounds.

2. This instruction applies to D. G. O. F's Organization as well.

[Army Instruction No. 170 of 1952 as amended by Army Instruction No. 86, of 1955]

Note:—A statement indicating the present position regarding recognition by various State Governments of medical certificates produced by their employees from Ayurvedic *Unani*, or Homeopathic Medical Practitioners, is reproduced below :—

Madras. Licentiates in Indigenous Medicine who have had their names registered under the rules for registration of practitioner of that system of Medicine are authorised to give certificates in respect of patients treated or examined by them for all diseases or for physical fitness.

Punjab. Registered Vaids and Hakims are competent to issue certificates of illness under the East Punjab Ayurvedic and Unani Practitioners, Act, 1948.

Uttar Pradesh. Medical certificates granted by Vaids and Hakims registered with the Board of Indian Medicine, Uttar Pradesh under the U. P. Indian Medicine Act, 1939 (Act X of 1939) are accepted at the discretion of the appointing authority for the purpose of (1) leave to non-gazetted servants upto one month for reasons of health and (2) appointment of candidates substantively to permanent post of which the pay does not exceed Rs. 50 per mensem. Certificates, of fitness, on return from leave, granted by registered Vaids and Hakims may also be accepted at the discretion of competent authorities. Medical certificates by the registered Vaids and Hakims will in effect be treated at *par* with those granted by the Registered Medical Practitioners of the Alopathic system.

Assam. Medical certificates issued by registered Vaids and Hakims are not accepted by Government of the Assam.

Madhya Pradesh. The Government have issued instructions to accept medical certificates from registered Vaidas and Hakims for the State Government employees for the purpose of grant of leave.

Bombay. Medical certificates issued by registered Vaids and Hakims registered under the Bombay Medical Practitioners, Act, 1928, are generally accepted by the State Government for the purposes of grant of leave to their employees and resumption of duty from leave granted on medical grounds.

Bihar. Medical certificates granted by Vaids and Hakims are not as a rule accepted by the Government at present for the purpose of grant of leave etc. There is, however, no rule or order precluding the acceptance of certificates granted by Vaids.

Orissa. Medical certificates issued by Ayurvedic practitioners are not accepted in any institution, court or in Government office for the purpose of grant of leave.

West Bengal. Medical certificates from Vaids, Hakims and Homeopaths are not accepted as the organizations set up in this country for development and standardisation of these systems are comparatively of recent origin and have not succeeded in standardising their system of training and teaching to the extent desirable.

Travancore-Cochin. Medical certificates granted by recognised native Vaidans, in receipt of grants in-aid from Government or from Municipal Funds, and qualified Ayurveda Vaidyans attached to the Ayurvedic Hospitals, Pharmacy, and College as Pandits may be accepted provided the certificates are countersigned by the Director of Ayurveda.

No Vaidyan shall, except under special circumstances which will be fully explained in the certificate itself, recommend leave for more than one month at the first instance. If an extension is required, the Vaidyan concerned should report to the Director at least ten days before the expiry of the first period of leave showing the specific necessity for the extension, and get the previous sanction of the Director before recommending any extension.

Medical certificates granted by the following persons may also be accepted, provided they are in accordance with the rules contained in Article 359 of the Travancore Service Regulations and that they follow the procedure laid down therein for the grant of medical certificates by private practitioners. The certificates granted by them need not be countersigned by the Director of Ayurveda :—

1. Vayasakkara Aryan Narayanan Moosathn; Kottayam.
2. C. N. Narayana Moose. Cheeratamon Illom Olesa.
3. Kottayam Vasudevan Unani Senior Palace Physician.

(The above is a reproduction of Note 3 below Article 359 of the Travancore Service Regulations which apply to members in the service of the Travancore-Cochin State other than permanent Government servants of the former Cochin State).

Application for leave or extension or commutation of leave on medical certificate,

must in the case of officer in the superior service be accompanied by a certificate from the applicant's medical attendant. The certificate should distinctly state the nature of the illness, its symptoms, causes, duration and the period of absence from duty considered to be absolutely necessary for the restoration of the applicant's health. It should be countersigned by the Medical Officer. The certificate issued by subordinate physicians of the Ayurvedic Department, will, however, be countersigned by the Superintendent Ayurvedic Hospitals. In the case of non-Gazetted Officer, however, subject to any orders on the subject issued by the Diwan, the head of the office, may, at his discretion, accept a certificate from the applicant's medical attendant without such a countersignature.

(The above is a reproduction of Article 144 of the Cochin Service Regulations which apply to all permanent Government servants of the former Cochin State.)

Hyderabad—Medical certificates issued by registered Vaids and Hakims are accepted for granting leave on medical certificate for a period of not more than one month. If the period of leave exceeds one month, the certificates issued by such Vaids and Hakims should be countersigned by Government Medical Officer not below the rank of a Civil Surgeon. Employees whose minimum pay of the post does not exceed Rs. 50 per mensem may, at the discretion of the Heads of the Department, be exempted by a general or special order from getting certificate of their medical attendants countersigned by Civil Surgeons. Certificates granted or countersigned by a retired Civil Surgeon, Hyderabad State Railway Surgeons and gazetted Hakims in the scale of Rs. 350-600 are also acceptable for the purpose.

Pepsu. Sick leave not exceeding 12 months in all during a State Servant's service may be granted to him. Such leave shall be given only on production of a certificate from :—

(1) a Hakim, Vaid or a Sub-Assistant Surgeon in case of leave for a period not exceeding one month ;
(2) a Doctor holding the degree of M.B.B.S. or by the State Raj Vadiya for period not exceeding 3 months ; and
(3) The Director of Medical Service, Civil Surgeon or Officer of similar status for a period not exceeding that recommended by him provided that when the maximum period of 12 months is exhausted further sick leave not exceeding 6 months in all may be granted in exceptional cases on the recommendation of the State Medical Board to be obtained through the Department.

Madhya Bharat. Medical certificates issued by registered Vaidyas and Hakim for the purpose of leave and resumption of duty are accepted in case of non-gazetted Government servants.

Rajasthan. In former Jodhpur State there was certain rules for the issues of sick and health certificates by Vaids and Hakims and the rules are still in force there.

Jammu and Kashmir. Certificates granted by registered Vaids and Hakims are not accepted.

[G.I.M.H. Affairs Memo : No. 38/3/52-Ests., dated the 17th April 1952 and Army Instruction No : 304 of 1952].

Saurashtra : Under sub-section (2) of Section 19 and clause (*b*) of Section 33 of the Bombay Medical Practitioner's' Act, 1938 as adapted and applied to Saurashtra, medical certificates issued by registered Vaids and Hakims are accepted.

[G.I.M H. Affairs Memo No. 38/3/52-Ests., dated 4th December, 1952]

Ajmer. There is no legislation in force in Ajmer under which Ayurvedic, Unani, and Homeopathic medical practitioners could be registered and hence the question of recognition of medical certificates granted by such practioners for the purpose of grant of leave, for fitness to return to duty, does not arise.

Bhopal. There is neither any legislation nor any executive order in force in Bhopal regarding the registration of Ayurvedic and Unani Practitioners and hence the question of acceptance of medical certificates granted by registered Vaids and Hakims does not arise. Government Vaids and Hakims where available, are authorised to issue medical certificates for the purposes of grant of leave and for the purposes of resumption of duty under S.R- 212 and their certificates are recognised by the State Government.

Bilaspur There is no registered Vaid or Hakim in Bilaspur. Certificates issued by other Vaids who in most cases are not properly qualified, are not accepted for the purpose of S.R. 212.

Coorg. There are no registered Vaids and Hakims in Coorg. The State Government have not accepted medical certificates issued by Vaids and Hakims (either registered or unregistered) for the purpose of grant of leave to State servants under S. Rs. 222 (*a*) and 212.

Delhi. Those Ayurvedic and Unani Practitioners in Delhi who are registered in part I or Part II of the State Register in accordance with sub-section (1) and (2) of section 18 of the East Punjab Ayurvedic and Unani Practitioners' Act 1949, as extended to the Delhi State, are authorised to issue certificates of illness provided that the certificate contains an entry to the effect that the granter is enlisted in Part I or Part II of the said register.

Himachal Pradesh. In Himachal Pradesh, a Bill on the lines of the East Punjab Ayurvedic and Unani Practitioners Act, 1949, has been prepared and will be introduced

in the State Assembly, Until the above mentioned legislation is enforced in that State the question of recognising certificates issued by Vaids and Hakims for the purpose of S. R. 229 (*a*) and 212 to State Employees does not arise,

Kutch. Medical Certificates issued by registered Vaids and Hakims for the purpose of grant of leave to State employees under S. R. 229 (*a*) and for the purpose of resuming duty under rules 212 are not accepted by the State Government.

Manipur. As there are no registered Vaids and Hakims in the State no question of acceptance of Medical certificates granted by them arises.

Vindhya Pradesh. As Vaids and Hakims are not registered in Vindhya Pradesh the medical certifica tes issued by them are not accepted by the State Government for the purpose of S. Rs. 229 (*a*) and 212.

Tripura. Medical certificates issued by registered Vaids and Hakims for the purpose of granting leave to State servants are not recognised by the State Administration.

[G.I.M.H. Affairs Memo No. 38/3/52-Est., dated the 4th December, 1953, as amended by endorsement No. 38/3/52-Ests, dated the 9th April 1954.]

(2) See Government of India's decision No. (1) below Article 828,

226. An officer is not entitled, at the end of long leave, to resume as a matter of course, without further orders, the particular appointment which he vacated before leave. He should report his return to duty as prescribed in Article 228 and await orders.

Change of Appointment.

227. If the appointment of an officer is changed during Long Leave in India, he must join his new appointment within his leave. But if he have not had sufficient notice of the change, the Local Government may allow him joining time. During such joining time his allowances will be the same as for joining time on return from furlough out of India.

Report of Return.

228. A gazetted officer must report his return to duty to the Local Government under which he is employed. A member of the Indian Civil Service on the Bengal Establishment employed directly under the Government of India, returning from Long Leave, must also report his return to the Government of India in the Home Department.

Overstaying Leave

229. An officer who remains absent after the end of his leave is entitled to no allowance for the period of such absence, and ceases to have a lien on any appointment, –

(*i*) if his leave was Furlough without Medical Certificate,—immediately, and

(*ii*) if it was Furlough on Medical Certificate on Vacation or Privilege Leave,—after a week. In the case of officers to whom exception (*ii*) under Article 251 applies, the week commences from the fifteen days mentioned therein.

Note 1.—This Article does not affect the liability of an officer overstaying leave to forfeit past service under the rule in the Article 420 (*b*)

Note 2.—Short extensions of leave may be granted retrospectively in India to officers who under certain specified circumstances overstay their leave. *see* Article 292 (*c*).

Government of India's decisions :– (1) In the case of an officer whose leave ends on a working day but who overstays, his leave, any authorised holiday occuring before he rejoins should be counted as part of the time overstayed.

[G. I. F. D. No. 451-dated 24-1-1884.]

(2) See Government of India's decision No : (1) below Article 90.

230. If the Local Government is satisfied that the default of an officer is due to circumstances beyond his control, it may exempt him from loss of appointment under the preceding Article, but not from loss of allowances during the period of his absence without leave. The Local Government may authorise the payment to an officer subject to the Indian Service Leave Rules of as much as it thinks fit of any joining time allowances to which he would have been entitled under Article 190B if he had not remained absent after the end of his furlough.

Note– The Local Government may delegate the power exercised by it under the

first sentence of this Article to any subordinate authority in respect of officers to whom such authority is empowered to grant leave.

231. So long as an officer retains a lien under Section III, or if he is exempted under the preceding Article from loss of appointment, absence after the end of his leave, though not counting as Continuous Service, does not operate as an interruption of Continuous Service or Continuous Active Service.

SECTION VI.—COMBINATION AND EXTENSION OF LEAVE.

232. The authority which has the power to sanction leave may—

(1) grant to an officer any kind of leave admissible under these Regulations (including extraordinary leave with allowances) in combination with any other kind of leave so admissible ;

(2) grant to an officer any kind of leave admissible under these Regulations in combination of leave with any other kind already taken ;

(3) Commute the whole or any portion of any leave granted under these Regulations retrospectively into any other kind of leave which was admissible when the original leave was granted ; and

(4) commute retrospectively periods of absence without leave into leave without allowances (*see* Article 421).

1. Extraordinary leave without allowances cannot be converted retrospectively into furlough on medical certificate, but furlough may be given on medical certificate, in continuation of extraordinary leave without allowances.

2. Leave granted to a Military officer subject to the Military Leave Rules may be retrospectively commuted by the authority which granted it to any other kind of leave which the said authority would have been competent to allow when the original leave was sanctioned. When the privilege leave of such an officer is on medical certificate retrospectively changed for furlough out of India, so much of the leave passed before the departure of the vessel in which the officer sails may be treated as subsidiary leave under clause (1) of Article 321 (*a*) as stood prior to 29th July, 1920 as might have been granted as subsidiary leave if the officer had originally obtained furlough and not privilege leave, notwithstanding that a portion of such retrospective furlough has been passed in India.

Government of India's decisions :—(1) The Local Government has power under this Article to commute leave taken by an officer into leave of some other kind for which he had qualified when the leave was originally granted although the application be not made until after the officer's return to duty. It is for the Local Government, when it receives the application for commutation, to consider all the circumstances of the case and decide whether the application should be granted or refused.

A retrospective commutation of any other kind of leave into extraordinary leave without allowances cannot, however, he made under the Article quoted, as the grant of extraordinary leave is expressly limited to cases of necessity and when no other kind of leave is by rule admissible.

[G. I. F. D. No. 2819—P, dated 14-6-1895.]

(2) Furlough may be combined with privilege leave whether applied for simultaneously or subsequent to the application and grant of privilege leave alone.

There is no objection to the Local Government granting privilege leave for a shorter period than is due, in combination with other leave.

[G. I. F. D. No. 2677-P., dated 14-5-1903.]

(3) In the case of illness, privilege leave or any other kind of leave to which a man may be entitled may be affixed to hospital leave under Article 288, C.S.R.

[G.I.H.D. No. 1171, dated 29-10-1907, and G.I.F.D. No. 6760-P., dated 5-11-1907.]

(4) Leave erroneously granted to an officer prior to his retirement should be retrospectively commuted into such leave as was admissible under the rules at the time he proceeded on leave.

[G. I. F. D. No. 5665-C.S.R., dated 31-10-1910.]

233. (*a*) Except when furlough is extended on Medical certificate

or extra-ordinary leave is granted in combination of other leave, the total leave enjoyed by an officer at one time shall not exceed two years. This period shall in no circumstances be exceeded by an officer who is on furlough preparatory to retirement.

(*b*) **The total period for which Military Officers in Civil employ who are subject to the Military Leave Rules may be absent from duty is regulated by the rules in Army Regulations and not by this Article.**

Note—Extensions of furlough *See* Article 299.

Government of India's decision—Privilege leave when combined with other leave is still privelege leave and all the Rules (*Including Article 99, C.S.R.*) applicable to such leave to it.

[G. I. F. D. No. 1566-P, dated 20-3-1901.]

SECTION VII—LEAVE AFTER COMPLETION OF TERM OF SERVICE.

234. (*a*) **The limitations affecting members of the Indian Civil Service whose term of service is complete, are prescribed in Article 555, and those affecting Military officers in Article 620.**

(*b*) ***In the case of other officers the Local Government may grant on the attainment of 55 years of age such leave as is necessary for the purpose of breaking up establishments and proceeding to the port of embarkation or frontier town by which he quits the country ; or in exceptional cases, when leave has been deferred in the public interest, may in its discretion grant leave extending to not more than 6 months beyond an officer's fifty-fifth birthday; or may grant leave for not more six months in all to an officer who is being retained in the service after the age 55 years. An officer retained in service after his fifty-fifth birthday shall earn privilege leave under Article 246 subject to the restriction that the total leave that may be granted to him after the completion of 55 years of age shall not exceed six months. The leave granted must be of a kind which is due and not in excess of the amount at credit.**

Save as above stated, all leave expires on the date of attaining 55 years and no fresh leave may be granted.

1. In the case of an officer of the Persian Gulf Section of the Indo-European Telegraph Department, who proceeds *via* an Indian port the words "port of embarkation" in clause (*b*) of this Article shall be read as meaning the Indian port.

Government of India's decisions :—(1) The principle of the rule in Articles 234, 555 and 620 (*a*) Civil Service Regulations, is that when an officer is allowed to continue in office after the date ordinarily fixed for his retirement, *i.e.* in the case of a covenanted civil servant on the completion of 35 years' service and in that of a Military officer in Civil employ on the completion of 55 (*now* 58 years) years of age, the prolongation of service is granted to enable the officer to work, not to take leave.

[G. I. F. D. No. 3806—P., dated 24-11-1869].

(2) *Deleted.*

(3) The Government of India have decided with the concurrence of the Auditor-General that furlough on averge salary should not be doubled for the purpose of the six months' limit laid down in Article 234(*b*). The limit mentioned therein should be taken as referring to the actual period of absence.

[G. I. F. D. No. 750 C. S R., dated 11-7-1921.]

(*4*) *Grant of Release leave to substantive Civil Government servants Employed with the Army capacity.*

* * * * *

2. Substantive civil Government servants (including military officer in permanent Civil employ and civilians of Defence Services and Railway employees (including personnel of Burma Railways serving with Railway Transportation Units, servants of ex-company managed Railways and Railways owned or administered by Indian States) employed with the Indian Army in military capacity who have been or are released from the Army in Class 'A' on or after the 8th May, 1945. may be granted 56 days released leave and overseas

*As amended by G.I.M.F. Notification No. F. 7(205)-Est-IV/A/60, dated the 10th January 1961.

service leave under Release Regulations. I. *A.* subject to the following conditions :—

(*a*) Individuals who have earned more leave under civil rules during their military service than what they have taken during such service and have thus a credit balance in their civil leave account will be debited with the amount of release leave and overseas service leave taken. Where, however, the credit, balance is less than the amount of 56 days release leave *plus* overseas service leave, the difference will be made up to the extent of such amount of leave in their civil leave account. In no case will release leave and overseas service leave be debited to the civil leave which was admissible to the individual on the date of his transfer to military service.

(*b*) Where individuals by taking more leave during their military service than what they have earned in respect of such service have a debit balance in respect of civil leave earned during military employ the credit in their leave account will be made up to the amount of leave which they had to their credit on the day they joined the military duty plus release leave and overseas service leave. In other words an individual will, on the date of his reversion to civil employ, have the same amount of leave at his credit as was due to him on the date of his transfer to military service, and will in addition get 56 days release leave and overseas service leave, which will not be debited to his civil leave account

(*c*) The term "leave earned under civil rules during their military service" occuring in clause (*a*) above or similar other expression occurring elsewhere in this instruction, has reference to the privilege leave/ leave on average pay *plus* furlough/leave on half average pay. If the credit on account of privilege leave or leave on average pay in the leave account of an individual is not enough to cover the debit on account of release and overseas service leave due to him, this leave may be debited against furlough or leave on half average pay doubling the period for the purpose of debit.

(*d*) The release and overseas service leave referred to in clause (*a*) and (*b*) above will normally be granted from the individual's military appointment unless his services are required by the parent Civil Department before the expiry of such leave in which case he will be granted release leave and overseas service leave as in clause (*f*) below.

(*e*) In the case of individuals who are granted leave from their military appointment release leave and overseas service leave will, irrespective of whether it is taken in or *ex*-India, commence from the date they are struck off military duty except in the case of those who retire from their civil appointments simultaneously with their release from their Army, when it will commence as laid down in para 411 Release Regulations I.A.

(*f*) In the case of individuals who are unable to avail themselves of the full amount of release leave and overseas service leave referred to in clause (*a*) and (*b*) above before rejoining their civil appointments the unexpired portion of such leave will be treated as 'deferred leave' and availed of at a later date and debited to their civil leave account. The debit of the deferred leave will be made after necessary credit has been afforded to officer under clauses (*a*) and (*b*).

(*g*) On the first or any subsequent occasion on which an individual proceeds on privilege or equivalent leave after his reversion to civil employ, he may be granted during such leave, for the period of 'deferred leave referred to in clause (*f*) above, the emoluments as under :—

(*i*) For the period of 'deferred leave' which is covered by the difference

of leave earned and taken during military service, at rates admissible under civil rules or military rates if more favourable and

(*ii*) For the period of 'deferred leave' which is not covered by the difference mentioned above, at military rates of pay only.

(*h*) In the case of individuals who have already been released from the Army on or after the 8th May, 1945 and have been unable to avail themselves of release leave and overseas service leave, such leave will be treated as 'deferred leave' for the purpose of clause (*f*) and (*g*) above.

(*i*) Release leave and overseas service leave referred to above will not be admissible in combination with leave pending retirement under civil rules or any leave other than sick leave admissible under military rules. An individual may, however, be granted civil leave in continuation of release leave and overseas service leave after his reversion to civil employ in which case release leave and overseas service leave would count as equivalent to privilege leave or leave on average pay for the maximum limits prescribed both with regard to the amount of leave which can be taken at a time and leave salary for these types of leave under the relevant civil rules.

3. The pay and allowances of individuals granted release leave and overseas service leave under this Instruction will be governed by A. I. 799 of 1945.

4. An Individual granted release leave and overseas service leave under this Instruction who resumes his civil appointment during the currency of such leave will not be allowed to draw leave salary as well as the duty pay of his civil appointment.

5. The expenditure for any portion of release and overseas service leave which is not covered by the credit balance of leave earned during military service will be borne by the Defence Services Estimates at military rates as laid down in para 3 above. The expenditure for the period of release and overseas service leave which is within the above mentioned credit balance and for which leave contribution has been paid from Defence Services Estimates will be the liability of the civil department concerned.

6. The provisions of this Instruction will apply also to all personnel of the P.&T. Department, Survey of India, Railway Department, officers of the A.I.R.O. and personnel of the late A.E., (1) who were employed on whole time military service under section 18 of A.F (1) Act, who are substantive civil Government servants and who have been or are released from the Army in Class 'A' on or after the 8th May 1945 except that release leave and overseas service leave granted to non-gazetted personnel of P. & T. Department and the Survey of India will not be debited to their civil leave account.

7. In the case of Civil Government servants released perior to 8th May, 1945, or who have been released in class 'B' which class 'B' benefits the period of release-leave and overseas leave will be treated and dealt with under para 2 (*f*) and (*g*) above.

8. Past cases will not be re-opened for re-adjustment.

[Army Instruction No. 212 of 1950 as modified by Corrigenda No. 65 of 1953]

(5) See Government of India's decisions below Article 200.

(6) The Government of India have a settled policy not to allow any Government servant to carry forward the leave preparatory to retirement refused under Fundamental Rule 86 during the period of re-employment.

[G. I. M. F. Memo. No. F. 7 (4) Est. IV/53, dated the 6th April 1953]

235–240. *Cancelled.*

CHAPTER XII—SHORT LEAVE

SECTION I.—EXTENT OF APPLICATION.

241. The rules in this Chapter regulate the Short Leave of all officers in Civil employ (whatever may be the rules to which they are subject in regard to other leave) except :—

(*a*) * * * * * *

(*b*) **Judges of High Courts** †(*See* **Chapter XXIII**).

(*c*) **Barristers holding the appointments referred to in Chapter XXIV except as stated in that Chapter.**

(*d*) * * * * * *

(*e*) **Law officers, except as stated in Chapter XXXI.**

(*f*) **State Railway Establishment, except as stated in Chapter XXXII**

(*g*) **Port Blair** (*See* **Chapter XXXIV**).

(*h*) **Calcutta and Suburban Police Forces** (*See* **Chapter XXXVI**).

1. Officers-in-charge of medical store depots remain subject to the leave rules, civil or military, under which they were serving at the time of their transfer to the Medical Stores Department.

Temporary and Non-Continuous Service.

242. (*a*) **An officer who has a temporary or officiating appointment only may be allowed Privilege leave without losing his lien on such appointment, if no substitute is required, or if his duties can be provided for without additional expense.**

(*b*) **If such an officer is, without interruption of his service, appointed to a permanent office his temporary or officiating service may be treated as duty qualifying for Privilege leave.**

Note :—This rule does not apply to the State Railway officers whose service is under clause (*c*) and (*d*) of Article 659.

Government of India's order. Displaced permanent Provincial Government servants of Sind, N.W,F.P. and Baluchistan who have been employed under the Central Government against temporary posts through the Transfer Bureau will, during the first year of their temporary service under the Central Government, earn leave @ $\frac{1}{11}$th of the period spent on duty instead of 1/22nd ordinarily admissible. They may also be granted, leave not due on half average pay on urgent private affairs for a period not exceeding one month when absolutely necessary. Such leave will be adjusted against leave to be earned by them subsequently.

[G. I. M. F Memo. No. F. 7(43) Est. IV/49, dated 1-7-1949]

Note 1. The provisions of the fore going memorandum apply also to permanent displaced Government servants of Sind- N.W.F.P. and Bluchistan who are employed as Civilians in the Defence Services *vide* Army Instruction (India) No. 323 of 1949.

Note. 2. The provisions of this order have been extended to those persons who have been employed as class IV servants except that during the first year of their temporary service under Central Government they will earn leave at 1/22nd of the period spent on duty instead of 1/30th ordinarily admissible *vide* G. I. F. D. Memo No. F. 7(43) Est. IV/49, dated 19-9-1949.

The provisions of this note also apply to civilians in the Defence Services *vide* Army Instruction (India) No 369 of 1949.

243. Privilege leave is not allowed to an officer employed in an establishment the duties of which are not continuous, but are restricted to certain fixed periods in each year. (*See also* **Article 369.**)

Petty Military Officers.

244. Privilege leave may be granted under this Chapter to a Military Hospital Assistant temporarily lent to the Civil Department. A Hospital Assistant is not entitled to Privilege leave in respect of duty done in the Military Department.

Seamen

245. An officer or seaman attached to a Pilot vessel at the Sandheads may, in adition to the Privilege leave admissible under this

†Also see Appendices 40, 40A, and 40B to this Compilation.

*Not printed.

Chapter, be allowed one month's leave on shore, beginning on the date of his arrival at Calcutta, after four months' continuous duty at the Sandheads.

SECTION II.—PRIVILEGE LEAVE—ORDINARY RULES.

246. The amount of Privilege leave earned by an officer is one eleventh part of the time during which he has been on duty without interruption : Provided that no Privilege leave can be earned by an officer by duty performed while four months' such leave is due to him, and that, whenever duty is interrupted, all claim to Privilege leave earned there to fore is forfeited. Absence on Privilege leave, though not counting as duty, is not an interruption of duty within the meaning of this Article.

Government of India's decisions :— (1) Duty is not interrupted within the meaning of Article 246 and 260 by the grant of any joining time admissble under tbe Regulations.

[G. I. F. D. No. 4366, dated 21-10-1891.]

(2) To remove certain hardships arising from the application of existing rules in War (1939-45) conditions it has been decided that *Civilian personnel employed with the various departments of the Army* who are under the rule-making control of the Governor-General in Council, may be granted the concessions mentioned in the succeeding paragraphs.

2. Permanent and temporary personnel who are subject to the Civil Service Regulations may, in relaxation of Article 246 and 251 *ibid* accumulate privilege leave and take it at one time up to six months.

This concession will be admissible on the following conditions :—

(*a*) It will be granted only to those individuals who have at any time since the 3rd September, 1939. been debarred by the operation of Article 246 of the Civil Service Regulations from earning privilege leave.

On the first occasion on which an individual referred to above is allowed after 24th November, 1945, to take leave other than commuted leave *in India* sanctioned in A. I. (1) 27/45, the period during which he was so debarred will be taken into account in calculating the amount of privilege leave earned by him.

(*b*) In certifying the amount of privilege leave due to the individual, the audit or administrative authority will add to the total admissible under the ordinary rules an additional period calculated on the service during which the individual was debarred from earning privilege leave under clause (*a*) above. This additional period of privilege leave will be limited to two month,

(*c*) An individual who on 24th November, 1945, was on privilege leave or combined leave which contains an element of privilege leave may be granted the additional leave admissible under this Instruction in extension of privilege leave or combined leave, In the case of combined leave, however. the privilege leave portion of the combined leave should not have expired before 24th November, 1945.

(*d*) The full amount of privilege leave admissible under this Instruction may be combined with other kinds of leave under Article 232 of the Civil Service Regulations.

(*e*) If on the first occasion an individual takes leave after 24th November 1945, the leave granted to him less than the full amount of the privilege leave as calculated above, he will be entitled to take the balance of such privilege leave on the next occasion, together with any privilege leave which he would, under the ordinary rules have earned by his service in the interval between the two periods of leave, if no additional leave referred to in clause (*b*) above was accumulated to his credit.

However, if on the first occasion of taking leave under this instruction an individual combines privilege leave with any other form of leave and the privilege leave then taken is not the total standing to his credit, the balance of the privilege leave, including the additional accumulated leave referred to in clause

(*b*) will lapse and he will not be entitled to take it on any subsequent occasion. The maximum amount of privilege leave which may be granted under this clause on the second occasion of taking leave is six months, and no balance will be carried over to a subsequent period.

(*f*) The concession will be admissible to an individual who takes leave preparatory to retirement provided privilege leave is taken in combination with other leave and the total period of combined leave is not less than six months.

(3) Officers governed by the ordinary leave rules in Fundamental Rules will, during leave preparatory to retirement taken after 24th November, 1945 and within one year from the date of official termination of the emergency, *i. e.* 1st April, 1946, be allowed to take maximum period of six months instead of four months on average pay in relaxation of Fundamental Rule 81(*b*)(*ii*). This concession will also be admissible in cases where leave commences from a date within one year after the date of the official termination of the emergency, *i. e.* 1st April 1960, but extends beyond that period.

4. Individuals whose leave is governed by the **Revised Leave Rules* may, in relaxation thereof, accumlate earned leave and take it to the extent indicated below :—

Superior Government Servants.

(*a*) 180 days in the case of personnel of non-Asiatic domicile recruited in India who are entitled to passage concessions.

(*b*) 150 days in the case of individuals other than those mentioned in (*a*) preceding who may be serving in remote localities.

(*c*) 120 days in the case of other personnel in permanent Government service.

(*d*) 60 days in the case of personnel in temporary superior service.

Inferior Government Servants.

(*e*) 80 days in the case of those in parmanent inferior service who may be serving in remote localities.

(*f*) 40 days in the case of permanent inferior servants other than those at (*e*) preceding.

The above accumulation of earned leave will be permissible from the 3rd September, 1939. Any period during which an individual may have been debarred under paras, 9 and 10 (*a*) of A.I. (I) 40/43 from earning leave will be taken into account in calculating these limits. The additional credit thus accumulated will remain operative till it is exhausted, and may be granted at any time after the 24th November, 1945.

5. The additional leave allowed under this A. I. (I.) will be distinguished from the leave admissible under the normal leave rules and separately accounted for. The privilege leave or earned leave availed of after 24th November, 1945 will be adjusted as follows :—

(*a*) (*i*) *Officers subject to C.S.R.*—The privilege leave taken on the first occasion after 24th November, 1945 will be debited against the normal privilege leave at credit to the extent possible, and any excess of the privilege leave availed of will be debited to the additional credit.

(*ii*) The privilege leave taken on the second occasion after 24th November 1945 will first be set of against the credit of additional privilege leave and any excess of the privilege leave adjusted against the ordinary credit of the privilege leave.

(*iii*) If any balance remains in the additional credit account after adjusting the leave taken on the second occasion the remainder will lapse and cannot be carried over.

(*b*) *Officers subject to Revised Leave Rules*; 1933—The earned leave taken on the first occasion after 24th November, 1945 will be debited to the earned leave due under the normal rules and any balance only will be debited agaipst the additional credit. The earned leave taken on the second occasion will, however, be debited to the additional credit to the extent possible any excess against the normal credit. The balance of the additional leave remaining after the second occasion will not, however lapse as in the case of the privilege leave

*Incorporated as Appendix 39 to this Compilation.

but will be available to the officer on the next or any subsequent occasion till it is exhausted under the procedure indicated in the second sentence of this sub paragraph.

6. Subject to the conditions mentioned there in the concessions sanctioned in para 3 to 5 above, will be admissible in addition to or in combination with that sanctioned in A I, (I) 127/45, Individuals who are eligible for the grant of leave under A. I. (I.) 565/44 will not, however, be eligble for any additional accumulation of leave under this Instruction.

7. The accumulation of additional privilege leave and earned leave under paras 3 and 5 above will cease on the first occasion an individal takes leave other than commuted leave under A.I. (I.) 127/45 after 24th November, 1945, or on the Ist April, 1946, whichever. is earlier.

8. All privilege leave taken under this instruction will automatically count for pension under Article 407, Civil Service Regulations.

Leave preparatory to retirement up to six months taken under para. 3 above and the earned leavs taken under para 5 above in excess of a period of 90 days, will count as privilege leave under Article 407, Civil Service Rsgulations, instead of as leave with allowances under Article 408 *ibid.*

9. Officers subject to the Special Leave Rules also will be eligible for a pensionary, concession identical with that granted to officers governed by the Ordinary Leave Rules that is, leave on average pay preparatory to retirement taken after 24th November, 1945 and within one year after official termination of the war *i. e*, Ist, April 1946 will count for pension under Article 407 of the Civil Service Regulations upto a maximum of six months, Such leave also counts as active service for the purpose of Article 8 and 573 of Civil Service Regulations.

10. An individual who takes privilege leave or earned leave under this A.I. (I) in excess of the limits prescribed in Article 246 C. S. R. or Fundamental Rules 105 (*b*) (*i*), Supplementary Rules, 124 and 300 read with para 5 (*v*), of the Annexure to Appendix 7-A of the P. & T. Compilation of Fundamental and Supplementry Rules, Volume II and is transferred to a new station on the expiry of such leave is entitled to *joining* time under these rules and under Article 182 *et seq.* C. S. R.

11. The provisions of this A. I. (I) will be applicable *mutatis mutandis* to all civilian officers employed with the various departments of the Army, who are under the rule-making control of the Secretary of State for India.

[Army Instruction (India) No : 431 of 1947.]

(3) 1. The following concessions were sanctioned to Government servants other than those referred to in decision No. (2) above in order to remove certain hardships arising in war conditions from the application of the present rule.

(A) Accumulation and admissibility at one time of privilege leave up to six months in relaxation of Article 244 and 251 of the Civil Service Regulations, in the case of permanent and temporary Government servants.

(B) Relaxation of limits of leave earned and admissible at one time under rules 9 and 10 (*a*) of the Revised Leave Rules, 1933, upto the extent indicated below :—

(*a*) RULE 9.

SUPERIOR GOVERNMENT SERVANTS.

(*i*) 180 days in the case of officers of non-Asiatic domicile recruited in India, and entitled to passage concessions.

(*ii*) 150 days in the case of officers other than those mentioned in (*i*) above serving in remote localities within the meaning of Fundamental Rule 105 (*d*), and

(*iii*) 120 days in the case of other officers in permanent Government service.

Inferior Government Servants.

(*iv*) 80 days in the case of those in permanent inferior service, serving

in remote localities within the meaning of Fundamental Rules 105 (*d*), and

(*v*) 40 days in the case of others in permanent inferior service.

(*b*) RULE 10 (*a*)

60 days in the case of Officers in temporary superior service.

2. The concession mentioned in paragraph I-A, above will be admissible on the conditions mentioned below :—

(*i*) It will be granted only to those officers who have at any time since the 3rd September, 1939, been debarred by the operation of Article 246 of the Civil Service Regulations from earning privilege leave. On the first occasion on which such an officer is allowed, after the date of these orders, to take leave, other than the commuted leave in India sanctioned in Finance Department, letter No. 45 (11)-W-/44, dated the 23td August, 1944 the period during which he was so debarred will be taken into account in calculated the amount of privilege leave earned by him. In certifying the amount of privilege leave due to him, the audit or executive offices will add to the total admissible under the ordinary rules an additional period calculated on the service during which an officer was so debarred- The additional period of leave will be limited to two months. An officer who on the date of these orders is already on privilege leave, whether taken alone or in combination with other leave, may take in extension of such privilege leave the additional period of leave admissible under these orders.

(*ii*) The full amount of privilege leave, as increased by this concession, may be combined with other kinds of leave under Article 232 of the Civil Service Regulations.

(*iii*) If, on the first occasion of his taking leave after the date of the orders the leave, other than the commuted annual war leave in India, granted to an officer, is less than the full amount of his privilege leave as calculated above, he will be entitled to take the balance of such privilge leave on the next occasion, together with any privilege leave which he would under the ordinary rules have earned by his service in the interval, if there was no additional accumulation to his credit ; provided that if on the first occasion of an officer's taking leave under these orders as described above, he combines with other leave, privilege leave to a less extent than stands to his credit, the privilege leave, including the additional accumulation at his credit, shall lapse, and he will not be entitled to enjoy it on a subseqent occasion. The maximum amount of privilege leave is six months and no balance may be carried over to a subsequent period.

(*iv*) The concession will be admissible to officers who take leave preparatory to retirment, provided that privilege leave is taken in combination with other leave and that total period of combined leave is not less than six months.

3. In the case of officers governed by the Revised Leave Rules, 1933, they will be eligible to accumulate leave from 3rd September. 1939 upto the limits laid down in paragraph I—B. above, and any period during which they may have been debarred under the operation of rules 9 and 10 (*a*) of those rules from earning leave will be taken into account in calculating these limits. The additional credit thus accumulated will remain operative till it is exhausted and leave may be granted against it at any time after the date of these orders,

4. The accumulation of the additional leave mentioned above, whether under the Civil Service Regulations, or under the Revised Leave Rules, 1933, will cease on the first occasion of an officer taking after the date of these orders, leave other than the commuted leave in India sanctioned in Finance Department, letter No. F. 44 (11). W/44 dated the 23rd August, 1944, or on the date of the official termination of the war, whichever is earlier.

5. Subject to the conditions mentioned above, this concession will be admissible in addition to or in combination with that sanctioned in Finance Department, letter No. F. 44 (11), W/44 dated the 23rd August 1944. Govern-

ment servants who have been granted the concession sanctioned in Finance Department, Memorandum No. F. 7 (33)-R-I./44. dated the 1st September 1944, will however, be ineligible for any additional accumulation of leave under these orders.

All Privilege leave taken under these orders will automatically count for pension under Article 407, Civil Service Regulations. As regards the leave preparatory to retirement up to six months taken under the Fundamental Rules, and the earned leave taken under the Revised Leave Rules, 1933, in excesss of a period of 90 day, the Governor-General in Council. has been pleased to decide that the whole period of such leave may count as privilege leave under Article 407, Civil Service Regulations instead of as leave with allowances under Article 408 *ibid.*

[G. I. F. D. letter No. F. 12 (2)-W. II/45, dated 30-7-1945.]

Note 1. The intention underlying the last sentence of paragraph 2 (*i*) of the above letter is that the concession of additional privilege leave may be permitted to any officer who was on combined leave and had taken an element of privilege leave as part of such combined leave provided that the privilege leave granted under the ordinary rules expired after the 30th July, 1945.

[G. I. F. D. Memo No. F. 12 (2)-W II/45, dated 22-5-46.]

Note 2.—It has been decided with the concurrence of the Comptroller and Auditor General of India that the balance of additional credit of unavailed of portion of additionai leave earned under this decision would be available over and above the limits laid down in Rules 9 and 10 (*b*) of the Revised Leave Rules in appendix 14.

[G. I. M. F. : No. F. 7 (38)-E. IV./, 50 dated the 19th December 1957.]

(4) The Government of India have had under consideration the question whether a separate account of the privilege leave and the earned leave admissible under Finance Department letter No. F.12 (2)-W-II/45, dated the 30th July, 1945 (order No. 3 above) should be maintained distinct from the account of the privilege leave and the earned leave admissible under the normal rules. It has been decided with the concurrence of the Auditor General that the additional leave allowed under the Finance Department letter cited above should be distinguished from the leave admissible under the normal leave rules and separately accounted for. The privilege leave * * *availed of after 30th July, 1945 should be adjusted in the manner indicated below :—

(*a*) *Officers subject to the C. S. R.* (*i*) The privilege leave taken on the first occasion after 30th July, 1945 should be debited against normal privilege leave at credit, to the extent possible, and any excess of the privilege leave availed of should be debited to the additional credit.

(*ii*) The privilege leave taken on the second occasion after 30th July, 1945 should first be set off against the credit of the additional privilege leave and any excess of the privilege leave adjusted against the ordinary credit of the privilege leave,

(*iii*) If any balance remains in the additional credit account after adjusting the leave taken on the second occasion the remainder will lapse and cannot be carried over.

(*b*) *Officers subject to Revised Leave Rules 1933.*

The earned leave taken on the first occasion after 30th July 1945 should be debited to the earned leave due under the normal rules and any balance only should be debited against the additional credit. The earned leave taken on the second occasion should, however, be debited to the additional credit to the extent possible and any excess against the normal credit. The balance of additional leave remaining after the second occasion will not, however, lapse as in the case of the privilege leave but will be available to the officer on the next or any subsequent occasion till it is exhausted under the procedure indicated in the second sentence of this sub paragraph.

[G. I. F. D. letter No : F. 12 (2)-W II/45, dated the 12th October 1946.]

(5) The Government of India have had under cosideration the question whether the additional accumulation of earned leave sanctioned during the last war under decision No. (3) above may be allowed over and above the limits

laid down in rules 9 and 10 (*a*) of the Revised Leave Rules, 1933. It has now been decided, with the concurrence of the Comptroller and Auditor General of India, that the balance of additional leave earned in terms of para. I.—B. of the aforesaid decision limited to the following maximum may be carried forward and added to the earned leave accumulated under the normal rules :—

(*i*) In the cases of an officer of non-Asiatic domicile in permanent employ recruited in India, who has been in continuous service from a date prior to 1st February, 1949 and who is entitled to passage concessions. 30 days.

(*ii*) In the case of any other officer (whether permanent or temporary) in class I, II or III Service. 30 days.

(*iii*) In the case of an officer in permanent class IV Service. 10 days.

(*iv*) In the case of an officer in permanent class IV Service who has served in a remote locality. 20 days.

[G. I F. M. Memo, No- F. 7 (38)-Est IV/50, dated the 5th June, 1950.]

247. The calculation must be made as follows :—One calendar month for every eleven complete calendar months of duty, and one day for every eleven days of the balance.

Qualifying Service,

248. When an officer is first appointed to the public service, duty qualifying for privilege leave does not begin until he takes charge of his office.

249. *Cancelled*

250. (*a*) In calculating the privilege leave of a Military officer no distinction shonld be made between an officer who has a substantive Civil appointment and one who is merely officiating in the Civil Department.

(*b*) The leave is earned by uninterrupted duty in either the Civil or the Military Department. But a Military officer who has taken in any calendar year the whole or a portion of the Privilege leave admissible to him for that year, under Military Rules, does not begin to count service for Privilege leave in the Civil Department until the first day of the following year.

Limit

251. The amount of Privilege leave admissible at one time is limited to four calendar months.

Exception—Officers stationed in the Andamans and Nicobars or Nepal; officers stationed in Persia at places such at Ahwaz and Kermanshah and in the Persian Gulf or at Maskat and Baghdad, Gyantse or in Chumbi; Indian officers and men of the Assam Rifles stationed at Kohima, Aijal and Imphal, and European officers in Burma who take Privilege leave by itself and spend it out of Burma or India, are allowed on each occasion when they may wish to take Privilege leave, the option between the following two courses namely :—

(*i*) to accumulate Privilege leave up to four months and fifteen days ;

(*ii*) to overstay any Privilege leave due by fifteen days without forfeiting pay or appointment : Provided that, in the case of such overstay, the officer shall not begin to count service towards future Privilege leave until he shall have served a period of time proportionate to the amount of overstay,—that is eleven times the period of overstay,

Government of India's decisions (1) See Government of India's decisions below Article 246.

(2) Article 251, Civil Service Regulations, gives an officer the choice of the concessions specified in clauses (*i*) and (*ii*) but does not permit him to avail himself of both at the same time. For example, he cannot be granted three (now *four*) months and ten days under clause (*i*) and be allowed to overstay by five days under clause (*ii*).

[G. I. F. D. No. 6322-P., dated 16-12-1901.]

Amount due.

252. The privilege leave due to an officer is the privilege leave which he has earned since the last interruption of duty, less the period during which he has been absent on Privilege leave.

Interruption of Duty.

253. If an officer remains absent after the end of Privilege leave, his duty is interrupted within the meaning of Article 246. But if the Local Government consider that his default was due to circumstances beyond his control, it may remit the penalty.

Note—The Local Government may delegate its powers under this Article to any subordinate authority in respect of officers to whom such authority is empowered to grant leave.

Government of India's decision :—Duty is not interrupted within the meaning of Articles 246 and 259 by the granting of any joining time admissible under the rules.

[G. I. F. D. No. 4366, dated 21-10-1891.]

254. If an officer remains absent after the end of Examination leave, or Joining Time; the period of absence cannot count as duty qualifying for Privilege leave, and, unless the absence is accounted for to the satisfaction of the Local Government it is an interruption of duty.

Note—The Local Government may delegate its power under this Article to any subordinate authority in respect of officers to whom such authority is empowered to grant leave.

255. (*a*) **Leave under Articles 279 and 280 may, if the examination for which it is granted be successfully passed, and if the officer has not already had twelve months' leave under that Article, count as duty qualifying for Privilege leave.**

(*b*) **Leave under Article 281 may also count as duty qualifying for Privilege leave if the examination for which it is granted is successfully passed.**

(*c*) **Examination leave does not interrupt duty.**

256. Hospital leave under Articles, 287, 288, 288 A and 291 and leave on medical certificate under Articles 661 and 663 are not interruptions of duty.

257. *Omitted.*

258. Suspension from office pending enquiry into an officer's conduct interrupts duty or not as may be decided in each case by the authority having power to pass final orders in the case. Time passed under suspenssion does not qualify for Privilege leave, unless, in any case, such authority expressly orders that it shall so qualify.

259. "Leave in India" under Rule 1 of the Leave Rules for the Indian Army is an interruption of duty.

Condition of Grant,

260. Subject to the exigencies of the public service, an officer may be granted the whole or any part of the Privilege leave due to him.

Government of India's decision :—The *special war concession* of absence on full pay for 3 months counts as service qualifying for pension and leave other than Privilege leave. It does not count as service qualifying for Privilege leave but does not interrupt duty for the purpose of Privilege leave already earned by an officer.

[G. I. F. D. No. 617-C. S. R, dated 9-7-1918.]

260A. Privilege leave may be granted under this Chapter to an officer in inferior service so far as it can be done without imposing any cost upon the State. The absentee allowance of the substantive incumbent must not exceed what remains from his pay after provision is made for the efficient discharge of his duties during his absence except when, in the resultant acting arrangements, an officer who has no substantive appointment is given more than half the pay of the appointment in which he acts, in which case the excess over half pay granted to him may, at the discretion of the Local Government, be

disregarded altogether in calculating the sum available for the leave allowance of the absentee and the acting allowances paid in consequence of his absence.

Note—The Local Government may delegate its power under this Article to Heads of offices and Departments

Leave Allowances.

261. Except as provided in Article 266, 271 and 275, an officer on privilege leave is entitled to a leave allowance equal to the salary which he would receive if he were on duty in the appointment on which he has a lien; and he is entitled to this allowance even though another officer be appointed to act for him

Note 1—The term salary in this Article includes a duty allowance attached to the appointment on which the officer has a lien.

Note 2.—An officer on Privilege leave may draw a deputation (duty) allowance provided that he would have continued to draw the allowance had he not proceeded on leave and that it is intended that he shall return to the special temporary duty at the end of the leave.

Note 3.—An officer on Privilege leave granted under article 234(*b*) is entitled to leave allowance equal to the salary which he would receive if he were on duty in the appointment on which he had a lien immediately before proceeding on such leave.

Government of India's decisions : (1) An officer on privilege leave combined with furlough is subject to acting promotions and revisions during the portion of the leave treated as Privilege leave, as the officer in such a case is on privilege leave and all the rules applicable to such leave apply.

[G. I. F. D. No 1762 P., dated 4-4-1901]]

(2) See Government of India's decision No. (23) below Article 487.

262. *Cancelled.*

263. An officer who has no lien on an appointment is entitled, during Privilege leave ;—

(*i*) in the case of a member of the Indian Civil Service or a Military officer subject to the Civil Leave Rules—to Subsistence allowance;

(*ii*) in the case of any other Civil officer—to no allowance;

Exception—Officers of the Indian Medical Service who have rendered not less than 3 year's officiating service but have not yet been confirmed in a civil appointment may draw, during privilege leave, when they have no lien on any appointment, the allowance that would be admissible under the military leave rules.

264. *Cancelled.*

265. If an officer, on transfer from one appointment to another obtains privilege leave without joining his new office, his leave allowance shall not be less than it would have been if he had joined his new office before taking leave, provided that the rate of pay attached to the new appointment is not different from and higher than the rate of pay attached to the old appointment. Where however, the transfer involves an increase in the officer's duties or responsibilities, and is to an office on a different and higher rate of pay from that drawn by the officer in the old office, the officer shall not draw the higher rate of salary until he actually joins his new office.

Examples—The rate of pay drawn by a Collector and by an Accountant General is different from and higher than the rate of pay drawn by a Joint Magistrate or by an officer in Class I of the Indian Finance Department respectively.

266. An officer who holds an appointment of the kind specified in Article 76B sanctioned for not more than six months is not entitled, during Privilege leave to the special rate of pay of, or any special allowance attached to, the appointment.

Local Allowances or Deputation (Local) Allowances how affected

267. (1) A local allowance attached to an appointment may not be drawn by an officer on Privilege leave unless he has a lien on the appointment, and

(2) A deputation (Local) allowance drawn by an officer before going on Privilege leave may not be drawn by him during the leave

unless he would have continued to draw it had he not proceeded on leave and unless it is intended that he should return to the special temporary duty at the end of the leave.

Government of India's decision :—A question has been raised whether compensatory allowance can be drawn by officers during these enhanced limits. The Governor-General in Council has been pleased to decide as follows :—

(*a*) *Officers subject to Civil Service Regulations*—
Local allowance shall be regulated under Article 267(1) and 268 Civil Service Regulations during the entire period of privilege leave granted under paragraph 1-A of the Finance Department orders incorporated as item No. (3) below Article 246.

* * * * *

2. The compensatory allowance during additional war leave sanctioned in Finance Department substituted letter No. F. 44(II) W/44, dated the 23rd August, 1944 as subsequently modified, should be regulated in the manner indicated below :—

* * * * *

(*b*) *Officers subject to Civil Service Regulations.*—
Under Article 267(2) and 268 Civil Service Regulations compensatory allowance will be granted during additional war leave only when it is treated as Privilege leave.

* * * * *

[G.I.F.D. letter No. F. 7(3)-Est. IV/47, dated 28-3-1947].

268. Provided that the conditions laid down in Article 267 are fulfilled :—

(*a*) **The house rent attached to his appointment may be drawn by an officer on Privilege leave if he places his house at the disposal of the officer, if any, who officiates for him. The officiating officer cannot in such cases draw the house rent attached to the appointment. But if the officiating officer for a reason which the Local Government considers sufficient refuses the accomodation placed at his disposal, the allowance is to be drawn by him and not by the absentee.**

Exception,—This rule does not apply to the Calcutta, Bombay and Rangoon House Rent Schemes, which are governed by special rules.

(*b*) **A local allowance given on account of the expensiveness of the locality or duty may be drawn by an officer on Privilege leave if the officer continues to incur the expenditure to meet which the allowance was sanctioned. The fact that the expenditure continues during privilege leave should be certified in writing by the officer himself if he is a gazetted officer, by the head of the office in the case of a non-gazetted officer and by the immediate superior in the case of a non-gazetted officer who is himself the head of an office.**

(*c*) **Any other local allowance may be drawn by an officer on Privilege leave under rules framed by the local Government.**

Note. 1—The local allowances known as Burma, Assam and Baluchistan allowances and the local allowances drawn by certain Executive and Assistaat Engineers in Sind, the Punjab and the North-West Frontier Province, may continue to be drawn by officers on Privilege leave, provided that the grant of leave does not necessitate the transfer within the limits of the province of an officer from outside the province. For the Purposes of this rule the Punjab and the North-West Frontier Provnice whose Irrigation Departments are manned from a single cadre may be regarded as one Province.

Note. 2—Provincial Forest officers and Executive officers serving in the Andamans who are recruited from Burma draw their local allowances while on Privilege leave.

Government of India's decision :—See Government of India's decision below Article 267.

269—270. *Cancelled.*

SECTION III.—GRANT OF PRIVILEGE LEAVE TO OFFICERS ENTITLED TO REGULAR VACATIONS.

271. Privilege leave is not admissible to officers serving in departments in which regular vacations are allowed, during which the officers are permitted to be absent from duty, as Judicial Officers, (other than District and Sessions Judges), Educational Officers, Officers in a High Court. But in case of urgent necessity and subject to the exigencies of the public service, Privilege leave may be granted to any such officer under the ordinary rules provided that the officer shall during his absence receive only half the salary and allowances ordinarily admissible during Privilege leave.

Note—The rule in this Article does not apply to the Judicial Commissioners and Additional Judicial Commissioners of Oudh, Sind and the Central Provinces in cases where the conditions of Note 1 to Article 277 are satisfied.

272. The preceding Article does not apply to an officer who is by the general or special orders issued by competent authority prevented in any year from availing himself of the vacation or vacations by reason of his having to remain at his post on duty. To such an officer Privilege leave may be granted under the ordinary rules.

Note —In the case of every officer to whom Article 271 and 272 apply, the presumption is that he will avail himself of the vacation. No certificate of title to Privilege leave, except the leave "in the case of urgent necessity" under Article 271, can be given for the period of service rendered between two vacation, until the second vacation expires. If, however, the conditions required by this Article or by Article 273 to render an officer eligible for Privilege leave under the ordinary rules are subsequently fulfilled in respect of the second vacation, any Privilege leave which may have been granted on half salary under Article 271, in consequence of the presumption that the officer would avail himself of the vacation, may be commuted into Privilege leave on full salary. Privilege leave on full salary may be combined with Privilege leave on half salary, to the extent due, granted under Article 271.

273. An Officer whose work requires him to be present at his station for a portion of the vacation is eligible for Privilege leave under the ordinary rules : provided he has not been absent from his station except on duty for more than fifteen days of the vacation. If he has been absent for more than fifteen days except on duty, his title to Privilege leave is regulated by Article 271 and 274. Any such officer applying for Privilege leave must attach to his application a certificate either—

(*i*) **that he was not absent from his station for more than fifteen days, or**

(*ii*) **that he was absent from his station for a specified number of days exceeding fifteen,**

in any of the vacations included in the period of service by which the Privilege leave claimed has been earned.

274. An officer who is, by general or special orders issued by competent authority, prevented from availing himself of a part only of a periodical vacation, may, during Privilege leave subsequently taken, draw his full salary for a period bearing the same proportion if the vacation be annual, to a month, or if it be half yearly, to half a month, as the time spent on duty during the vacation bears to the whole vacation.

275. An officer transferred from a non-vacation to a vacation department can take the Privilege leave which was at his credit at the time of such transfer : provided that the allowances during such Privilege leave shall not exceed the allowances which would have been admissible if he had taken the leave immediately before being transferred.

276. (*a*) **An officer transferred from a vacation to a non-vacation department counts service for Privilege leave under the ordinary rules**

from the date on which the last vacation in the former department ended.

(*b*) If, however, he had at his credit at the time of his transfer any Privilege leave on full salary admissible to him under Articles 272 to 275, the amount of such Privilege leave shall he added to the privilege leave calculated under clause (*a*) above.

276A. The reckoning under Articles 275 and 276 shall not in any case extend backwards over an interruption of duty.

277. The foregoing rules do not apply to District and Sessions Judges; to them Privilege leave is granted under the ordinary rules.

Note 1.—The rule in this Article has been extended to the Judicial Commissioners, and Additional Judicial Commissioners of Oudh, Sind and the Central Provinces for such time as the Court of the Judicial Commissioners in each case consists of not less than three Judges and provided the Court's annual vacation does not exceed one month.

Note 2.—The provisions of this Article also apply to Sessions and Subordinate Judges in the United Provinces and to Assistant Judges with full powers and Joint and Additional Sessions Judges in the Bombay Presidency.

278. Officers, whose Privilege leave is regulated by the rules in Articles, 271, 272, 273, 274, 275 and 277, may combine vacation with Privilege or other leave whether taken by itself or combined under Article 232 (1) either at the beginning or end thereof Provided that :—

(1) No additional expense is incurred by the State for the period of the vacation ;

(2) Vacation is not both prefixed and suffixed to leave ; and

(3) When vacation is taken in conjunction with Privilege leave whether taken by itself or in combination with other leave, the total period of Privilege leave and vacation should not together exceed four months.

1. proviso (3) is not applicable to officers coming under Article 277, when vacation is combined with Privilege leave taken by itself.

SECTION IV—EXAMNATION LEAVE.

279. In cases not specially provided for in this Section, permission to appear at an optional examination prescribed by Government in any of the Oriental languages carries with it the grant of joining time (excluding the time allowed for preparation) to and from the place of examination, besides leave for the day or days of examination.

Government of India's decision :—The Article applies to all optional language examinations not specially provided for in this section.

[G. I. F. D. No- 4271 P, dated 15-8-1910]

280 (*a*) A candidate for the High Proficiency and Degree of Honour examinations in all vernacular languages may at the discretion of the Local Government, be granted study leave up to three months before the examination.

(*b*) A candidate for reward by Higher Standard or High Proficiency in Sanskrit, Arabic or Persian may be allowed leave for a period not exceeding three months if he undertakes to spend it in study under professional tuition at any place approved by the Local Government.

(*c*) An officer who is a candidate for the Degree Honour in Sanskrit, Arabic or Persian may be allowed either leave for a period not exceeding three months under clause (*b*). or if he leaves India for study, leave for six months to Persia for Persian, or for six months to Arabia, Mesopotamia, Egypt and Syria for Arabic, or six months to any place approved by the Local Government for Sanskrit. Officers of the Political Department of the Government of India may be granted this leave even they are candidates only for the Higher Standard or High Proficiency test in Arabic or Persian.

Note—Leave under clause (*a*). (*b*) or (*c*) is not admissible more than once nor can such leave be combined.

(*d*) Leave under this Article may be combined with Privilege leave, provided that Privilege leave prefixed to leave under clause (*c*) must be spent in or in travelling to, one of the countries mentioned in the clause.

(*e*) An officer on leave under this Article has a lien on his appointment, substantive or officiating, and is entitled to leave allowances, as if he were on Privilege leave, for an aggregate maximum period of twelve months.

Note - An officer serving in a department in which regular vacations are allowed is entitled, during examination leave, to a leave allowance equal to the salary which he would receive if he were on duty in the appointment on which he has a lien,

281 to 283. *Not Printed.*

Departmental Examinations.

284. (*a*) An officer while absent from his office or from his station to attend an obligatory Departmental examination or (in the Punjab) an examination in Pushtu or Baluchi, is considered to be on duty.

(*b*) Leave may not be given under this Article to an officer to prepare for examination, or for recreation after examination. A reasonable time, including the day or days of examination, should be allowed for the journey to and from the place of examination, and nothing more.

285. An officer permitted to present himself at any examination which must be passed before a person is eligible for a higher subordinate appointment in any branch of the service such as a Deputy Magistracy, may, under the orders of his immediate departmental superior, be allowed leave of absence for the number of days actually necessary to enable him to attend at the examination. During this short absence, no deduction will be made from the officer's allowances, unless the head of the office finds such deduction necessary to enable him to make arrangements for carrying on the work Such leave should not be allowed more than twice for each standard of examination.

286. *Cancelled.*

SECTION V--HOSPITAL LEAVE

287. 288, 288A, 288B.—*Not Printed.*

Marine and Military Establishment.

289. An officer, Warrant or Petty officer, of the Indian Government seagoing, inland, or harbour vessels and hulks, is in case of sickness or injury, ordinarily treated on board his vessel, and is entitled to full pay for a period not exceeding six weeks. If sent to a hospital, such an officer is, unless the disease or injury is certified by a responsible Medical Officer to have been caused by an offence such as malingering, wilful maiming, wilful aggravating of disease or injury, drunkenness, etc,, committed by him, entitled to full pay for a period of six weeks inclusive of any time passed on board his ship sick-quarters. Time thus spent in ship sick-quarters or in hospital on shore, up to a period of six weeks, is not an tnterruption of duty within the meaning of Article 246. An officer of the Marine Department who holds a shore appointment is not entitled to this concession.

Note—The provisions of this Article apply to the crew of the Indo-European Telegraph Department Steamer.

290. A seaman disabled while in the discharge of duty may be allowed pay at harbour rates for a period not exceeding three months, provided that the injuries from which he is disabled are certified to by a Government Medical Officer, and are not owing to the seaman's own carelessness or inexperience, and that the vacancy caused by his absence is not filled up.

291. An Engineer of the Marine Department, an employee in a Government Press, a subordinate employee (including a temporary or extra employee) in an Ordinance or Government Dockyard establishment, a syce, whether permanent or temporary, in charge of a Government stallion, or a public servant in a Commissariat establishment may, during absence from work on account of injuries received in the course of his duty, be allowed full pay for one month, and thereafter half pay for three months : Provided that in the case of a person to whom the Workmen's Compensation Act, 1923, applies, the grant of leave under this Article shall be subject to the condition that the leave allowance payable shall be reduced by the amount of any compensation payable under Section 4 (1) D of the said Act.

292. *Cancelled.*

293. *Not printed.*

294. *Not printed.*

SECTION VI—DEPARTMENTAL LEAVE.

295. Departmental leave may be granted during the Recess by the Head of the party of office to which he belongs to—

(*i*) a Native survey or other subordinate in the Survey of India, or in the Traverse Survey Party of the Central Provinces, whose service is superior,—on half pay or less (payable on return to duty), or without pay;

(*ii*) such of the Tindals, Mates, Khalasis Jamadars, Chaprasis, Burkandazes attached to any party or Office of the Survey of India or to the Traverse Survey Party in the Central Provinces, as the Head of the Party or Office may deem it desirable to re-entertain for the ensuing season,—on allowances not exceeding half pay (payable on return to duty).

Provided always that the officer returns to duty when required by his superior officers.

1. Superintendents in charge of survey Circles and the Superintendent of the Trigonometrical Survey may at their discretion and in the interest of Government grant departmental leave, not exceeding six months at a time, to officers mentioned in clauses (*i*) and (*ii*) at times other than the Recess: and the Surveyor General may in Special cases extend any departmental leave granted under this Article or under this rule to a period not exceeding one year in all. Particular care should, however, be taken that the grant of departmental leave in such cases does not override the provisions of Chapter XIV of these Regulations and in all cases where an extension of the departmental leave is asked for on a medical certificate the entire absence should be converted into leave under that Chapter.

2. This Article does not apply to the establishments attached to the Head Quarters Offices, Calcutta and Dehra Dun.

3. The establishment of the Bengal and Bihar and Orissa Survey Departments employed purely on field work may be granted leave under this Article on the same condition as similar officers of the Survey of India.

296. Privilege leave may not be granted to an officer who is entitled to departmental leave under the preceding Article, but a lower Subordinate in the Survey of India, or in the Traveres Survey Party of the Central Provinces, a menial in the Bengal and Bihar and Orissa Survey Departments employed purely on field work, who is prevented from availing himself of departmental leave, may be allowed to take Privilege leave under the ordinary rules, service towards such leave counting from the date of return from departmental leave. Privilege leave will not be granted except upon a certificate from the Head of the party or Office to which the officer is attached, that he was prevented from availing himself of departmental leave in consequence of the exigencies of the service.

CHAPTER XII-A—LONG LEAVE—GENERAL RULES.

SECTION I.—EXTENT OF APPLICATION.

297. The rules in this chapter apply to all officers subject to the rules in Chapters XIII and XIV.

298. *Omitted.*

299. (*a*) An officer absent on long leave in Europe, North Africa, America or the West Indies, who wishes to have his leave extended or commuted must apply to the Secretary of State about three months before the expiration of his leave, and unless the extension is desired on medical grounds, or is for a period of not more than 15 days, he must produce with his application evidence that the Local Government has been referred to by him and has no objection to the extension or commutation desired.

If on medical grounds the officer desires an extension for more than 14 days, he must satisfy the Medical Board at the India office of the necessity for the extension. If application for extension be delayed until the last two months of leave, advice of any extension granted for a period of more than seven days will be sent to India by telegraph and the cost of the telegram will ordinarily be charged to the officer.

If the officer has been granted furlough on medical certificate and desires an extension on grounds other than medical, he must satisfy the Medical Board as prescribod in Article 224 that he has recovered his health. Any such extension without medical certificate will be admissible if the extension was due at the time the original furlough was granted.

1. In the case of a Commissioned Medical Officer the local Government should make a reference to the Director-General, Indian Medical Service, before granting the permission.

(*b*) The Secretary of State reserves to himself the power of granting extension or commutation of leave to an officer in any case in which it appears to him that sufficient ground has been shown for the application being made without the previous approval of the Local Government, but in the event of it being found necessary by the Secretary of State to telegraph to India in regard to any such application, the cost of the telegrams to and from India will be charged to the applicant.

Note—The Secretary of State in granting extension of leave sometimes declines to guarantee retention of appointment if there is no time to communicate, with the Local Government of India.

(*c*) The authority in India by which the leave was originally granted, is empowered in any case in which it is satisfied that the non-return of an officer within the period of his leave was due to circumstances beyond his control and of such a nature that an application to the Secretary of State for an extension was impossible before embarkation, or that non-return was for administrative convenience, to sanction retrospectively extension of furlough or leave up to a maximum period of 14 days. It is also empowered in the case of an officer returning from furlough on medical certificate to sanction an extension, if the circumstances seem to require it, up to a maximum of 14 days inclusive of any short extension that may have been granted by the Secretary of State.

Note 1.—Extensions of furlough up to a maximum of 14 days granted under this clause are not limited by the provisions of Article 223, and may be granted whether the furlough be due or not and in excess of the six months admissible under Article 362.

Note 2.—This article applies to Military Officers subject to the Military Leave Rules.

300. An officer on long leave in any place out of India not mentioned in Article 299 (*a*) who wishes to have his leave extended or commuted must apply three months before the expiry of the leave to the authority in India which granted it. Whenever leave is extended or commuted under this Article, the fact should forthwith be notified by the Audit Officer to the Government of India in the Finance Department in order

to its being communicated to the Secretary of State with a view to the payment by Colonial Treasurers of Staff Officers being checked.

Note—This Article applies to Military Officers subject to the Military Leave Rules.

SECTION III.—FURLOUGH.

301. Subject to the provisions of Article 233, furlough for not more than two years at a time may be granted to an officer as follows :—

(*a*) **On medical certificate—unconditionally : see Articles 828 to 834.**

(*b*) **Without medical certificate subject to the condition that the furlough is 'due'.**

302. In respect of urgent private affairs, an officer may be granted furlough for a period exceeding the amount 'due' to him, provided that furlough which is not 'due' shall not be granted for a period exceeding 6 months at one time or 12 months in his whole service. An officer who has enjoyed furlough under this Article may not again be granted a furlough on the same condition until the furlough earned by him after his return to duty exceeds so much of the furlough granted under this Article as was not 'due'

Government of India's decision : –"Leave not due" may be granted to permanent and *quasi*-permanent Governmennt servant suffering from tuberculosis and leprosy subject to the condition, that the authority competent to sanction leave is satisfied that there is reasonable prospect of the Government servant (*i*) returning to duty on the expiry of the leave, and (*ii*) earning there after leave not less than the amount of 'leave not due' availed by him. The prospect of returning to duty on the expiry of the leave should be assessed on the basis of the certificate given by the appropriate medical authority. The prospect of earning at least an equivalent amount of 'leave not due' should be assessed with reference to the fact whether in the normal course the Government servant would have enough service after his return to duty within which he would be able to wipe off the debit balance. For example, if an officer returns to duty, and in the normal course, has to serve for only three years before reaching the age of superannuation, the 'leave not due' should not exceed the half pay leave he can earn during this period.

The appropriate Medicle authority in the case of tuberculosis will be :—

(*i*) The Government servant's authorised medical attendant.

(*ii*) The Medical officer-in-charge of a recognised sanatorium in the case of a Government servant undergoing treatment in a recognised sanatorium ;

(*iii*) A Tuberculosis specialist recognised as such by the State Administrative Medical officer concerned in the case of a Government servant receiving treatment at his residence.

(*iv*) A qualified Tuberculosis specialist or a Civil Surgeon in the case of Government servant suffering from Tuberculosis other than pulmonary tuberculosis.

The appropriate medical authority in the case of leprosy will be :—

(*a*) The Government servant's authorised medical attendant or Civil Surgeon ; or

(*b*) The Medical Officer incharge of a recognised leprosy institution where the patient is undergoing treatment ; or

(*c*) A specialist in leprosy recognised as such by the State Administrative Medical Officer concerned.

[Army Instruction No. 264 dated 3-10-1953 as modified by Army Instruction No. 97 of 1954.]

303. If in the interests of the public service all applications for furlough cannot be complied with, the Local Government will have full discretion in deciding which should be granted, and in so doing it may

take into consideratoin the following circumstance :—

(1) The officers who can for the time being best be spared.

(2) The furlough due to the various competing applicants.

(3) The amount and character of the previous continuous active service that they have rendered.

(4) The fact that an officer was compulsorily recalled from the leave last enjoyed by him.

(5) The fact that an officer has been refused leave in the public interests.

304. (*a*) On medical certificate furlough may be extended to a total period not exceeding three years.

(*b*) Otherwise than on medical certificate furlough may be extended to a total period not exceeding two years, provided that :—

(*i*) when furlough is combined with other leave the total period of leave granted shall not exceed two years, and

(*ii*) the furlough granted under Article 332, which is 'not due' shall not exceed six months

305. Notwithstanding anything in Articles 301, 302, 303 and 304, furlough which is not "due", whether on medical certificate or otherwise shall not be granted to an officer on furlough preparatory to retirement. In cases where an officer who has been granted under the foregoing articles, furlough which is not due, applies for permission to retire voluntarily, the furlough which is not due shall, if permission be granted be cancelled, and his retirement shall have effect from the date on which such furlough commenced.

SECTION IV – EXTRAORDINARY AND CASUAL LEAVE

306. (*a*) Subject always to the provisions of any Statute applicable to the case, the authority competent to grant leave may, in special circumstances and when no other kind of leave is by rule admissible, grant leave of absence from duty otherwise than under these Regulations : provided that

(*i*) an officer absent from duty on leave so granted shall receive no absentee allowance : and

(*ii*) if he is a member of the Indian Civil service or a military officer subject to the Civil Leave Rules, he shall retain no lien upon any office except when extraordinary leave does not exceed a fortnight.

(*b*) No officer is entitled to extraordinary leave, but subject to the provisions of Article 198, there is no limit to the length or frequency of leave under this Article.

1. The Local Government may for special reasons dispense with the ordinary condition that extraordinary leave can be granted only when no other kind of leave is by rule admissible.

307. A Military Officer subject to the Civil Leave Rules, who has exhausted the full period of furlough admissible to him under these Regulations and who is granted extraordinary leave on medical certificate, will continue to be treated as wholly in the Civil employ for all purposes, with the exception that, if the Medical Board at the India Office report that there is no prospect of the officer returning to duty within a reasonable period he will be placed on Military half pay. If an officer thus placed on half pay is afterwards permitted to revert to the effective list and returns to duty in India, he will not be entitled to be reinstated in Civil employment, but will be posted to Civil or Military duty as may be decided in India.

308. Article 306 and 807 do not refer to casual leave for short periods. Such leave is not recognised and is not subject to any rule. Technically, therefore, an officer on casual leave is not treated as absent from duty, and his salary is not intermitted. Casual leave, however,

must not be given so as to cause evasion of the rules regarding—

(*i*)	Date of reckoning allowances	*see* Articles 52—55
(*ii*)	Charge of office	
(*iii*)	Commencement and end of leave.	*see* Articles 220—231
(*iv*)	Return to duty	

or so as to extend the term of Privilege or other leave beyond the time admissible by rule.

Government of India's decisions. (1) A suggestion has been made that since the quantum of casual leave has been reduced from twenty days to fifteen (*twelve* from 1st January 1960) days in a year, the periods spent in camp by civil Government servants permitted to join the Territorial Army should not be set off against the ordinary casual leave of the employees concerned but should, in all cases, be treated as *special* casual leave. After careful consideration, the Government of India have decided to accept this suggestion.

The Government of India have also decided that the periods spent by Civil Government servants who have joined the Territorial Army in attending a course of instruction, which will vary according to the nature of the course but will not exceed three months in duration in any one case, should also be treated as duty in the same way as Government servants would be treated when embodied for supporting or supplementing the regular force.

* * * * * *

In connection with the sending of personnel to attend courses of instruction, the following points should be noted :—

(*i*) It would be purely voluntary on the part of the individual concerned whether to attend a course or not ; and

(*ii*) the prior permission of the head of his office would be necessary before an individual gives his assent to proceed on a course, and it would be quite open to the head of the office concerned to refuse such permission if he considers this necessary in the exigencies of service.

Ordinarily, however, such a permission should be granted.

[G. I. M. H. Memo No. 25/12/51—Ests., dated the 1st August 1951.]

(2) The Government of India have had under consideration for sometime the general question whether special casual leave granted to Central Government servants on the following occasions can be combined with regular leave and/or ordinary casual leave :—

(*i*) Attending departmental examinations *viz.* Assistants/Asst. Superintendents/Stenographers etc. examinations or the Hindi Examinations conducted under the Hindi Teaching Scheme of the Ministry of Home Affairs and.

(*ii*) to office bearer of Service Associations for attending Annual General Meetings etc.

It has been decided that in view of the fact that special casual leave is not a recognised form of leave nor is a Government servant on special casual leave treated as absent from duty, it is not permissible to combine special casual leave with regular leave. Special casual leave may, however, be combined with *ordinary* casual leave in such cases.

Past cases which have already been decided will not be re-opened.

In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued with the concurrence of the Comptroller and Auditor General of India.

[G.I.M.H. Affairs Memo : No. 46/1/58-Ests. (A) (II). dated the 17th December, 1958].

(3) It was clarified in decision No. (2) above that it is not permissible to combine special casual leave with regular leave. A question has now been raised whether a departure from the above policy could be made in the case of special casual leave granted to Central Government servants for joining the Territorial Army *vide* Home Ministry's Office Memorandum No. 25/19/49-Ests. dated the 7th July, 1950. In view of the fact that :—

(*i*) Special casual leave for the purpose of joining the Territorial Army has been granted as a special case taking into account the

importance of the Territorial Army for the adequate defence of the country.

(*ii*) The period of absence is expected to be of long duration ; and

(*iii*) There is likelihood of Government servants being compelled due to reasons beyond their control to exceed the maximum limit upto which special casual leave can be granted under these orders.

It has been decided, *as a very special case*, that the Government servants concerned may be permitted to combine special casual leave with regular leave. Such special casual leave should not, however, be granted in combination with ordinary leave.

Past cases which have already been decided will not be re-opened.

In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued with the concurrence of the Comptroller and Auditor General of India.

[G I.M.H. Affairs Memo : No : 46/1/58-Ests. (A) (I), dated the 17th December, 1958.]

Auditor General's decision :—It has been decided by the Auditor General with the concurrence of the Government of India, that the practice of granting casual leave on half pay or without pay is not covered by paragraph V (2) of the Administrative Instructions [corresponds to Article 308 C. S. R.] under that paragraph, as it stands, full pay can be allowed to Government servants on casual leave. If, in any case, less than full pay is allowed, it would amount to an imposition of a penalty not provided for in rule 3 (*now* rule 13 in appendix 15 to Vol. II) of the rules issued with the Government of India, Home Department, Notification No. F. 3-19-30, dated the 27th February 1932.

[Auditor General's letter No. T. 797 A./108-34, dated Ist August 1934.]

SECTION V.—QUARANTINE LEAVE.

309. Quarantine leave is leave of absence from duty necessitated by orders not to attend office in consequence of the presence of infectious diseases in the family or household of a Government servant or detention in plague camps on the way to rejoin duty. Such leave may be granted by the head of the office on the certificate of a Medical or Public Health Officer for a period not exceeding 21 days, 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 may also be granted when necessary in continuation of other leave, subject to the above maximum. Except in the cases mentioned in the Note I below, no substitute should be appointed in place of a Government servant absent on quarantine leave. A Government servant on quarantine leave is not treated as absent from duty and pay is not intermitted.

Explanation :- **In this Article the term "Medical or Public Health Officer" includes a Medical Officer in charge of any Government (Civil or Military) or a Municipal Hospital or dispensary and where there is no such hospital or dispensary at the place where a Government Officer is stationed. It also includes the Medical Officer in charge of a Government or Municipal hospital or dispensary situated at a place nearest to such station.**

Note 1.—The Ministries of the Government of India may sanction a substitute for an absentee on quarantine leave who duties cannot be arranged for without prejudice to his pay, provided that the absence does not exceed 30 days and the pay of the absentee is not more than Rs 100 a month. Such power may also be exercised by all heads of departments in respect of Government servants under their control who are not appointed directly by the Government of India

Note 2.—Cholera, small-pox, plague, diptheria, typhus fever, and cerebro-spinal meningities may be considered as infectious diseases for the purposes of this Article. In the case of chicken-pox, quarantine leave should not be sanctioned unless the Health Officer responsible 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. In the case of Government servants stationed in areas under the administration of Provincial Governments such other diseases as may have been declared by those Governments as infectious for the purpose of their quarantine leave rules may also be considered as infectious diseases for the purpose of this Article. Such Government servants will, however, be eligible for

quarantine leave for any of the diseases mentioned above even though it has not been declared in the orders issued by the Provincial Government concerned to be an infectious disease.

Note 3.—The term 'house-hold' used in this Article includes all individuals residing in the same house, irrespective or whether or not he belong to the same family.

Government of India's Orders. (1) Quarantine leave is leave of absence from duty necessitated by orders not to attend office, in consequence of the presence of infectious diseases in the family or household of a Government servant. Such leave may be granted by the head of the office on the certificate of a Medical or Public Health Officer for a period not exceeding 21 days, 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 may also be granted when necessary in continuation of other leave subject to the above maximum. Except in the cases mentioned in the notes below, no substitute should be appointed in place of a Government servant absent on quaratine leave. A Government servant on quarantine leave is not treated as absent from duty and his pay is not intermitted.

Note 1.—The term "Medical or Public Health Officer" occurring in this rule includes Medical Officer-in-charge of any Government (Civil or Military) or Municipal hospital or dispensary, and in the case of a Government servant at whose place of duty or residence or sojourn there is no Government or Municipal hospital or dispensary, includes the Medical Officer-in charge of a Government or municipal hospital or dispensary situated nearest to his place of duty or residence or sojourn as the case may be.

[G. I. M. F. Order No : F. 7 (137)-E. IV (A)/61, dated the 9th January, 1962].

(2) A question was raised whether quarantine leave can be granted in cases, if it is applied for, from a place other than the Head-quarter of a Government servant where he had gone with the permission of the competent authority. It has been decided by the Ministry of Finance, in consultation with the Ministry of Health, that there is every justification to treat the official's period of stay at the other place, as recommended by the competent medical authority, as quarantine leave. Such leave can therefore he granted and may also be combined with any other leave but the exact period of quarantine leave will be restricted to the period recommended by the competent medical authority up to a maximum of 21/30 days, whichever is shorter.

[G.I.M.F. U.O. No. 3014-EIV/A/61, dated the 22nd July, 1961].

Government of India's decision. In offices having only one sweeper, part time arrangement may be made when the sweeper is absent on quarantine leave and the part time employee may be paid out of contingencies.

[G. I. M. F. Memo No. F. 5 (30) E. M/51, dated 22nd June, 1951.]

CHAPTER XIII.—LONG LEAVE—EUROPEAN SERVICES.

SECTION I.—EXTENT OF APPLICATION.

310. (1) All officers who are not hereinafter declared to be subject to the rules in this Chapter shall be subject to the Indian Service Leave Rules.

(2) The following officers shall be subject to the rules in this Chapter, namely :

(*a*) Any officer having at the time of his appointment his domicile elsewhere than in Asia :—

Provided that no such officer shall be entitled to the benefits of these rules who, prior to such appointment, has for the purpose of his appointment to any office under the Government or of the confirment upon him by the Government for an scholarship, emoluments, or other privilege, claimed and been deemed to be of Indian domicile.

(*b*) Any officer having at the time of his appointment his domicile in Asia who was admitted to the benefits of these rules prior to the 24th July 1923.

(*c*) Any officer having at the time of his appointment his domicile in Asia, who prior to the 24th July, 1923, held substantively an appointment in any of the Departments enumerated below provided that such an officer shall be admitted to the benefits of the rules in this

Chapter only when he attains the rank or rate of pay shown against the particular entry relating to him :—

JUDICIAL DEPARTMENT—(*i*) Judges (other than Chief Judges) and Registrars of Presidency Small Cause Courts, Presidency-Magistrate, Legal Remembrancer and Secretary to the Legislative Council, Punjab, when these appointments are held by Barristers.

(*ii*) Registrar, Original Side, Calcutta High Court, Master and Registrar in Equitry Origial Side, Bombay High Court ; Prothonotary, Testamentary, and Admiralty Registrar, Original Side, Bombay High Court ; Deputy Registrar Original Side, Madras High Court, when these appointments are held by Barristers or Solicitors.

POLICE DEPARTMENT.—Assistant Superintendents and officers of higher rank.

JAIL DEPARTMENT.—Inspectors-General and Superintendents of Central and Presidency Jails.

EDUCATION DEPARTMENT.—Principles of the following institutions : —Lawrence Military Asylum, Sanawar ; Mayo College, Ajmer ; Residency College, Indore : Government College, Ajmer ; Rajkumar College, Rajkot.

BERAR COMMISSION.—Assistant Commissioners and officers of higher rank appointed by the Secretary of State, or with his particular sanction.

PORT BLAIR COMMISSION.—Assistant Superintendents and officers of higher rank.

ACCOUNT DEPARTMENT.—Civil.

(*a*) Officers of the Indian Audit and Accounts Service, including members both of the late Enrolled List and of the late Superior Accounts Branch of the Public Works Department :—

(*i*) if appointed in England by the Secretary of State ;

(*ii*) if appointed otherwise, but drawing pay not less than Rs. 800 a month.

(*b*) Officers of the late Postal Accounts Department drawing pay not less than Rs. 800 a month.

MILITARY ACCOUNTS DEPARTMENT.—Officers appointed in England by the Secretary of State.

POSTAL DEPARTMENT.—Officers of higher rank than Superintendent.

OPIUM DEPARTMENT.—Sub Deputy Opium Agent and Officers of higher rank.

SALT DEPARTMENT.—Assistant Commissioners and Assistant Collectors and officers of higher rank.

MINOR SCIENTIFIC DEPARTMENT.—Civil Officers of the Civil Veterinary Department and all others originally appointed to the public service by the Secretary of State or with his special sanction.

ARCHAEOLOGICAL DEPARTMENT.—Director General, Epigraphist, and Superintendents of circles.

IMPERIAL CUSTOM DEPARTMENT—

(*i*) Officers appointed in England by the Secretary of State.

(*ii*) Other officers on pay of not less than Rs. 900 a month.

PUBLIC WORKS AND RAILWAY DEPARTMENTS—

General.—Officers of the Engineer Establishment and the Superior Revenue Establishment of State Railways, appointed thereto by the Secretary of State or with his particular sanction.

Engineer Establishment.—Engineers officers of whatever rank in the Department, who belong to the Imperial Branch of the establishment, except those who were appointed in India as Natives of India.

Special Engineers (ungraded) who were taken over from the service of Guaranteed Railway Companies when the lines were transferred from the Companies to the Government, from the time they reach a substantive pay of Rs. 850 or over.

Superior Revenue Establishment of State Railways.—Officers whose pay is not less than Rs. 800 a month.

Government of India Public Works Department Secretariat.—Under Secretary not being a member of a graded establishment.

INDIAN TELEGRAPH DEPARTMENT.—The Imperial Branch of the Department.

INDO-EUROPEAN TELEGRAPH DEPARTMENT.—Officers of the graded establishment of Directors ; Electricians ; Superintendents and Assistant Superintendents.

Medical Officers, if appointed by the Secretary of State.

The Commander. First and Second Officers and Chief Engineer of the Cable Ship.

MARINE DEPARTMENT.—Constructors Bombay and Kidderpore Dackyards.

MEDICAL DEPARTMENT.—Matron, Assistant Matron and the Nursing Sisters of the General Hospital, Rangoon, when recruited in England.

PRINTING DEPARTMENT.—Superintendents of Government Printing, India. Madras Bombay, Bengal, United Provinces and Burma on pay not less than Rs. 800 a month.

OTHER OFFICERS.—The first Engineer and ship-wright Survey to the Government of Bengal; the Agent for Government Consignments, Calcutta ; and the

Superintendent of the Government Museum and Principal Librarian of the Connemara Public Library, Madras.

Note.—The concession allowed by sub-clause (*c*) above is not admissible to an Officer who attains such rank or rate of pay by reason of being promoted by selection from a subordinate service or post after the 24th July 1923.

310A. (*a*) **For the purpose of clause (2) of Article 310, the domicile of a person shall be determined in accordance with the provisions set out in the Schedule below.**

Provided that a person who was born and has been educated exclusively in Asia and has not resided out of Asia for a total period exceeding six months shall be deemed to have his domicile in Asia, unless in the case of a person to whom the proviso in Subrule (2) (*a*) of Article 310 does not apply, it is proved to the satisfaction of the appointing authority that he did not have his domicile in Asia on that date.

(*b*) **No officer who, after his appointment to a service or post, acquires a new domicile shall thereby lose his right to, or become entitled to admission to, the benefits of these rules.**

(*c*) **If any question arises as to the domicile of any officer at time of his appointment, the decision thereon of the Secretary of State in Council in the case of persons appointed by him, of the Governor-General in Council in the case of persons appointed by him, or of the Local Government in the case of persons appointed by them, shall be final.**

THE SCHEDULE

Provision for the Determination of Domicile.

1. A person can only have one domicile.

2. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled, or if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

3. The domicile of origin of an illegitimate child is in the country in which at the time of his birth his mother was domiciled.

4. The domicile of origin prevails until a new domicile has been acquired, and a new domicile continues until the former domicile has been resumed or another has been acquired.

5. (1) A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

(2) Any person may, if the law of any country so provides, and subject to any such provisions, acquire a domicile in that country by making in accordance with the said provisions a declaration, of his desire to acquire such domicile.

Explanation 1.—A person is not to be considered as having taken up his fixed habitation in a country merely by reason of his residing there in His Majesty's civil or military service or in the exercise or any profession or calling.

Explanation 2.—A person does not acquire a new domicile in any country merely by reason of residing as part or the family or as a servant of any embassador consul or other representative of the Government of another country.

6. The domicile of a minor follows the domicile of the parent from whom he derives his domicile of origin.

Provided that the domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the service of His Majesty or has set up with the consent of the parent in any distinct business.

7. After marriage a woman acquires the domicile of her husband if she had not the same domicile before, and her domicile during the marriage follows the domicile of her husband.

Provided that if the husband and wife are separated by the order of a competent court or if the husband is undergoing a sentence of transporation, the wife becomes capable of acquiring an independent domicile.

8. Save as otherwise provided above, a person cannot during minority acquire a new domicile.

9. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

311. An officer to whom the rules in this Chapter are applicable under sub-clauses (*b*) and (*c*) of Article 310(2) does not forfeit his privilege upon transfer to an office which does not entitle him to the benefits of those rules.

SECTION II.—FURLOUGH.

312. The total amount ef furlough admissible (*a*) to a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules is six years and six months, and (*b*) to any other officer to whom these rules apply (See Article 310) is six years. All the rules in this part of the Regulations are subject to this limitation.

Note.—The following leave under rules is counted as furlough under this Article :—

(1) Furlough and Special leave with allowances taken under the rules in force prior to 29th July, 1920.

(2) In the case of Military Officer subject to the Civil Leave Rules, leave in and out of India with pay under the Leave Rules for the Indian Army, 1886.

(3) In the case of an officer who becomes entitld to the rules contained in this Chapter after being subject to the Indian Service Leave Rules—all leave counting towards the maximum in Article 322

313. The amouut of furlough 'earned' by an officer subject to the rules in this Chapter is one-fourth of the active service rendered by him while subject to such rules.

314. An officer, who becomes entitled to the rules in this Chapter after being subject to other Leave Rules, may add to furlough earned under Article 313 an amount of furlough in respect of his previous service calculated as shown below. Any minus result of the calculation may be neglected, while, in the case of an officer other than a Military Officer subject to Civil Rules, the maximum permissible addition is two years.

(*i*) **The service for furlough of a military Officer subject to the Civil Leave Rules who, before coming under the rules in this Chapter, was subject to the Leave Rules for the Indian Army or the British 'Army, shall be calculated in accordance with Article : 313 retrospectively from the date of his arrival in India or from the date of his coming under the Indian Army Leave Rules or the British Army Leave Rules, whichever is later, except that service rendered out of India under the British Army Leave Rules shall not be taken into account for the purpose *i.e.*, he shall be credited with furlough equivalent to one-fourth of his active service, as defined in Article 8 less any period of service rendered outside India under the British Army Leave Rules, reduced by any leave with pay in or out of India actually taken. The provisions of this clause apply to Royal Engineers in Civil employ who, while serving under British Army Leave Rules, either (*a*) have elected for continuous service in India, whether the election was made before or after their entry into Civil employment, or (*b*) have completed five years' Indian service and elect to come under Civil Leave Rules.**

1. An officer of the Royal Engineers who has not elected for continuous service in India remains under British Army Leave Rules till he completes 5 years' Indian Service.

Note—When a Military Officer becomes subject to the Civil Leave Rules the Accounts Officer-in-charge of his record of pension service will, on application and on being furnished with the date of commencement of active service, furnish to the Audit Officer to whose audit he became subject, a memorandum showing the furlough earned: the different kinds of leave taken (distinguishing these which should be deducted from the *maximum* furlough admissible) and the Balance of furlough due under Military Rules.

(*ii*) **An officer who after being subject to the Indian Service Leave Rules, becomes entitled to the rules contained in this Chapter, shall be credited with furlough equivalent to one-sixth of his active service rendered under the former rules less any leave actually taken under such rules which counts as furlough under Article 322.**

Note. 1.—An officer, who comes under the rules in this Chapter while he is on leave under the Indian Service Leave Rules may at his option—

(*a*) change his leave allowances to the amount admissible under the European Service Leave Rules and come under them immediately, or

(*b*) postpone his coming under them until his return from leave.

Note. 2.—If an officer who was at first subject to the Indian Service Leave Rules became prior to the 29th July; 1920 entitled to the European Service Leave Rules, or if an officer elected under Note 1 Article 320 to remain under the old Indian Service Leave Rules and subsequently becomes entitled to the Leave Rules in this Chapter, the amount of furlough due to him in respect of his service under the Indian Service Leave Rules shall be calculated under Article 305 as it stood prior to 29th July, 1920.

315. The amount of furlough 'due' to an officer is the amount he has 'earned' diminished by the furlough and special leave with allowances taken under the rules in force prior to 29th July, 1920 and by the furlough taken under these rules.

Note—In calculating the amount of furlough 'due' to a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules, special leave taken under the rules in force, prior to 29th July, 1920 and furlough which was not 'due' granted under Article 302 may be disregarded subject to a maximum of six months in all.

316. Whether such furlough be 'due' or 'not due' an officer is entitled during the first two years of each separate period of furlough to a leave allowance equal to half his average salary, subject to the following limits :—

(*a*) *Members of Indian Civil Service* : —

(*i*) **In the case of an officer of non-Asiatic domicile if the leave is spent out of Asia, maximum £111 a month and minimum £55½, a month, or the salary last drawn by him on duty, whichever is less. In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India subject to rupee maximum or minimum, as the case may be.**

(*ii*) **In the case of an officer of non-Asiatic or Asiatic domicile if the leave is spent in Asia, maximum of Rs. 1,111, a month and minimum of Rs 555 a month or the salary last drawn by him on duty, whichever is less.**

(*b*) **In the case of a Military Officer subject to the Civil Leave Rules, the same maxima and minima as in the case of a member of the Indian Civil Service : Provided that, during furlough added under Article 314 (*i*) to the furlough earned under Civil Leave Rules, the minimum shall (in the case of an officer who became subject to the Civil Leave Rules on or after Ist April, 1888) be that prescribed by the Military Rules to which an officer was subject immediately before coming under the Civil Leave Rules, and that in the case of an officer of the Royal Engineers, whose case is also governed by Article 314 (*i*), the minimum shall be the rate prescribed by the Leave Rules for the Indian Army according to the length of his service for Indian pension. In the case, however, of an officer of the Royal Engineers, who was serving under British Army Leave Rules immediately before he became subject to the rules in this Chapter, the minimum for so much of the furlough credited under Article 314 (*i*) as has been earned by service in civil employment shall be at the rate of (1) £55½ a month if the leave is spent out of Asia and Rs. 555⅝ a month if the leave is spent in Asia—if he elected for continuous service in India**

before the 1st February, 1918 (2) *£55⅓ a month if the leave is spent out of Asia and Rs. 555⅓ a month if the leave is spent in Asia—or the salary last drawn by him on duty, which ever is less—if he elects to come under the Civil Leave Rules after completing five years' Indian service.

Note—A Military Officer in Civil employ, who is granted furlough on medical certificate in excess of the amount earned by him both under the Civil and Military Rules may be allowed the Civil minimum rate of leave allowance for the period of leave enjoyed in excess of the amount so earned ; but such officer must exhaust all leave that he has so earned before he can be eligible for this concession.

(*c*) *Other officers subject to these rules :—*

(*i*) **In the case of an officer of non-Asiatic domicile if the leave is spent out of Asia. maximum £100 a month ; no minimum, except as provided in Article 319. In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India subject to rupee maximum or minimum, as the case may be.**

(*ii*) **In the case of an officer of non-Asiatic or Asiatic domicile if the leave is spent in Asia, maximum Rs. 1,000 a month ; no minimum, except as provided in Article 319.**

Provided always that the allowance of an officer during leave shall in no case exceed his actual salary when he takes leave.

316A. An officer on furlough may be granted by authority sanctioning the furlough a leave allowance equal to his full average salary, subject to the following conditions :—

(*a*) **Average salary will be granted during furlough for a total period not exceeding I year in an officer's whole service.**

Note—See also Article 348-I (6)

(*b*) **When an officer has taken furlough on average salary, he will be treated as having taken furlough on half average salary for twice the period actually taken on average salary except for purposes of Article 234 (*b*) and 408**

[*Note—See* Article 348—I(6).]

(*c*) **The maximum period of furlough on average salary, in each separate period of leave is 8 months.**

(*d*) **The period during which an officer may draw during furlough average salary in lieu of the allowances ordinarily admissible should be so regulated that at the termination of the period he will still have not less than six months, furlough due to him but this condition, except in the case of furlough taken on medical certificate, may be relaxed at its discretion by the authority granting the furlough. In the case of furlough taken on medical certificate the grant of furlough on average salary is subject to the further condition that its grant shall not operate to curtail the actual period of leave recommended in the medical certificate.**

(*e*) **The officer's average salary, if paid at the treasury of the Government of India or in a Colony where the standard of currency is gold, will be converted into sterling at the same rate of exchange as ordinary furlough allowance (*vide* Article 868). The average salary is subject to the following limits : —**

(*i*) *Members of Indian Civil Service or Military Officer, subject to Civil Leave Rules :*

(1) **In the case of officer of non-Asiatic domicile if the leave is spent out of Asia £222 a month In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India subject to rupee maximum.**

(2) **In the case of an officer of non-Asiatic or Asiatic domicile if the leave is spent in Asia, Rs. 2,222 a month.**

(*ii*) *Other officers subject to these rules* :

(1) **In the case of an officer of non-Asiatic domicil if the leave is spent out of Asia, £200 a month. In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India subject to rupee maximum.**

(2) **In the case of an officer of non-Asiatic or Asiatie domicile, if the leave is spent in Asia Rs. 2,000 a month.**

(*f*) **Privilege leave to the extent due may be prefixed to furlough on average salary, subject to a maximum of 8 months for the two kinds of leave combined on each occasion of such combination.**

Note.—The maximum limit prescribed in this clause is applicable in case falling under Article 278, in which furlough on average salary is taken in combination with vacation or vacation and Privilege leave.

(*g*) **Furlough on half average salary may be granted in continuation of furlough on average salary or of combined Privilege leave and furlough on average salary**

Government of India's decision :—Officer who take furlough on medical certificate may be granted furlough on average salary subject to the conditions (*i*) that the furlough is due and that after taking it the officer will still have six month's furlough at his credit, and (*ii*) that the grant of furlough on average salary does not operate to curtail the actual period recommended by the Medical Board *i. e.* that it is followed by an extention of furlough on half average salary.

[G. I. F. D. No. 1273. C. S. R dated 30-7-1920]

317. After the expiry of the first two years of each separate period of furlough an officer on furlough is entitled :—

(*i*) **if a member of the Indian Civil Service or a Military Officer subject to the Civil Leave Rules, to subsistence allowance :**

(*ii*) **In the case of an officer not in the Indian Civil Service the Army to £60 a month if he is of non-Asiatic domicile and the leave is spent out of Asia, and Rs. 600 in the case of an officer of non-Asiatic or Asiatic domicile. if the leave is spent in Asia or to one-quarter of his average salary, whichever is less. In the case provided for in Article 319, quarter average salary is subject to the minima prescribed in that Article. In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India subject to rupee maximum or minimum, as the case may be.**

Note—In the case of officers drawing their leave allowance in India. the Government of India in exceptional circumstance, may grant leave allowances under Article 316 and not under this Article for any leave taken which is due under Article 315, even though it be in excess of two years.

318. Whenever an officer whose appointment is not gazetted takes salary for not more than one month, or whenever such an officer's salary is less than Rs. 330, his pay (not salary) when he gives up office is to be treated as his average salary for the purposes of Article 316, 316 A and 317,

Note—For the purpose of this Article duty and deputation (duty) allowances are deemed to be included in pay and salary.

319. The leave allowance of the officers referred to in Articles 316

(*c*) **and 317 (*ii*) are subject to the following minima :—**

If the leave has been granted or extended on account of ill health :—

Half average salary	*Minima*
In the case of an officer of non Asiatic domicile if the leave is spent out of Asia.	£33 a month or ⅔ths of the salary last drawn on duty, whichever is less.

In the case of an officer of non-Asiatic domicile if the leave is spent in Asia and of Asiatic domicile, if the leave is spent in or out of Asia.	Rs. 333⅓ a month or ⅔ths of the salary last drawn on duty, whichever is less.
Quarter average salary	
In the case of an officer of non-Asiatic domicile, if the leave is spent out of Asia.	£16⅔ a month or 37½ per cent of the salary last drawn on duty, whichever is less.
In the case of an officer of non-Asiatic domicile if the leave is spent in Asia and of Asiatic domicile, if the leave is spent in or out of Asia.	Rs. 166⅔ a month, or 37½ per cent, of the salary last drawn on duty, whichever is less.

Note 1.—In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India.

Note 2.—The benefit of this Article is not admissible unless the following condition are fulfilled :—

(*i*) The leave is taken out of India, elsewhere than in Ceylon, Nepal, Burma or Aden.

(*ii*) Leave out of India has either been recommended by a medical certificate or, if not so recommended has been extended on medical certificate or commuted into furlough on medical certificate

Audit Instruction—See Audit Instruction below Article 827A.

CHAPTER XIV: LONG LEAVE—INDIAN SERVICES.

SECTION I—EXTENT OF APPLICATION.

320. (*a*) **The rules in this Chapter apply to all officers holding substantive appointments on permanent establishment, under Government to whom neither the rules in Chapter XIII nor the special rules in Part V of these Regulations apply. They apply *fully* only to officers in superior service.**

(*b*) **An officer who has a temporary or officiating appointment only may be allowed.**

(*i*) **Furlough on medical certificate for not more than three months at a time on half his pay or salary, if no substitute is required or if his duties can be provided for without additional expense ;**

(*ii*) **Extraordinary leave without allowances for more than three months at one time.**

Note 1. An officer who prior to 29th July, 1920 was subject to the Indian Service Leave Rules as contained in Chapter XIV as it stood prior to that date will remain under those rules unless and until he elects to substitute the rules in this Chapter. Such choice once made, will be final. The officer is not debarred by this election from coming under European Service Leave Rules in Chapter XIII if by any rules or orders applicable to him he is entitled at some period of his service to come under those rules.

Note 2.—Notwithstanding anything in note 1, an officer who remains under the old Indian Service Leave Rules may, while on furlough out of India, Ceylon, Nepal, Burma or Aden or on furlough on medical certificate, be granted a leave allowance equal to his full average salary (or full pay as the case may be), subject to the conditions mentioned in Article 325A in this Chapter

Government of India's decision.—Temporary Government servants paid from Defence Services Estimates, who are governed by leave rules in C.S R. who suffer from T. B. Leprosy will notwithstanding the provision of Article 320 (*b*) C.S R, be granted extraordinary leave to the extent and under the same condition as applicable to grant of extraordinary leave in similar circumstance to personnel governed by the Revised Leave Rules. [*See appendix 39*]

This instruction applies to D. G. O. F. Organization also.

[Army Instruction No : 24, dated the 23rd January 1954]

321. Leave may, however, be granted under this Chapter to an officer in inferior service so far as it can be done without imposing any cost upon the State. The absentee allowance of the substantive incumbent must not exceed what remains from his pay after provision is made for the efficient discharge of his duties during his absence except when; in the resultant acting arrangements, an officer who has

no substantive appointment is given more than half the pay the appointment in which he acts, in which case the excess over the pay granted to him may, at the discretion of the Local Government, be disregarded altogether in calculating the sum available for the leave allowance of the absentee and the acting allowances paid in consequence of his absence.

1. The local Government may delegate its power under this Article to Heads of Offices and departments.

Government of India's decisions :—(1) A question having been raised as to what should be the pay of the post for the purpose of calculating the leave salary of an inferior servant in a case in which an outsider entitled to draw pay on the revised scale is appointed to officiate in place of an absentee drawing the old scale of pay, So far as the officiating Government servant is concerned the pay of the post is the revised scale of pay and if this is also taken as the pay of the post for the calculation of leave salary the inferior servant on leave will get more leave salary than he would have got but for the introduction of new rates of pay. As such a concession was not contemplated, tho Governor-General in Council has been pleased to decide that in such cases the old scale of the post should be taken to be "the pay of the post" for calculating the rate of absentee allowance in the case of inferior servants paid from the Defence Service estimates whose leave salary is governed by Articles 147(*iii*) and 321 C. S. R.

[Army Instruction (India) No. 156 of 1936]

(2) See Government of India's decisions below Article 147 and No. (3) in Appendix 39.

SECTION II.—FURLOUGH.

322. The total amount of furlough admissible to an officer to whom these rules apply is five years. All the rules in this part of the Regulations are subject to this limitation.

Note.—Furlough and leave on medcial certificate and on private affairs taken under the rules in force prior to 29th July, 1920 count as furlough for the purpose of the Article.

323. The amount of furlough 'earned' by the officer is one sixth of the active service rendered by him.

324. The amount of furlough 'due' to an officer is the amount which he has 'earned' diminished by the furlough which he has enjoyed under these rules and the furlough and leave on medical certificate and on private affairs taken under the rules in force prior to the 29th July, 1920.

325 (*a*) **Except as provided in clause (*b*) an officer is entitled during the first two years of each separate period of furlough, whether such furlough be 'due' or 'not due', to a leave allowance equal to half his average salary and thereafter to one-quarter of his average salary.**

(*b*) **Whenever an officer whose appointment is not gazetted takes leave for not more than one month, or whenever such an officer's salary is less than Rs. 300 his pay (not salary) when he gives up office is to be taken in lieu of average salary :**

Provided that the allowances of an officer during furlough shall in no case exceed his actual salary when he takes furlough.

Note 1.- For the purpose of clause (*b*) of this Article, duty and deputation (duty) allowances are deemed to be included in pay and salary.

Note 2.—In the case of officers drawing their leave allowances in India, the Government of India in exceptional circumstances, may grant leave allowances admissible under this Article during the first two years for any leave taken, which is due under Article 324, even though it be in excess of two years.

Government of India's instructions :—The following instructions will be followed in the application of Article 325 (*b*), Civil Service Regulations with reference to Defence Service personnel who go on leave either during or at the end of foreign service :—

The question whether the status of an officer on foreign service is gazetted

or non-gazetted, should be determined with reference to the permanent post under Government on which he holds a lien or would hold a lien had his lien not been suspended, or, if during his absence on foreign service he is given any promotion under Article 752, Civil Service Regulations with reference to the post under Government to which he is so promoted

For the purpose of determining whether "an officer's salary is less than Rs. 300" the term "salary" will be construed to mean the salary in foreign service at the time leave is taken *less*, in the case of an officer paying his own contribution for leave salary and pension. such part of the salary as may be paid as contribution.

The expression "his pay (not salary) when he gives up office" should be taken to mean the pay which he would draw in the permanent post under Government on which he holds a lien, or would hold a lien had his lien not been suspended, at the time of taking leave. In the case of officers paying leave salary contributions on the basis of pay drawn in foreign service leave allowances will be calculated on the pay actually drawn in foreign service.

[Army Instruction (India) No. 95, dated 1-4-1944.]

325A. An officer other than an officer in inferior service, who proceeds on furlough out of India, Ceylon, Nepal, Burma or Aden, takes furlough on medical certificate, other than furlough preparatory to retirement, may be granted by the authority sanctioning the furlough a leave allowance equal to his full average salary, subject to the conditions laid down in clauses (*a*) to (*g*) of Article 316A with the exception that average salary must not exceed the maximum limit of (*i*) £150 a month in the case of an officer of non-Asiatic domicile if the leave is spent out of Asia, and (*ii*) Rs. 1,500 a month in the case of an officer of non-Asiatic or Asiatic domicile if the leave is spent in Asia. In the case of an officer of Asiatic domicile if the leave is spent out of Asia, leave allowance shall be paid in rupee in India subject to the maximum limit of Rs. 1,500 a month.

Note.—In the case of officers who under clause (*b*) of Article 325 are entitled during furlough on half average salary to an allowance equal to half pay, the allowance during furlough under this Article shall be equal to full pay.

Government of India's decisions : - (1) When average pay is drawn by virtue of a medical certificate under the proviso to sub clause (*ii*) of clause (*b*) Fundamental Rule 81 (*corresponds to this Article*) it is reasonable that Government should have the opportunity to recover the difference between average pay and half average pay for the period of leave on average pay which would not have been admissible had the proviso to F R. 81(*b*)(*ii*) not been applied. An undertaking to this effect should, therefore, be taken from those officers who take advantage of the proviso referred to above, but the question whether the officer concerned should be called upon to refund the amount drawn in excess as leave salary should be decided on the merits of each case, *i.e.*, if the retirement is voluntary, refund should be enforced, but if the retirement is compulsorily thrust upon an officer by reason of ill-health incapacitating him for further service, no refund should be taken.

The leave on average pay on medical certificate granted under the proviso to Fundamental Rule 81(*b*)(*ii*) to a Government servant who subsequently retires should be commuted into leave on half average pay and should count for pension as leave on half average pay even though the Government servant concerned is not called upon to refund the amount drawn in excess as leave salary.

Article 157(*a*) of the Audit Code, Volume I [*now* Para 10 of the Delegation of Financial Powers Rules] applies to the decision contained in paragraph I above. The interpretation should have effect from the 10th August, 1937 and the excess amount of leave salary or pension already paid before that date will not be recovered. The new interpretation should be applied only to cases in which pension was sanctioned on or after 10th August, 1937 and pension in

other cases should *not* be recalculated.

[G.I.F.D. No. F. 7 (47) R. I/35, dated the 10th August 1937 and G.I.F.D. letter No. D. 559, R. II/38 dated the 25th March, 1938]

Note.—The above instructions should be followed *mutatis mutandis* in respect of Officers of the Central Government (Civil) whose leave is regulated under Article 326A of the Civil Service Regulations.

[These orders take effect from the 26th July, 1939.]

[G.I.F.D. Endorsement No. F. 7 (39)-R. II/39 dated the 26th July, 1939.]

(2) A civilian of Defence Services who is eligible for average salary by virtue of a medical certificate under this Article must record on the leave application an undertaking in the following form :—

"I undertake to refund the difference between the average salary and half average salary taken on medical certificate in the event of my voluntary retirement from service at the end or during the currency of the furlough".

[Army Instruction (India) No. 220 dated 30-7-1940.]

(3) When average salary is drawn by a Civilian of Defence Services by virtue of a medical certificate under Article 325A, Civil Service Regulations, an officer will be required to give an undertaking to refund the difference between average salary and half average salary in case he desires to retire from service at the end of furlough or an extension thereof. The question of the refund of overpayment will, however, be decided on the merits of each case, *i.e.* if the retirement is a voluntary, refund should be enforced but if the retirement is compulsorily thrust upon an officer by reason of ill-health incapacitating him for further service, no refund should be taken.

This instruction will apply to D.G.O.F's Organization as well.

[Army Instruction No. 290, 1952.]

326. (*a*) **Half average salary is subject to the following maxima :—**

(*i*) **If the leave is spent in Asia, Rs. 750 a month.**

(*ii*) **If the leave is spent out of Asia, *£75 a month.**

(*b*) **Quarter average salary is subject to the following maxima :—**

(*i*) **In the case of an officer of non-Asiatic domicile if the leave is spent in Asia and of Asiatic domicile, if the leave is spent in or out of Asia Rs. 600 a month.**

(*ii*) **In the case of an officer of non-Asiatic domicile, if the leave is spent out of Asia £ 60 a month.**

(*c*) **In the case of non-gazetted officers whose salary is not less than Rs. 300, half average salary and quarter average salary are, except as provided in Article 327, subject to the following minima :—**

	Half average salary.
In the case of an officer of non-Asiatic domicile if the leave is spent in Asia and of Asiatic domicile if the leave is spent in or out of Asia.	Rs. 168¾ a month
In the case of an officer of non-Asiatic domicile if the leave is spent out of Asia.	£16⅞ a month.
	Quarter average salary
In the case of an officer of non-Asiatic domicile if the leave is spent in Asia and of Asiatic domicile if the leave is spent in or out of Asia.	Rs. 84⅜ a month.
In the case of an officer of non-Asiatic domicile if the leave is spent out of Asia.	£8 7/16 a month.

Note :—In the case of an officer of Asiatic domicile, if the leave is spent out of Asia leave allowance shall be paid in rupees in India.

327. The leave allowance of the officers subject to the rules in this Chapter are subject to the following minima :—

If the leave has been granted or extended on account of ill-health—

Half average salary.	*Minima*
In the case of an officer of non-	£25 a month, or ⅔ths of the salary last

Asiatic domicile, if the leave is spent out of Asia.	drawn on duty, whichever is less.
In the case of an officer of non-Asiatic domicile, if the leave is spent in Asia and of Asiatic domicile if the leave is spent in or out of Asia.	Rs. 250 per month, ⅔ths of the salary drawn on duty, whichever is less.
Quarter average salary	
In the case of an officer of non-Asiatic domicile if the leave is spent out of Asia.	£12½ a month or 37½ per cent. of the salary last drawn on duty, whichever is less.
In the case of an officer of non-Asiatic domicile, if the leave is spent in Asia and of Asiatic domicile if the leave is spent in or out of Asia.	Rs. 125 a month, or 37½ percent, of the salary last drawn on duty, whichever is less.

Note 1—In the case of an officer of Asiatic domicile, if the leave is spent out of Asia, leave allowance shall be paid in rupees in India.

Note 2—The benefit of this Article is not admissible unless the following conditions are fulfilled :—

(*i*) The leave is taken out of India, elsewhere than in Ceylon, Nepal, Burma or Aden.

(*ii*) Leave out of India has either been recommended by a medical certificate or, if not so recommended, has been extended on medical certificate or commuted into furlough on medical certificate.

Audit Instruction.—See Audit Instruction below Article 827A.

328—348 – *Cancelled.*

CHAPTER XIV-A.—SPECIAL DISABILITY LEAVE.

348-I (1) Subject to the conditions hereinafter specified, the Government of India or a Provincial Government may grant special disability leave to a Government servant 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. But the Government of India, if they are satisfied as to the cause of the disability, may 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 a medical board to be necessary. It shall not be extended except on the certificate of a medical board, and shall in no case exceed 24 months.

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

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

(6) Special disability leave will count as service for pension or as 'active service' under Article 549 (*b*), 561 and 573 of these Regulations but it will not count as service for leave. It will not be regarded as interrupting service for leave under the ordinary rules, nor as diminishing the amount of such leave at the Government servant's credit, nor as part of the maximum leave admissible to him except that leave on average salary taken under clause 7 (*b*) will be reckoned as furlough on half average salary against the total amount of furlough prescribed in Articles 312 and 322 and as furlough on average salary against the total period of such furlough prescribed in Articles 316A (*a*) and 325A.

(7) Leave allowances during such leave shall, subject to the maxima and minima prescribed in Articles 316, 316A, 319, 325A, 326 and 327, be equal—

(*a*) for the first four months of any period of such leave, includ-

ing a period of such leave granted under clause (5) of this Article to average salary, and

(*b*) for the remaining period of such leave to half average salary, or at the Government servant's option, for a period not exceeding the amount of furlough on average salary either by itself or in combination with privilege leave which would otherwise be admissible to him, to average salary.

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

(9) The provisions of this Article apply to a civil servant disabled 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 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; but in either case any period of leave granted to such a prson under military rules in respect of that disability shall be reckoned as leave granted under this Article for the purpose of calculating the period admissible.

Secretary of State's decision :—The intention of *old* Fundamental Rule 83 (*c*) [*corresponds to clause (9) of this article*] is not that special disability leave should be given to cover any portion of an officer's military service, but that it should be admissible only after the officer's discharge as unfit for further military service.

[G.I.F.D. No. F./21/II-C.S R./24, dated the 30th July 1924.]

Government of India's decision :—The provisions of Rules 83 [corresponds to this Article] may be applied to any cases that may have arisen since the commencement of the Great War.

[G.I.F.D. No. 122I-C.S.R, dated the 30th July 1923.]

Auditor General's decision:—The Auditor General has decided with the approval of the Government of India that in the case of an officer who has served under more than one Government, the Special Disability leave granted under Fundamental Rules 83 (*i*)(*b*) [*corresponds to clause 7 (b) of this Article*] half of which is debited to the leave account under Fundamental Rules 78 (*b*) should also be debited to the subsidiary leave account and that the actual amount of leave salary for the whole period of the leave should be apportioned between the Governments concerned in accordance with the ordinary rules on the subject.

[Auditor General's endorsment No. 551-A.C./169-37, dated the 23rd December, 1937].

348-II. The Government of India may extend the application of the provisions of Article 348-I to a Government servant 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. The grant of this concession is subject to the further conditions—

(*i*) that the disability, if due to disease, must be certified by a medical board to be directly due to the performance of the particular duty ; and

(*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 Government of India, so exceptional in character or in the circumstances of its occurrence as to justify such unusual treatment as the grant of this form of leave ; and

(*iii*) that the period of absence recommended by the medical board may be covered in part by leave under this Article and in part

by other leave, and that the amount of special disability leave granted on average salary may be less than four months.

348-III. (1) **A Government servant who has been granted special disability leave under Article 348-I, and whose domicile is elsewhere than in Asia, may be granted by the authority which sanctioned the special disability leave, free passage by sea for himself, his wife, and children, to the United Kingdom, or to any port in Europe or in a British colony, dominion, or possession, and on the conclusion of such leave return passage to India, unless he takes leave other than leave on medical certificate in continuation of special disability leave, in which case return passage shall not be granted save with the special sanction of the Secretary of State in Council : Provided that the cost of any passages granted under this Article shall not exceed the cost of passage between India and the United Kingdom.**

(2) Passage granted under this Article may include travel by land between port of embarkation and port of debarkation, and shall be of such class as the sanctioning authority in each case may determine.

(3) The Government of India may extend the application of the provisions of clause (1) and (2) to a Government servant who has been granted special disability leave under Article 348-II, and whose domicile is elsewhere than in Asia provided that they may at their discretion, grant free passage to the Government servant only or to the Government servant and his wife only.

(4) For the purpose of this Article—

(*i*) the domicile of a Government servant is his domicile at the time of his appointment to Government service, as determined in accordance with the provision of clause (2)(*a*) of Article 310 and Article 310A ;

(*ii*) 'child' mean a legitimate child (including a step-child) residing with and wholly dependent on the Government servant, who, if a female, is unmarried, or if a male, is under the age of 16,

PART IV.—ORDINARY PENSIONS

CHAPTER XV. GENERAL RULES

SECTION I.—EXTENT OF APPLICATION.

348. Every pension shall be held to have been granted subject to the conditions contained in Chapter XXI.

349. The conditions of service of officers of the following classes include special rules for pension which are laid down in the chapters noted against each *viz* :—

(*a*) †Judges of High Courts (see Chapter XXIII).

(*b*) Barristers, etc, holding the appointments specified in Aarticle 547 (see Chapter XXIV),

(*c*) Members of the Indian Civil Service (see Chapter XXV).

(*d*) * * * * *

(*e*) Civil Engineers and Telegraph Officers (see Chapter XXX).

(*f*) * * * * *

(*g*) * * * *

(*h*) Police officers drawing less than Rs. 20 a month (see Chapter XX)

(*i*) Port Balair Police (see Chapter XXXIV).

(*j*) Army Veterinary Officers of the Civil Veterinary Department (see Chapter XXIX)

349A. (1) **The rules in Article 404A, 465A, 474A and 475A apply to officers (other than Military Officers and members of the Indian Civil Service) appointed substantively to the service or the appointments specified below whose**

(*a*) joined there appointments after 29 th August, 1919, or

†See Appendices 40, 40A and 40B to this Compilation.

(*b*) **were in service on 29th August, 1919 but have definitely elected in writing with the permission of Government to come under them.**

N B.—Officers who were appointed in England during the year 1919 should, for the purpose of this Article, be treated as in service on the 29th August, 1919, even if they joined their appointment after that date.

These rules in the case of officers subject to them replace the rules in Articles, 403, 404, 405, 474(*b*), 475, 476(*c*), 623, 640(*c*), 642 and 643 :—

The Agricultural Department—Indian and Provincial Branches.

The Civil Verterinary Department—officers of and above the rank of Deputy Superintendent.

The Customs Department—Collectors and Assistant Collectors. The Principle Appraisers.

The Educational Department—Indian and Provincial Service.

Principal and Assistant Masters recruited by the Secretary of State for service at the Prince of Wales' Royal Indian Military College, Dehra Dun.

Inspectors of the Factory, Boiler and Smoke Nuisances Department in Bombay, of Factory and Boiler Inspection Departments in other Provinces and of the Smoke Nuisances Department in Bengal.

The Indian Audit Department—officer of the Indian Audit and Accounts service of and above Class II; Assistant Accouts Officers and Assistant Audit Officers in pensionable service.

The Military Accounts Department—officers of and above class II ; Deputy Assistant Controllers including Deputy Assistant Military Accountants General.

The Forest Department—Imperial Service and Provincial Officers of and above the rank of Extra Assistant Conservator.

The Geological Survay—officers of rank equal to or above that of Assistant Superintendent.

The Provincial Civil Service—Executive and Judicial.*

The Medical Department—Civil Surgeons and Civil Assistant Surgeons, Professors of Medical Colloges and Chemical Examiners.

The Indian Mines Department—officers of or above the rank of Junior Inspectors.

The Mint and Assay Department—Mint Masters, Deputy Mint Masters, Chief Assayer and Deputy Chief Assayers.

The Police Department—officers of the Indian Police, and Deputy Superintendents.

The Indian Posts and Telegraphs Department—

Officers of or above the rank of Superintendents of Post Offices and of Gazetted Deputy and Assistant Postmasters ;

Officers of the Telegraph Traffic Service, Class I ;

Officers of the Superior Telegraph Engineering Wireless Branches ;

Assistant Engineers, Telegraphs ;

Assistant Engineers, Wireless ;

Assistant Electricians ;

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*For this purpose this term includes the following :—

Deputy Cellectors. Sub-Judges and District Munsiffs in Madras ; Deputy Collector and Magistrates, Judges of the Small Cause Court, Subordinate Judges 1st Class 2nd Class and Assistant Judges and Sessions Judges in Bombay. Deputy Magistrate and Deputy Collectors ; Subordinate Judges and Munsiffs in Bengal ; Deputy Collectors, Subordinate Judges and Munsiffs in the United Provinces ; Extra Assistant Commissioners, Extra Judicial Assistant Commissioners, Subordinate Judges and Munsiffs in the Punjab Extra Assistant Commissioners and Judicial Extra Assistant Commissioners in Burma ; Deputy Magistrates and Deputy Collectors, Subordinate Judges, and Munsiffs in Bihar and Orissa Extra Assistant Commissioners, District Judges, Subordinate Judgs and Munsiffs in Central Provinces and Berar ; Extra Assistant Commissioners in Assam ; and Assistant Commissioner, District and Sessions Judges, and Munsiffs in Coorg.

Superintendent, Telegraph Workshop ;

Accounts Oofficers (and Administrative officers included in the cadre of Accounts officers) belonging to the General Central Services, class II in the Posts and Telegraphs Department.

The Indo-European Telegraph Department—officers of and above the rank of Assistant Superintendent.

The Public Works Department—officers of the Indian Service of Engineers and of the Provincial Engineer Services. The Joint Estate Officer. Financial Assistant to the Chief Engineer, Central Public Works Department; Financial Assistants to the Additional Chief Engineers, Central Public Works Department.

Military Engineer Service ——All officers appointed to class I of this Service ; Director, Engineer Research Station ; Chief Architect and Junior Architect.

The Railway Department—officers of the Indian Railway Service of Engineers and of the Provincial Engineering Service, State Railways.

The Registration Department—officers of or above the rank of District Registrar.

The Northern India Salt Revenue Department—officers of and above the rank of Assistant Superintendent.

The Salt and Excise Department—officers of and above the rank of Assistant Collector in Bombay, of Inspector in Madras, of Assistant Commissioner in the United Provinces, of Assistant Superintendent in Burma, of Superintendent in Bengal, Bihar and Orissa, and Assam, and of District Excise Officer in the Central Provinces.

The Survey of India Department—officers of and above the rank of Extra Assistant Superientendent and the Surperintendent and Assistant Superintendent, Mathematical Instrument Office.

The Survey (Madras) Department—Directors and Assistant Directors.

The Imperial Meteorological Department—officers of and above the rank of Assistant Director or Assistant Meteorologist, and the Scientific Assistant.

The Opium Department—officers of and above the rank of District Opium Officer or Assistant Opium Officer.

The Archaeological Department—officers of rank equal to or above that of Assistant Superintendent.

The Jail Department—officers of and above the rank of Superintendent.

The Department of Insurance officers of and above the rank of Assistant Controller of Insurance.

Director of Statistics.

Second Imperial Economic Botanist, Pusa.

Dairy Husbandery Officer—Indian Dairy Research Institute, Bangalore.

Economic Botanist to the Botanical Survey of India.

Superintendents of Provincial Government's Presses.

Managers, Government of India Presses, Calcutta, Aligharh, Simla and Delhi. Deputy Controllers in the Stationery and Printing Department and Manager, Government of India Central Publication Branch, Calcutta.

Shipping Masters, Bombay and Calcutta, and Deputy Shipping Masters. Bombay and Calcutta.

Deputy Director General of Shipping (Junior), Ministry of Transport and Communication.

Port Officers in the Madras Presidency. not belonging to the Royal Indian Marine.

The Government Examiner of Questioned Documents.

Deputy Registrar for the Appellate Side of the Calcutta High Court.

Registrar, Official Refree and Master, Registrar in Insolvency, Deputy Registrar and Assistant Master and Refree, on the Original Side of Calcutta High Court.

Judges of the Small Cause Court at the Presidency town: and at Rangoon Presidency Magistarates.
City Civil Judge, Madras.
Superintendent of Government Museum and Principal Libararian of the Connemara Public Library, Madras.
Registrar of Joint Stock Companies for Bengal and Bombay.
Registrar, Judicial Commissioner's Court, Sind, when the post is not held by a Provincial Civil Service Officer.
Head Assistant, Prothonotary's office, Assistant Taxing Officer, Chief Clerk of the Insolvant Debtor's Court, First Deputy Registrar, Second Deputy Registrar, and Third Deputy Registrar, on the Original Side of the High Court, Bombay.
Deputy Registrar on the Appellate Side of the High Court, Bombay.
Deputy Registrar for the Appellate Original Sides of the Madras High Court.
Official Refree, Madras.
First and Second Deputy Registrars of the Chief Court of Lower Burma.
Deputy Registrar of the Allahabad High Court.
Zoological Survey of India Department—officers of and above the rank of Assistant Superintendent.
Imperial Bacteriological Laboratory at Muktesar—Director and First Bacteriologist; Second and Second Assistant Bacteriologist ; Pathologist ; Veterinary Officer ; Engineer ; First, Second and Third Laboratory Assistant ; and Farm Manager.
Second Solictor to the Government of India.
Curator, Bureau of Education, Government of India.
Chemical Examiner for Customs and Excise, Calcutta.
Officers of the Central Secretariat Service-Selection Grade.
Officers of the Central Secretariat Service-Grade I and Section Officers electing Class I status.
Assistant Secretaries, Registrars and Superintendents employed in the Government of India Secretariat, Press and Forms Manager Bengal.
Assistant Secretary to the Resident at Hyderabad.
Assistant Secretary to the Honourable the Political Resident in the Persian Gulf.
Manager, Government Photozincographic Press, Poona.
Chief Constructor, Constructor and Assistant Constructor, Bombay Dockyard.
Resident Engineer, Government Dockyard, Dawbong, Rangoon.
The Curator, Madras Record Office.
The Keeper of the Records of the Government of India.
Upper Grade Assistants employed at the Forest Research Institute and College, Dehra Dun.
The Forest Engineering Service.
Assistant Financial Advisers, Military Finance.
Principal of the Bihar School, Engineering.
Financial Assistant Secretary to the Government of the Central Provinces.
Registrar, Civil Secetariat, Central Provinces.
Under Secretary to the Government of the Central Provinces.
Assistant Secretary to the Government of the Central Provinces in the Public Works Department.
Managers of the Commissioner's Press, Karachi, and Government Central and Yeravda Prison Presses, Bombay.
Deputy Assistant Political Agents under the Government of Bombay.
Oriental Translator to the Bombay Government.
Assistant Secretaries to the Government of the United Provinces.
Assistant Secretaries to the Government of Bombay

First and Second Assistant Secretaries to the Government of Bengal Legislative Department and Assistant Secretaries to the Bengal Legislative Council.
Deputy, Under and Assistant Secretaries to the Government of Madras.
Extra Assistant Commissioners in the North West Frontier Province and in Baluchistan.
Central Revenue Chemical Service :—
Chief Chemist.
Chemical Examiner, Control Laboratory, New Delhi.
Chemical Examiner, Opium Eactory, Ghazipur.
Principal, Vice Principal, Professors, and Lecturer, Government College, Ajmer.
Headmaster, Government High School, Ajmer.
Head Master, Moinia Islamia High School, Ajmer.
District Inspector of Schools, Ajmer-Merwara.
Additional District and Sessions Judge, Ajmer.
Subordinate Judges, Ajmer and Merwara.
Judge, Small Cause Court, Ajmer.
Extra Assisant Commissioners, Ajmer and Merwara. and Sub-Divisional Officer, Kekri.
General Manager, Court of Wards, Ajmer.
Treasury Officer and Magistrate, 1st Class, Ajmer.
Railway Magistrate, 1st Class, Ajmer.
Superintendent of Excise, Ajmer-Merwara.
Agricuitural Engineers in Pensionable service.
The Income-tax Department—all gazetted officers.
The Central Board of Revenue—Members and Personal Assistants to the Members.
Personal Assistant to the Inspector-General, Civil Hospitals, Punjab.
Survey Officer in the Central Provinces.
Assistant Secretary to Government, Punjab Public Works Department, Irrigation Branch.
Assistant Secretary to Government, Punjab Public Works Department, Buildings and Roads Branch.
Assistant Secretaries to Government, Punjab, employed in the Civil Secretariat.
Registrar, Punjab Irrigation secretariat.
Deputy Registrar High Court, Lahore.
Deputy Director of Gardens, United Provinces.
Officer-in-Charge, Medal Distribution.
Civilian Staff Officers, Grade I; Civilian Staff Officers, Grade II and Civilian Officer Supervisors at Army Headquarters, Naval Headquarters, Air Headquarters and Inter-service Organisations.
Under Secretary Office of the Military Secretary to the President.
Any other officer eligible for an additional pension under Article 475A.
Secretary to the Chief Justice, Calcutta High Court.
Currency Department--Assistant Currency Officers.
Civilian Gazetted Officers, Indian Army Service Corps Record Office.
Controller of Patents and Designs.
Chief Controller of Imports and Exports.
Joint Chief Controller of Imports and Exports.
Examiner of Patents.
Assistant Government Examiner of Questioned Documents.
Accounts Officer, Andamans Forest Department.
Managers, Photo-Litho Office, and the Head Engraver. Engraving Office, Survey of India.
Chemical Examiner, Bombay Custom House, and Chief Accounts Officers Calcutta and Bombay Custom Houses.
Director General of Civil Aviation in India.
Administrative Officer, Civil Aviation Directorate.

Superintendent, Horticultural Operations, New Delhi.
Executive Engineer, Public Works Department, Andaman and Nicobar Islands: and Supply Officer and Secretary to the Chief Commissioner, Andaman and Nicobar Islands.
Assistant-Director, Intelligence Bureau, Ministry of Home Affairs.
Administrative Officer, Intelligence Bureau, Home Department.
Superintendents, Intelligence Bureau. Ministry of Home Affairs.
Under Secretary, Delhi Administration Secretariat.

(2) The Government of India may include in the list in clause (1) any gazetted services or appointments the duties of which are so important that cannot be regarded as subordinate.

Note—An officer who does not hold substantively one of the appointments mentioned above, but who by rendering officiating service counting as effective service in one of the appointments included in the schedule appended to Article 475 A, becomes eligible for an additional pension, is entitled to the benefits of this Article, provided, in the case of officers who were in service on 29th August, 1919, they have definitely elected the rules referred to in the preamble of the Article-

Auditor General's decision :—The Auditor General has decided with the concurrence of the Government of India that Rules 13 and 14 of the Superior Civil Service (Revision of Pay and Pension) Rules, 1924, apply to all members of the services and holders of appointments specified in Schedule V appended to those Rules whether they have not elected the pension rules of 1919.

[Auditor General's letter No. T-85/80 A-25, dated the 27th April, 1925].

Audit Instructions :—(*i*) The power reserved to the Government of India under the Finance Department Resolution No. 1085-E.A., dated the 15th November, 1919 to permit an officer who was in service on 29th August. 1919 to elect to come under the new pension rules after the date prescribed in that Resolution if the delay is explained to their satisfaction still continues and is covered by Article 349A, C.S.R., although the specific extension, sanctioned in the Home Department Resolution No. F-149-II (Est)., dated the 8th November, 1921, of the prescribed date expired on the 31st, March, 1922. This power may be exercised even if the officer had previously elected in writing to continue under the old rules.

Note 1.—With effect from the 27th May, 1930, under rule 7 of the Civil Services (Classification. Control and Appeal) Rules a local Government can exercise this power in the case of Government servant under its rule-making control.

Note. 2.—In the case of officers subject to the rule-making control of the Secretary of State for India in Council this power can be exercised by the Government to whose Administrative control the officer concerned is subject.

(*ii*) The words 'have definitely elected in writing' used in this Article must be construed with reference to the point of time at which the officers pension falls to be determined. The Article, therefore, debars Government from giving the permission to come under the new pension rules in case of an officer who made no election before retirement. Such an officer can only be given the benefit of the new rules after retirement by a relaxation of the rule, sanctioned by competent authority.

[Para 5, Section III Manual of Audit Instructions (Reprint)

349AA, – Article 349A does not apply to an officer (1) who entered Government service on or after the Ist October, 1938 or (2) who, having entered such service before that date, did not hold a lien or a suspended lien on a permanent pensionable post before that date or (3) who is transferred on or after the Ist October 1938 permanently from service under a Provincial Government or a Local Fund administered by Government to service under the Governor-General in Council and did not hold a lien or a suspended lien on a permanent pensionable post under the Provincial Government or the Local Fund before that date.

In the case of such officers the rules in Article 465 AA, 474AA and 475AA replace the rules in Article 465, 465A, 474, 475, 475A and 623.

349B. Notwithstanding any thing contained in Article 349A, the rules in this part, subject to the exception noted below, do not apply to officers of the Indian Railway Service of Engineers, or the Provincial

Engineering Service State Railways who joined their appointment on or after the 17th September, 1925.

Exception :—(*a*) **The undermentioned officers who joined their appointment in the Indian Railway Service of Engineers after the 17th September, 1925 are subject to the rules in this Part to the same extent as other officers appointed to the Service before that date :—**

(*i*) Mr. R. C. Harvey (*ii*) Mr. Q. F. Rahman,

(*b*) **Officers in pensionable service who were or may be promoted to the Indian Railway Service of Engineering or the Provincial Engineering Service, State Railways on or after the 17th September, 1925 retain their pensionary privileges after promotion.**

350. The pensions of all other officers, are regulated by the rules in this part : Provided that it is open to a Local Government to rule that the service of any class of officers serving under it does not qualify for pension.

1. Service in Dak Bungalow and District Garden Establishments does not qualify.

2. The service of a Patwari whether appointed before or after the abolition of the Patwari or the Village Officers Cesses and Funds, does not qualify in any case in which it did not qualify prior to that abolition.

351. Future good conduct is an implied condition of every grant of a pension. The Local Government, the Government of India, and the Secretary of State-in-Council reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

The decision of the Secretary of State in Council on any question of withholding or withdrawing the whole or any part of pension under this regulation shall be final and conclusive.

Note.—This rule is applicable to all the officers enumerated in Article 349 except Judges of the High Courts, Bishops, Army Veterinary Officers of the Civil Veterinary Department and members of the Civil Service appointed before 16th January, 1904.

Government of India's decisions (1) See Government of India's decision No. (3) and (5) below Article 470.

(2) See Government of India's decision No. (3) below Article 918.

(3) Pensions are not in the nature of rewards but theirs is a binding obligation on Government which can be claimed as a right. Their forfeiture is only on resignation, removal or dismissal from service. Before a pension is sanctioned, the sanctioning authority can reduce the amount due under Article 470 of the Civil Service Regulations and after it is sanctioned, its continuance depends on future good conduct *vide* Article 351 C.S.R. but it cannot be stopped for other reason.

[G. I. M. F. U O. No. D. 2776/E. V/52 dated the 8th May, 1952.]

(4) Copper wire was lost through the negligence of a Telegraph Supervisor. Orders were passed for making recovery of Rs. 1000 from his pay. Rs. 171 only could be recovered from his pay before the retirement of the Government servant. A question was raised whether the balance could be recovered from his pension/gratuity. The Ministry of Law advised that Government could set of an equal amount from the amount of death cum-retirement gratuity sanctioned to the Government servant concerned without any further departmental proceedings against him. The gratuity under the New Pension Rules is a lump-sum payment. It cannot be regarded as a pension within the direction of Government. The amount recoverable could therefore be recovered from the death cum-retirement gratuity admissible to the Government servant concerned.

[Government of India Ministry of Law U. O. No, 13114/57 admn. (A), dated 1-7-1957 in G. I, M- F. file No. 7 (51) EV/57.]

(5) Under Article 351 of the Civil Service Regulations, future good conduct is an implied condition of the grant of every pension and Government has the right to withhold or withdraw a pension or any part of it if the pensioner is convicted of a serious crime or found guilty of grave misconduct. It is, therefore necessary to ensure that cases where pensioners are convicted by a Court of any crime are also brought to the notice of Government. The Government of India,

Ministry of Home Affairs therefore request that if the State Government have no objection, instructions may kindly be issued to prosecuting officers under the control of the State Government to ensure the prompt intimation of such cases to the administrative authorities concerned in future.

[G. I- M. M, Affairs Memo : No : 50/2/59-ESTS (A), dated the 7th October, 1959.]

(6) It has come to notice that in some cases an amount due from a person has to be written off on the ground that he/she is no longer in Government Service and no recovery is, therefore, possible, It has now been decided that in such cases the orders sanctioning write off should invariably contain a clause that any sums which are subsequently found due to the person concerned will be adjusted against the amounts written off.

This decision issues in consultation with the Comptroller & Auditor General of India.

[G.I.M.F. Memo : No. 18(9)-E. II(A) dated the 25th Juhe 1959]

(7) In order to ensure that the amounts of overpayments written off on the ground of a Government servant being no longer in service are set off against any sums which are subsequently found due, it has been decided that the following procedure be adopted in regard to refund of excess recovery, if any, of house rent to retired Government servants.

(*i*) *Non-gazetted Government servants.*
Refund of amount is normally made only through the office under whom the Government servant concerned served last, and the Head of the office concerned should ensure that overpayments, if any, already written off are set off against such refunds.

(*ii*) *Gazetted Government servants.*
In the case of refund of excess house rent recovered from a retired gazetted Government servant, the Directorate of Estates would obtain a certificate from the Head of the Department/Office under whom he served last to the effect that no claim due from him had been written off on account of his being no more in Government service which could be adjusted against the amount applied for. The Ministry will also maintain appropriate indexed record to this effect.

This issues in consultation with the Ministry of Works Housing and Supply and the Comptroller and Auditor General.

[G.I,M.F. Memo ; No. 18(9)-E.II (A)/59, dated the 14th May 1960]

(8) A question has been raised whether the expression "any sums which are subsequently found due" occurring in decision No. (6) above covers only the dues relating to the period when the person concerned was originally in Government service or also covers any dues which may accrue to him as a result of his subsequent re-employment under Government ; in other words, whether an amount of overpayment made to a Government servant and written off on the ground that the person concerned is no longer in Government service, can be recovered from him by adjustment of the pay and allowances earned by him in the course of his re-employment under Government. The President has now been pleased to decide that in cases where the amount of overpayment is written off merely because the person concerned is no longer in Government service and not on any other ground as for example that its recovery would cause hardship to the individual concerned, the dues which may accrue to him during the period of his re-employment under Government may be adjusted against the amount written off.

2. In the terms of re-employment of a retired Government servant, a condition should invariably be inserted to the effect that any amount of overpayment pertaining to the pre-retirement period including the amount written off on the ground that he was no longer in Government service would be recoverable by adjustment of the pay and allowances admissible to him during the period of re-employment.

3. It will be the duty of the office re-employing a retired Government

servant to make an enquiry from the office where he was formerly employed whether any nmount is recoverable in terms of paragraph 1 above. Such an enquiry will have to be made immediately after a person is re-employed. The final payment to the re-employed person on the termination of his re-employment should not be made unless the re-employing office has ensured that no amounts are adjustable in terms of paragraph 1 above.

4. Past cases which have already been decided otherwise than in accordance with the provisions of this decision need not be re-opened.

5. This decision issues in consultation with the Comptroller and Auditor General of India.

[G.I M F. No : F. 18(9)-EIIA/59, dated the 21st November 1960].

(10) The arrears of water and electricity are dues of the Municipal Committees etc which are local bodies and are therefore not Government dues.' Similarly Co-operative Societies are not Government organisations and any dues to those can not be treated as "dues to Government." No recovery of such dues can be made from the Death-cum retirement Gratuity.

Family pension is like any other pension and recoveries of dues whether Government or non Government are not permissible from it without obtaining the consent of the pensioner.

[G. I. M. F. U. O. No. 2896-ETA/60 dated the 31st August 1960 in file No. 10 (14) EV/60].

Note — See Government of India's decision No : (16) below Article 907 of the this Volume.

(11) Under the Commutation Rules, a pensioner can commute $\frac{1}{3}$ or $\frac{1}{2}$ of the pension that has been granted under the Rules. When a part of the pension is with held or withdrawn under Article 351 CSR the residual amount is the amount that has been granted under the rules from the date of with-holding or withdrawal of a part of pension. As such if a commutation is applied for after this date, the admissible amount that can be commuted will have to be calculated with reference to the pension payable to the person after that date. Commutation Rules do not state that the commutable amount is to be calculated with reference to the pension originally granted to the person.

[Auditor General's U-O. No. 610-A-I/152-60 dated the 9th August 1960 in file No. F 12(10)-EV/60].

351A.—The President further reserves to himself the right of withholding or with drawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement :

Provided that—

(*a*) such departmental proceeding, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be a proceeding under this article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service ;

(*b*) such departmental proceeding, if not instituted while the officer was in service, whether before his retirement or during his re-employment :—

(*i*) shall not be instituted save with the sanction of the President;

(*ii*) shall not be in respect of any event which took place more than 4 years before such institution ; and

(*iii*) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his sevice ;

(*c*) no such judicial proceeding, if not instituted while the officer was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose or an event which took place more than 4 years before such institution and

(*d*) the Union Public Service Commission shall be consulted before final orders are passed.

***Explanation* :—For the purpose of his article—**

(*a*) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the officer or pensioner, or if the officer has been placed under suspension from an earlier date, on such date ; and

(*b*) a judicial proceeding shall be deemed to be instituted :—

(*i*) in the case of a criminal proceeding, on the date on which the complaint or report of police officer, on which the Magistrate takes cognizance, is made, and

(*ii*) in the case of a civil proceeding, on the date of presentation of the plaint in the Court.

Government of India's decisions (1) Under the above rule, besides the right of ordering recovery from a pension of the amount of any pecuniary loss caused to Government, the President has also reserved to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, The authority which institutes proceedings of the nature referred to in article 351-A, Civil Service Regulations should without delay intimate the fact to the Audit Officer concerned.

It has also been decided that in a case in which a pension as such is not withheld or withdrawn but the amount or any pecuniary loss, caused to Government is ordered to be recovered from the pension, the recovery should not ordinarily be made at a rate exceeding one-third of the gross pension originally sanctioned including any amount which may have been commuted.

[G.I.M.F. Memo : No. 7 (73)-EV/58, dated the 12th March 1960].

(2) See Government of India's decision No : (10) below Article 470.

(3) An officer agreed under protest that the amount due from him may be recovered from his civil pension. The Government of India held that such an agreement will be hit by the provisions of section 12 of the Pension Act even if the agreement was made before the pension is sanctioned or after such sanction, it is null and void.

[Ministry of Law U.O. No. 16319/59 Adv. (A), dated 19-11-59 (File No. 5(194)-EV/59].

(4) A question was raised whether the U.P.S.C. has to be consulted under Article 351-A of the C.S.R. only in cases which involve gazetted officers. It was held in consultation with the Ministry of Home Affairs that the U.P.S.C. should be consulted in all cases before final orders to with-hold or with-draw a pension or any part of it in terms of this article are passd. This is measure of safe-guard for pensioners. Similarly the provision of departmental proceedings if not instituted while the officer was on duty should not be instituted save with the sanction of President is also for the pensioner's safe-guard.

[G I.M.F. U.O. No. 58-EVA/59, dated 7-2-59 in File No. 5 (9) -EV/59.]

(5) Recoveries of shortage of tools and plant material etc. if the guilt of the official has been established in departmental or judicial proceedings instituted for the above purpose in the manner laid down in proviso of Article 351-A of the C.S.R. if such proceedings are not possible in view of the restrictions imposed in regard to the time before such proceedings should be instituted the alternative should be to go to a Court of Law and recover the dues from the Government servant from his assets.

[G. I. M. F. letter No. F. 5 (93)-EV/59, dated 30-11-59 to the address of Secretary to Government of Andhra Pradesh, Finance Department, Hyderabad.]

(6) There is nothing in the language of article 351A to restrict the right of the President to withholding only a part of the pension in the

case dealt with by this provision. On the other hand, the words "withholding or withdrawing a pension" clearly convey that it is competent to the President to withhold or withdraw the full pension. The Government of India's decision No. (1) below Article 351-A in the 3rd Edition related to the extent to which deduction was to be enforced from pension for recovery of loss caused to Government by the officer. It was an administrative decision based more on equitable considerations than any interpretation of the provision for, in strict law, it was permissible under the old article and remains permissible under the new article to appropriate the pension in full towards the recovery. While "to restrict the amount of withheld pension to one-third of the pension originally sanctioned" in the decision may be applied under the new Article in case where the order is for recovery of losses from the pension, it has no bearing on the question of Government's right to withhold or withdraw the pension and Government may order the full pension to be withheld or withdrawn.

[G. I. M. F. U. O. No. 2497/60-Adv. (B) dated the 21st May 1960 in file No. F. 37(4) EV/60.]

(7) See Government of India's decision below Article 351B.

351-B (1) Where any departmental or judicial proceeding is instituted under Article 351-A or where a departmental proceeding is continued under clause (*a*) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders thereon.

(2) payment of provisional pension made under clause (1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforesaid proceeding but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or with-held either permanently or for a specified period.

Note—The grant of pension under this article shall not prejudice the operation of article 470 when final pension is sanctioned upon conclusion of the proceeding.

Government of India's decision. Prior to the deletion of clause (*d*) of F.R. 56 with effect from the 22nd August, 1962 a Government servant under suspension on a charge of misconduct was not required or permitted to retire on reaching the age of superannuation but was retained in service until the enquiry into the charge was concluded and a final order was passed thereon by the competent authority. Consequent on the deletion of this clause all such Government servants, who were not retired or permitted to retire under the aforesaid clause, would be deemed to have retired from service with effect from the 22nd August, 1962. Pending proceedings against them if the proceeding had already been instituted prior to this date will be deemed to be proceeding under Article 351-A CSRs and shall be continued in accordance with the provisions of this article. If no proceedings were instituted they shall be instituted under Article 351-A CSRs. Such officers shall be paid provisional pension under Article 351-B CSRs, till the final orders are passed upon the conclusion of the proceedings.

Instances have, however, been brought to the notice of the Government of Idnia where some of the officers of the above-mentioned category were not retired from service with effect from the 22nd August, 1962 but were continued in service and paid subsistence allowance etc. notwithstanding the deletion of clause (*d*) of F.R. 56. Since their retention in service is

irregular, any payment made to them by way of subsistence allowance beyond 22-8-1962 will not be in order as they are entitled to provisional pension only under Article 351-B CSRs. Since the subsistence allowance is generally more than the provisional pension, it is likely that some overpayments might have resulted in these cases. The question whether and how such overpayments should be recovered has been carefully considered and it has been decided to effect recoveries in all such cases from the gratuity admissible to them in the event of finalization of their pension claims. Cases where no gratuity is admissible or where the gratuity sanctioned is not sufficient to cover the overpayments may be referred to Finance Ministry for orders.

[G. I. M. F. Memo - No. F.4(47)-Ev (C)/63, dated the 4th December 1963.]

SECTION II – CASES IN WHICH CLAIMS ARE INADMISSIBLE.

352. In the following cases no claim to pension is admitted :

(*a*) **When an officer is appointed for a limited time only, or for a specified duty, on the completion of which he is to be discharged.**

(*b*) **When a person is employed temporarily on monthly wages without specified limit of time or duty ; but a month's notice of discharge should be given to such a person, and his wages must be paid for any period by which such notice falls short of a month.**

(*c*) **When a person's whole time is not retained for the public service, but he is merely paid for work done for the State.**

1. This clause applies, among others, to the following officers :—Advocate General, Solicitor to Government, Government Pleaders and Law Officers not debarred from private practice, Sheriffs in Presidency towns, Coroners, Roman Catholic Priests.

(*d*) **When a public servant holds some other pensionable office he earns no pension in respect of an office of the kind mentioned in clause (*c*) or in respect of duties paid for by a Local Allowance.**

(*e*) **When an officer serves under a covenant which contains no stipulation regarding pension, unless the Government of India specially authorises an officer to count such service towards pension.**

Note :—Secretary of State's Despatch No 255, dated 26th July, 1877—"I have considered in Council your Financial letter, dated the 5th June, last No. 155, regarding the insertion in contracts with mechanics and others engaged in England for service in India of a clause stipulating that their service under covenant shall, if the Government of India think fit to re-engage them count as service towards leave and pension under (*ordinary*) rules.

Your Government are of opinion that the arrangement should apply to all such persons engaged under convenant or contract in England for the public service in India under all circumstances, and for all Departments, and you express a desire that the covenants should be carefully worded, so as to preserve inviolate the indefeasible right of the Government to modify either Leave or Pension Rules from time to time as it stood at the date when any particular covenant was executed.

"Covenants with mechanics and other engaged for service in India will accordingly in future be prepared containing provisions to the effect recommended by your Governments."

Government of India's decision :— Where a treasurer has charge of more than one treasury, he is entitled to pension on the pay of the appointment of Treasurer actually filled by himself.

[G. I. F. D. No. 1407, dated 7th March 1894.]

(2) No claim to pension is admissible, when a person's whole-time is not retained for the public service, but he is merely paid for work done for the State, and a treasurer who does not do that work himself, but appoints an agent instead is not eligible for a pension under the rules.

[G. I. F. D. No. 3230, dated the 9th July, 1895.]

(3) The first notice given to an officer employed under the conditions of this Article eases to be effective when it is cancelled by a subsequent order, and the officer is entitled to a fresh notice before his renewed term of employment

for a further indefinite period could be cancelled.

[G. I. H. D. No. 587, dated 23rd June 1904].

(4) See Government of India's decisions Nos (2) and (3) below Article 361.

(5) The recommendations of the Pay Commission regarding the grant of death/retirement/terminal benefits for purely temporary employees and certain other categories of employees, in the event of death while in service or retirement or retrenchment or invalidment, have been under the consideration of the Government of India. The President has been pleased to decide that the following benefits should be allowed with effect from 1-11-1959, in respect of the categories of employees specified below, subject to the conditions indicated in each case. [*Also see appendix 12 in Volume II of this Compilation which comes into force from Ist January 1964*].

SECTION I—TEMPORARY EMPLOYEES

2. A—*Terminal gratuity*. (*i*) A temporary employee who retires on supernnuation or is discharged on account of retrenchment or is declared invalid for further service, will be eligible for a gratuity at the rate of 1/3rd of a month's pay for each completed year of service, provided he had completed not less than 5 years' continuous service at the time of retirement/discharge/invalidment.

(*ii*) In calculating the gratuity, the period of temporary service, if any, rendered from the 3rd September 1939, to the 31st October 1945, will also be taken into account. The gratuity admissible to such employees under the orders contained in the late Finance Department O. M. No. 12(27)-WII/45 dated the 30th November 1945, as extended from time to time, will, with effect from the date on which these orders come into force, cease to be admissible.

B—*Death gratuity*. The family of a temporary Government servant who dies while in service will be eligible for a death gratuity on the scale and subject to the conditions specified below :

(*a*) On death after completion of one year's service but before completion of three years' service a gratuity equal to one months's pay.

(*b*) On death after completion of three years' service but before completion of five year's service—a gratuity equal to two month's pay.

(*c*) On death after completion of five year's service or more—gratuity equal to three month's pay or the amount of the terminal gratuity mentioned in Part A of this Section, if it is greater.

**Note*—'Pay' for the purpose of determining the amount of terminal death gratuity under this Section will mean only basic pay, and also dearness pay in the case of those who retain the existing scales of pay, at the time of relinquishing service or of death as the case may be. It will not include special pay, personal pay, and other emoluments classed as 'pay'. In case the person concerned was on leave with or without allowance immediately before retirement/discharge/invalidment/death, pay for this purpose will be pay which he drew before proceeding on such leave provided that the benefit of increase in pay not actually drawn due to increment or promotion to a post carrying a higher rate of pay falling during leave not exceeding 120 days of earned leave or the first 120 days of such earned leave exceeding 120 days only will also be taken into account.

SECTION II—ADDITIONAL BENEFITS IN RESPECT OF TEMPORARY SERVICE FOLLOWED BY QUASI—PREMANENCY

3. *Terminal gratuity* : —A *quasi*-permanent employee who retires on superannuation or is discharged on account of retirement or is declared invalid for further service will be granted in addition to the gratuity admissible to him in respect of his *quasi*-permanent service, a gratuity in respect of the period of continuous temporary service rendered by him before becoming *quasi*-permanent at the rate of 1/3rd of a month's pay for each complete year of such service provided that the total period of his temporary and *quasi*-permanent service on the date of retirement/discharge/invalidment is not less than 5 years, For this purpose fractions of a year of *quasi*-permanent service, if any, will be given credit as for temporary service if the fractions of temporary and *quasi*-permanent service add up to a full year.

*As substituted by G.I.M.F. Memo. No. F. 17(1)EV(A)/60, dated 7-5-62.

B Death gratuity. In the event of death of a *quasi*-permanent employee while in service, his family will be granted gratuity on the following scale :—

(*a*) If the death takes place after completion of three years but before completion of 5 years total continuous service (*i. e.* including both temporary and *quasi*-permanent service); a gratuity equal to three months pay.

(*b*) If death takes place after completion of 5 years total service or more; gratuity equal to 4 months pay or terminal gratuity as in 'A' above Whichever is more.

**Note.*—'Pay for the purpose of determining the amount of terminal death gratuity under this Section will mean only basic pay and also dearness pay in the case of those who retain the existing scales of pay on the last day of his purely temporary service *viz*, immediately before the date on which he was made quasi-permanent. It will not include special pay, personal pay, and other emoluments classed as pay.' In case the person concerned was on leave without allowances immediately before the date on which he was made quasi-permanent, pay for this purpose, will be pay which he drew before proceeding on such leave provided that the benefit of increase in pay not actually drawn due to increment or promotion to a post carrying a higher rate of pay falling during leave not exceeding 120 days of earned leave or first 120 days of such earned leave exceeding 120 days only will also be taken into account.

SECTION III—PERMANENT PENSIONABLE EMPLOYEES DYING BEFORE COMPLETION OF 5 YEARS QUALIFYING SERVICE.

4. (*i*) Under the New Pension Scheme, contained is appendix 41 of this Compilation the family of a permanent pensionable employee who dies while in service, after completing 5 year's qulifying service, is eligible for a gratuity which is subject to a minimum of 12 times the emoluments of the officer at the time of death. It has now been decided that the family of such an employee who dies before completing 5 year's qualifying service will also be eligible for a gratuity equal to 6 time the emoluments of the Government servant at the time of his death except in cases in which death occurs in the first year of service when the gratuity admissible will be equal to two month's emoluments.

(*ii*) The death gratuity admissible to the family of such employees under the orders contained in Finance Ministry's Office Memorandum No. F.7 (46)-EV/ 54, dated the 26th June 1956, will with effect from the date on which these orders come into force, cease to be admissible,

SECTION IV—GENERAL

5. (*i*) Except as otherwise indicated in this decision, the various terms used in these orders *e. g.* "Government service", "*quasi*-permanent service" and "temporary service", will have the meaning assigned to them in the Central Civil Services (Temporary Service) Rules 1949.

(*ii*) The gratuity admissible under Sections I and II above will be payable in accordance with the provisions contained in the Central Civil Service (Temporary Services) Rules 1949 and the relevant orders and instructions issued thereunder.

(*iii*) The grant of gratuity under these orders will be subject to the service rendered by the employees concerned being held by the authority competent to appoint him, to be approved and satisfactory.

(*iv*) No gratuity will be admissible.

(*a*) in a case where the employee concerned resigns his post or is removed/ dismissed from public service.

(*b*) to a probationer or other Government servant discharged for failure to pass the prescribed test or examination; and

(*c*) to a re-employed pensioner.

6. Where compensation is payable under the Industrial Disputes Act, the amount of such compensation will be set of against the amount of gratuity payable under these orders, if the amount of gratuity is more than the amount of the compensation. If, however, the amount of the said compensation is higher than the gratuity payable under these orders no gratuity will be paid.

[G, I. M. F. Memo No. F. 17 (I)-EV (A)/60, dated the 11th July 1960.]

***As substituted Vide G. I. M. F. Memo ; No. F. 17(1)EV(A)/60, dated 7-5-62.**

Note—See Family pension Scheme appearing in appendix 12 to the Chaudri's Compilation of Civil Service Regulations, Volume II which came in to force from the 1st January 1964.

Misconduct of Inefficiency.

353. No pension may be granted to an officer dismissed or removed for misconduct, insolvency or inefficiency ; but to officers so dismissed or removed, compassionate allowances may be granted when they are deserving of special consideration provided that the allowances granted to any officer shall not exceed two thirds of the pension which would have been admissible to him if he had retired on medical certificate.

***Provided further that no allowances shall be granted to an officer under the rule-making control of the Secretary of State for India in Council without his sanction.**

Government of India's Instructions :—With a view to clearing the doubts that appear to exist in respect of the factors that generally guide Government in dealing with the application for compassionate allowances and the consequent difficulties experienced by the Department in making recommendations in this behalf, the Government of India, Finance Department, have laid down the following instructions :—

'Article 353 Civil Service Regulations, vests Government with an absolute discretion to grant or not to grant any compassionate allowance, the only restriction being that if granted, it shall not exceed the maximum of two-thirds of the pension that would be admissible to the officer concerned on retirement on medical certificate. It is practically impossible in view of the wide variations that naturally exist in the circumstances attending each case, to lay down categorically precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and conclusion has to be reached on the question whether there were any such extenuating features in the case as would make the punishment awarded, though it may have been necessary in the interests of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of the misconduct which occasioned the dismissal or removal of the officer, but also kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance.'

[G.I.F.D. Office Memo No. F. 3 (2)—R. II/40 dated the 22nd April, 1940.]

Note (1) This instruction is also applicable to the civilians in Defence Service *vide* Army Instruction No. 33 of 1952.

Note (2) The President has decided that authorities who are competent to remove or dismiss the Government servant from service may also grant him compassionate allowance under Article 353 of the Civil Service Regulations with due regard to the guiding principles enunciated in the above instruction.

[G. I. M. F. No. F. 4 (1) —V/55, dated the 20th May. 1945.]

Note (3) The provision of Note 2 above apply also to the civilian personnel employed with the Army and paid from the Defence Services Estimate as well as to the D.G,O.F. Organisation.

[Army Instruction No. 138, dated the 14th July, 1956].

Government of India's decisions :—(1) The report of the Audit Officer is required in all cases of grant of compassionate allowance.

[Paragraph 38 of the India Supplement to the C. S. R. (Fourth Edition)]

(2) In order to avoid delay in the payment of compassionate allowance

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*The proviso to Art 353 has not been adopted by the Governor-General in Council for his own Service.

the following procedure should be adopted in cases relating to officers removed from service :—

(*i*) On receipt of the orders of the competent authority removing an officer from service for misconduct, insolvency or inefficiency, the head of the office, if he proposes to recommend the grant of a compassionate allowance, should fill in the first page of the applications for pension in Form 25 (See in the end of this Volume) as the case may be, and send it to the Audit Officer concerned for report on the title to pension The head of the office should not wait for an application from the officer.

(*ii*) If the competent authority in issuing orders of removal states that a certain proportion of the invalid pension is to be granted as compassionate allowance, no further sanction to pension is necessary, and all that is required is that the Audit Officer should certify to the admissibility of the pension on a pension application completed and signed by the head of the office as provided in (*i*) above.

[G. I. F. D. No, F. 3-X-R II/34, dated 3-5-1934.]

(3) No officer, even if belonging to a class entitled to commute ordinary pension, is entitled to commute a compassionate allowance: a commutation to such an allowance may be sanctioned by a competent authority only on proofs that the proceeds of the commutation will be invested for the permanent benefit of the commuter's family.

[G. I. F. D. letter No D-9291-Ex-1 31, dated 6-1-1932.]

(4) As a compassionate allowance is granted to an individual as an act of grace, the Government of India consider the grant of any further concession in the shape of a condonation of a deficiency would not be justified and they consider it undesirable therefore that sanctioning authorities should sanction condonation of deficiencies in such cases.

[G. I. F. D. No F. 4 (6) R. II/37 dated the 19th August 1937.]

Audit Instruction. Compulsory retirement for mis-conduct is "removal" for the purpose of a grant of compassionate gratuity under this article.

[Para 6 (ii) of section III of the Manual of Audit Instruction (Reprint) copy received by Mr L. S. Chaudri with Comptroller and Auditor General's Memo No, 203-A/22-53 dated the 24th February, 1953].

Auditor General's decision. (1)—A compassionate allowance is not "a pension which is certified by the responsable Audit Officer to be clearly and strictiy admissible under rule" within the meaning of Article 918 of the Civil Service Rugulations and, therefore, the provisions of that Article are not applicable to such allowance. In respect of Government servants belonging to the service under the rule making control of the Governor-General in Council, the power to grant compassionate allowance under Article 433 Civil Service Regulation is reserved to the Govenor-General in Council except in cases where the power is delegated to subordinate authorities by rules made under the Civil Service (Classification Control and Appeal) Rules,

[Auditor General's letter No. T. 907/141-36. dated 9th September, 1936.]

(2) See Auditor General's order below Article 925.

Unfitness for Further Advancement.

353A. When an officer, beloning to one the following service's who is proved to be unfit for further advancement. is removed from service by the Secretary of State on the recommendation of the Local Government and the Government of India, he may, with the sanction of the Secretary of State, be granted a pension not usually exceeding, and not necessarily so great as, that which would have been admissible to the officer if he had been invalided on medical certificate. In making their recommendations in such cases the Government of India and Local Government will be guided by the circumstances of each case and are not debarred from proposing, if the circumstances justify it, a pension lower or (in exceptional cases) higher in amount than that

which would be admissible to the officer if he was invalided on medical certificate

(*a*) **The Indian Civil Service.**

(*b*) **The Indian Police.**

Government of India's decision, The Government of India have had under consideration the question of granting temporary increase in pension to those who are in receipt of pension under Article 353-A of the Civil Service Regulations. The President has now been pleased to decide that such person may also be paid temporary increase in pensions at the rates admissible to other pensioners in terms of Government of India's decision No. (1) below Article 474 of the Civil Service Regulations.

[G. I. M. F. Memo : No. 8 (9)-EV/55, dated the 3rd June, 1955.]

Compulsory retirement as a a penalty

353AA. An officer compulsorily retired from service as a penalty may be granted by the authority competent to impose such penalty, pension at a rate not less than two-thirds and not more than full invalid pension and special additional pension, if any, admissible to him on the date of his compulsory retirement :

Provided that in the case of an officer mentioned in article 349A, other than an officer mentioned in article 474.A(*i*) who has completed, before such compulsory retirement, 25 years of qualifying superior service or more, the pension shall be not less than two-thirds of the invalid pension and not more than the full retiring pension and special addition pension, if any, to which he would have been entitled if he retired on that date :

Provided further, that in the case of an officer mentioned in article 474-A (*i*), who has rendered, before such compulsory retirement, 20 years of qualifying service or more, the pension shall be not less than two thirds of the invalid pension and not more than full retiring or invalid pension and special additional pension if any. whichever is less.

Note.—The provisions of this article shall be deemed to have taken effect from 9th May, 1956.

Government of India's decision. The Ministry of Home Affairs Notification No. 7/4/56-Ests. (A) dated the 9th May, 1956, introduces compulsory retirement as one of the penalties which can be imposed on Government servants for good and sufficient reasons, and Article 353AA of the Civil Service Regulations prescribes the limits for retirement benefits which would be admissible to an officer on whom that penalty may be imposed. This form of penalty has been introduced to provide for cases in which the continuance of a Government Servant in service is considered to be undesirable but the extreme penalties of removal or dismissal, with the consequent loss of pension, is considered to be too severe.

For the avoidance of doubts it is hereby made clear that Article 353AA CSRs, applies also to those who are governed by the New Pension Rules, appearing in Appendix 41 of this Compilation as amended from time to time.

In this connection it may also be stated that the intention is that persons on whom the penalty of compulsory retirement is imposed should ordinarily be granted the full invalid pension and death-cum-retirement gratuity or special additional pension, if any, admissible on the date of compulsory retirement. Where, however, the circumstances of a particular case so warrant, the authority competent to impose the penalty of compulsory retirement may make such reductions in the pensionary benefits, within the limits prescribed, as it may think appropriate. In the case of a person governed by the New Pension Rules a reduction may be made either in the death-cum-retirement gratuity or in the pension or in both.

When a person who has been granted pension dies within five years of his compulsory retirement, and his family is entitled to a family pension, the family pension admissible will be half the amount of the pension actually

sanctioned, subject to the usual maximnm of Rs. 150 per month. No reduction will be made in the amount of the residuary death gratuity, *viz* the amount by which the sums actually drawn by the officer concerned up to the time of his death by way of pension and/or gratuity fall short of his 12 months' emoluments.

[G. I. M. F. letter No. F. 7 (22)-E V/56, dated the 3rd June. 1957].

Claims of Widow.

354. (*a*) It being the duty of every Government officer himself to provide for his family, the Government recognises no claim by a widow on account of the services of her husband, and is almost invariably under the painful necessity of rejecting recommendations made in contravention of this rule.

(*b*) The submission of such recommendation, save under, very extraordinary circumstances, is disapproved, as calculated only to give rise to hopes which cannot be fulfilled.

Note 1.—In Despatch No. 36, dated the 17th November 1841, regarding the establishment of the Bengal Uncovenanted Service Family Pension Fund, the Court of Directors observed:—"In referring to the causes. which may have operated to keep back subscribers the Directors advert to a reliance supposed to be placed on the special exercise of our bounty in favour of the families of deceased servants. Whether or not such reliance have any effect in discouraging subscription to the Fund, it is most important to the interest of the families of our Uncovenanted Servants that it should not be indulged. In our Despatch, dated the 16th October 1839, No. 31, we called your attention to the fact that the rules restricted the grant of pension of family, or any member or the family, of a deceased servant, to cases where the servant shall have been killed in the exercise of his public duty, or shall have died in consequence of wounds or accidents sustained there in, except in special cases justifying extraordinary indulgence and which are of very rare occurrence, The belief, therefore, that the fact of the person dying in our service gives his family a claim to pensionary provision (if such belief exist), is a delusion which may be productive of very painful consequences, and which, for this reason, we feel it an imperative duty to endeavour to dispel. We observe that the Committee of the Fund have taken some pains to make our views on the point generally known; and in thus acting, they have contributed not only to promote the interest of the Fund, but to render valuable service to their brethern by disabusing their minds of a dangerous error."]

Note 2.—In a despatch No. 52 dated 8th February 1870, the Secretary of State remark that" grave objections exist to the grant of special pensions to the families of Uncovenanted Servants, every such grant forming a precedent which is quoted in support of subsequent applications, with less claims to considerations.

Government of India's order.—See Appendix 12 to the Chaudri's Comilation of Civil Service Regulations, Volume II.

Limitations.

355. (*a*) An officer cannot earn two pensions in the same office at the same time, or by the same continuous services.

(*b*) Two officers may not simultaneously count service in respect of the same office.

Audit Ruling. Service in the Indian Army Reserve of Officers counts towards pension [*vide* Government of India Finance Department Notification No. 60-A dated 15th January 1 15, published in India Gazette. Part I dated the 16th January, 1915 on page 165] the award called 'gratuity' drawn by an officer on the termination of his service as an I.A.R.O. (in terms of paragraph 166 Army Regulations, India Volume I) is not a service gratuity in the real sense of the term. The payment of such a gratuity does not therefore debar a civil officer from counting towards pension the military service in respect of which it is earned.

[Military Accountant General's letter No. 792-Audit, 11th June, 1952.]

Military Service.

356. (*a*) Service rendered by an employee belonging to one of the classes mentioned in Note 2 below, after attaining the age of *18 years, which is pensionable under military rules but which terminates before a pension has been earned in respect of it, may, at the discretion of the

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**Substituded* for 20 vide G.I.M.F. Notification No : F. 3(2)-EV (A)/61 dated the 23rd February 1961.

Government of India or of the Provincial and Minor Local Government specified in Part I and II of Appendix I to these Regulations, be allowed to count, when followed by service qualifying for pension under civil rules as part of such service, provided that any bonus or gratuity received in lieu of pension on, or since, discharge from military service, shall be refunded in such number of monthly instalments not normally exceeding 36 and beginning from such date, as in each case the Government of India, Provincial Government, or Minor Local Government, as the case may be, may decide. Service so allowed to count shall, however, be restricted to service, within or outside the employee's unit or department, in India or elsewhere, which has been paid for from Indian Revenues or for which a pensionary contribution has been received by Indian revenues.

(*b*) Service pensionable under military rules which does not terminate before a pension has been earned in respect of it shall not be allowed to count for pension under civil rules without the sanction of the Secretary of State in council

Note 1.—An officer, *ex*-soldier, *ex*-sailor or *ex* airman will not be brought under the operation of this Article as a matter of course. Each case will be decided on its merits. *e. g.* there may be cases in which it may be open to a claimant for pension to add military service during the Great War to former non pensionable service in the Army in order to claim the benefit of a military pension. In such cases it may be to the advantage of the claimant that he should not be brought under the operation of this article. The bearing of paragraph 574 of the Pay and Allowance Regulations of Army in India, Part II on the position of soldiers of the Indian Army who re-entered during the Great War, deserves consideration in this connection.

Note 2. -This Article applies to commissioned officers, Junior commissioned officers, warrant officers, non-commissioned officers and other enrolled personnel of the Army, and the corresponding categories of the Navy and Air Force. It also applies to personnel of the Frontier Constabulary and Militias, non-combatant departmental and regimental employees and followers of the supplemental service and warrant officers and Departmental Officers of the Commissary and Assistant Classes.

Note. 3.—To be eligible for the concession in this Article, the individual concerned should take his discharge from the Army Navy or Royal Air Forces within 12 months of the date of his confirmation in the appointment pensionable under civil rules. This limit may, in special cases, be relaxed by the Government of India.

Note 4.—Employees in the Military Police have the option of counting service under any other rules in these Regulations which would give them a similar or more liberal concession.

Note 5. Employees who were in service in an appointment pensionable under civil rules on the 22nd February 1921 are eligible to count service under the rules which were in force before that date where these rules are more advantageous to them.

Note 6.—A person permanently appointed to the Civil Police force or to a post in the Jail Department of an administration subordinate to the Governor-General in Council who before such appointment has served in the reserve of the India Army, may, if his military service, whether or not including service with the colours in addition to service in the reserve, was pensionable under military rules but terminated before he had qualified for pension, be permitted, at the discretion of the head of the administration, and subject to the provisions contained in this Article, to count for civil pension the whole of his service with colours, if any, and half his service in the reserve.

Government of India's decisions :—(1) Indian soldiers who, after obtaining the certificate of the surveying class at Roorkee, join the Survey Department temporarily and are subsequently appointed to that Department permanently, without break of service, and who are discharged from the Army while so employed, should be allowed to count their services for civil pension from the date of the Roorkee certificate.

[G. I. Fin No. 5810 P. dated 31-10-1890],

(1—A) The Liberalised Pension Rules do not effect the rule relating to the counting of Military service towards the civil pension and whatever Military service could be reckoned under Article 356 of the C. S. R. continues to be reckoned to the same extent and in the same manner. The position thus is that for the purposes of calculating the total service qualifying for pension, the qualifying Military service would be added and then the quantum of retirement benefit would be determind by referring to the Rules (Liberalised or old Rules)

applicable to the Government servant concerned.

[G.I.M.F. letter No. F. 13(12) EV/52 dated the 25th October, 1954 to the address of the Bombay Government].

(1—B) Doubts having been expressed in certain quarters with regard to the scope of Art. 356, Civil Service Regulations, which governs the counting of previous military service for civil pension subject to certain conditions, when such service is followed by service qualifying for pension under the civil rules, the Ministry of Finance clarified that tbe expression "service which is pensionable under military rules" and other similar expressions occurring in the aforesaid article cover also service rendered in the Indian/Royal Navy and the Indian/Royal Air Force. The notes below the said article should also be construed accordingly

[G. I. M. F. Memo : No. 1 (7) E V/58, dated 10th May 1958)

(1-C) In the accordance with Article 356 of the C. S. R., the benefit of counting military service towards civil pension can be allowed only to those Government servants who have actually been appointed substantively on a civil post. The question of issue of sanction to count the military service towards civil pension in the case of Government servants not appointed to civil posts substantively therefore does not arise.

[G.I.M.F. letter No 2594-EV (A)/59, dated the 7th July 1959.]

(2) If the Indian soldiers, while employed, as in decision No. (1) above do not get their discharge from the Army, their pensions will be regulated under military rules, even though they may retire from the Department of Survey of India.

[Paragraph 47 of the India Supplement to the C.S,R, (Fourth Edition)].

(3) to (8) *Not printed*

(9) Mr. J. P. Brady. late a Distillery Expert, Punjab, served in the Indian Army Reserve of officers during the Great War I and on his release from the military service he was paid a gratuity in respect of the military service. On his final retirement from his civil appointment, a question arose whether the military service in question will count for pension irrespective of the fact that a gratuity has been paid by the Military Department in respect of the military service or the gratuity already paid will be refunded and the military service allowed to count for pension. The Government of India Army Department, in reply to a reference, being made to them by the Financial Commissioner stated that grant of the gratuity to Government civil servants holding commissions in the Indian Army Reserve of Officers was in the nature of a reward for military services rendered. It was not in lieu of a pension, as service in the Indian Army Reserve of Officer was not pensionable under military rules. In the circumstances, Mr. Brady was entitled to count the period of his military service towards civil pension without being required to refund the gratuity which he received for such service.

[Government of India Army Department letter No. A-39837-2 (A-G.-14), dated the 11th March, 1927.]

(10) to (13) *Not printed.*

(14) The gratuity once refunded under Article 356, C. S. R. in order to secure the benefit of counting former military service for civil pension can not be paid back in any circumstances.

[G.I.F.D.U.O. No. 5091-F/39, dated 17-8-1939.]

(15) Previous military service of ex-soldiers serving in the Police Department will be verified by reference to the Military Accounts Department.

[G. I. H. D. letter : No. F. 100/11/32-Police dated 28-4-1934.]

(16) *Not printed.*

(17) The Government of India have ruled that it is permissible under Article 356 Civil Service Regulations, to allow Military Service interspersed between two periods of Civil Service to count for civil pension, provided that the conditions laid down in that Article are otherwise fulfilled. The share of pension proportionate to Military Service in such cases will be borne by the Army Department.

It has further been decided that before orders are passed, in any case, the Military Service of the individual concerned and the amount of gratuity paid to him should be verified by reference to the Controller of Military (*now* Defence) Accounts.

[G. I. H. D. No. F. 116-1-34 Police, dated 28th June, 1934, copy received with Government of India, Finance Department, No. D. 1799-R-II-34, dated the 10th July, 1934.]

(18) *Not printed.*

(19) A question having arisen as to what course should be adopted in the case of civil employee who has rendered satisfactory paid military service in the Great War in addition to military service pensionable under the Military Rules before or after such war service but who did not earn a pension by his war service in conjunction with his other military service, the Government of India have decided that, that portion of the military service, which was rendered before or after the war service should be dealt with in accordance with the provision of Article 356 of the Civil Service Regulations and the war service portion, *i. e.* the period of service between 4th August, 1914 to 31st August, 1921, should be dealt with under Article 356 or 357A whichever may be advantageous to the officer, subject of course, to the limitations prescribed in those Articles. If the war service is counted under Article 356 the whole of it will count, but if under Article 357A, only completed years upto a maximum of 4 years and in the latter case the residue of war service cannot then be counted under Article 356.

If the entire military service including war service is dealt with under Article 356 of the Civil Service Regulations the whole of the gratuity received in lieu of pension (but not that given as a reward for war service) will have to be refunded by the officer concerned. If, however, the portion which was war service is dealt with under Article 357A Civil Service Regulations and the rest of the military service before or after the war under Article 356 *ibid*, the amount of gratuity which the officer will refund in respect of the latter portion should bear the same proportion to the total amount of gratuity received in lieu of pension as the period dealt with under Article 356 bears to the total period of military service including the period of war service.

For the purposes of the instruction contained in the decision it is immaterial whether or not there was a break between the war service and other military service.

These orders apply only to civil employees who have retired or may retire on or after the 28th May, 1929.

[Government of India Finance Department letter No, F. 11 (24)-R. II/35, dated 3rd October, 1935.]

Note,—The provisions of this decision will apply also to civilians paid from Defence Service Estimates.

Explanation,—Military Service rendered during the Great War *i. e.* War Service, may be classified into two categories :—

(*i*) Where the War Service has been rendered in addition to other military service pensionable under the military rules and rendered before or after such war service; and.

(*ii*) Where the war service stands alone *i. e.*, where no military service has been rendered except service during the War periods, *viz.* the 4th August, 1914 to the 31st August, 1921.

In regard to war service falling in category (*i*) above, Government of India Finance Department letter No. F. R. 11(24)-R, 11/35 dated the 3rd October, 1935, applies and the Government servant concerned is permitted to count his war service (*i. e.*) the portion of service rendered between the 4th August, 1914 to 31st August, 1921) for civil pension either under Article 356, C. S. R. or under Article 357A C. S. R. whichever may be more advantageous to him subject of course to the limitations prescribed in the respective Article.

In regard to war service falling in category (*ii*) above the position is different. In such cases the Government servant has no option and such war service must be counted under Article 357-A only subject to limitations prescribed in that Article.

In other words the position is that ordinarily War Service should be counted, if

admissible under Article 357A, C S.R. only; but in case where the War Service has been rendered in addition to other military service pensionable under the Military Rules either before or after the War and in such cases only the Government servant concerned is given the option to count, if it is more advatageous to him, his war service under Article 356 C. S. R. if otherwise admissible.

[Government of India, Finance Department letter No. F. II (37)-R II/38, dated the 9th January, 1939.]

Auditor General's decisions :—(1) Full particulars for all service counting as service for pension are shown in India Army List beneath the names of officers other than those in whose cases service for pension counts from the date of first commission. The entries appearing in the India Army List are audited ones and may be accepted as correct. Where no remark is entered beneath the name of a particular officer it may be assumed that, that officer has no rank service or other service prior to his date of commission counting for pension.

[M. A. G's letter No. AL/464, dated the 19th October 1939[

(2) A question was raised whether the proportionate military share of a civil pension granted to an individual in civil employ who has been allowed to count for civil pension his previous military service without refunding the gratuity he received on discharge from the Army under Note 5 below the revised Article 356, Civil Service Regulations, read with exception 6 of the old Article, would be chargeable to th Defence Service estimates irrespective of the fact that military gratuity alread paid has not been refunded and credited to those estimates.

The Government of India, with the concurrence of the Auditor General, decided that the liability of the Defence Service estimates to bear the proportionate military share of the civil pension granted in such cases, should be limited to the capitalised value of the proportionate pensionary share less the amount of discharged gratuity already paid to the men concerned from these estimates.

[Military Accountant General's letter No. A/4430, dated the 27th April, 1937]

(3) Civil Accounts Officers should in future watch the regular recovery of gratuities refunded under Article 356, C. S. R. by *ex*-soldiers on re-employment in the Civil Department and pass on the credits for the amounts thus recovered to the Controller Military Accounts concerned.

[Auditor General No. T. 51-Admn. 1/66-33, dated the 25th April, 1953].

(4) It has been decided by the Military Accountant General that in cases in which satisfactory evidence is adduced to establish the fact of an individual having rendered military service, but in which the evidence does not c ntain anything specific to indicate that the service, or part of it, did not include any non-qualifying period and in which attempt to obtain collateral evidence on this point failed a definite certificate should be furnished to the Civil Department by the Controllers of Military Accounts for so much of the service as can be certified to be qualifying. In respect of the period or periods of service that cannot be so certified, such information regarding this period/these periods of service as far as possible, including a brief precis of the efforts made to obtain evidence, should be furnished so as to enable the sanctioning authority to decide whether such service should not be sanctioned to count for pension.

[M, A, G's letter No. 5916, AT/D, dated the 19th May, 1939 received with Auditor General's endorsement No. T. 368/Admn 1/4-39, dated 14th June, 1939]

(5) See Auditor General's decision below Article 357B.

Audit Instructions : (*i*) When an order is passed under Article 356, C. S. R. allowing previous military service to count as part of the service qualifying for civil pension, it should be taken as carrying with it condonation of breaks, if any, in the military service, or the break, if any, between the military service and the civil service.

(*ii*) Under Note 5 below Article 356 of the C. S. R. read with exception (6) to the old Article, it is not necessary that a Government servant who received a gratuity on discharge from military service should refund that gratuity in order to count towards civil pension the period of military service

for which it was paid.

[Para 7, Section III of Manual Audit Instructions (Reprint).]

357. For the purpose of the foregoing Article, service as private or in any higher combatant rank shall be treated as superior if followed by superior service in an appointment pensionable under civil rules. In other cases, military service shall be treated as superior or inferior according to the character of the appointment in which it was rendered, and with referenee to the criteria observed in an appointment pensionable under civil rules. Doubtful cases should be referred to the Goverment of India who enjoy full powers in the matter.

Audit Instructions : (1) Except to the limited extent indicated in the opening sentence of the above Article, the classification of the military service which is allowed to count for civil pension depends, not on the character of the subsequent civil employment, but on the character of the military appointment in which it was rendered. Military service rendered prior to civil employment has thus to be classified as inferior or superior according as to whether it would have been inferior or superior had it been rendered in a similar appointment pensionable under civil rules.

(2) The follwing principles should be adopted in the classification of military service counting for civil pension as 'superior' or 'inferior' :—

(*a*) Service as a sepoy or service in any equivalent or higher combatant rank should be treated as 'superior' and as a follower as 'inferior' whether such service is followed by 'superior' or 'inferior' civil services ;

(*b*) Service rendered in any other capacity in an appointment under the Defence Department should be treated as 'superior' or 'inferior' according to the classification of any civil post carrying duties of a similar character.

Doutful cases should be referred to the Government of India for orders. All royal Indian Navy ratings are viewed as combatants; their service as such will therefore be considerered as 'superior'.

[Para 9, Section III of Manual of Audit Instruction (Reprint).]

357A. Civil employees other than those governed by Article 357B who, prior to their civil employment, have rendered satisfactory paid service between the 4th August, 1914, and the 31st August, 1921, in His Majesty's Military, Naval or Air Forces, British or Indian, which did not earn a service pension under the Military, Naval or Air Force Rules, shall be allowed to count such military service, including *all kinds of leave on full rates of pay and sick leave taken during such service, for the purpose of civil pension, subject to the observance of the following general principles :—

(1) Completed years of military service shall be allowed to count up to a maximum of four years.

(2) In the case of services in which a minimum age is fixed for recruitment, no military service rendered below that age shall be allowed to count for pension.

(3) The addition of war service shall not be included in total service under Article 408 of these †[Regulations] for the purpose of counting leave as service for pension, nor allowed in addition to the concession in article †[403 or] 404A, but any Government servent who may be entitled to the concessions admissible under the latter Articles and to the concession in this Article. will be allowed to select whichever is more favourable.

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† [ ] The word "of these Regulations" and '403 or" occnrring in clause (3) of Article 357A have been deleted in respect of services under the control of the Governor General in Council with effect from the 24th February, 1938.

civil posts on a permanent basis should be allowed to count the period of their 'war service' for purposes of civil pension. After careful consideration, it has been decided that persons who have rendered 'war service' as members of His Majesty's Forces and have been appointed or are deemed to have been appointed permanently to war-reserved vacancies or to other vacancies which arose before the 1st January, 1948, shall subject to the general principles laid down in Articles 357A and 357B of the Civil Service Regulations, be allowed to count the completed years of their satisfactory whole-time service in His Majesty's Forces rendered between the 3rd September, 1939 (or the date of their attaining the minimum age of entry into the service or post to which they are appointed on a permanent basis, whichever is later) and the 1st April, 1946, for purpose of civil pension upto a maximum of five years.

[G. I. M. H. A. Memo 39/49/C. S., dated 1st July 1950.]

Note 1. The provisions of the above memo apply to all corresponding Civilian presonnel paid from Defence Service Estimates *vide* Army Instruction No. 308 dated 23rd September 1950

Note 2. General Principles of allocation laid down in paragraph 14 Section B(IV) of Appendix 3 to the Account Code. Volume I, should be applied in respect of Military Service rendered in the World War II that may be counted for civil pension under the above orders *vide* Government of India ,Ministry of Home Affairs, Memo No. 33/4/53 C. S. (C), dated the 30th March 1954.

These orders also apply to all corresponding civilian personnel paid from Defence Service Estimates including those employed in Ordinance Factories Organisation *vide* Army Instruction No. 250, dated the 25th September 1954.

(10) Military Service rendered either in India or else-where by Indian Service Personnel during the last War under His Majesty's Government who were paid out of Emergency Fund of the Defence Expenditure Plan will count as qualifying service for the purpose of civil pension under Article 357A of the Civil Service Regulations subject to the general condition prescribed in decision No. (2) above.

[G. I. M. Home Affairs letter No. 33/7/51 C. S C., dated the 26th February 1953.]

†357B Members of the services specified in the Schedule below, who, prior to their civil employment have rendered whole-time enlisted or commissioned service between the 4th August, 1914 and 31st August 1921 in His Majesty's Military, Naval or Air Forces, British or Indian, which did not earn service pension under the Military, Naval or Air Force Rules, may count such service, including all kinds of leave on full rates of pay and sick leave taken during such service, for civil pension of all kinds subject to the following conditions :–

(1) Complete years of service rendered after the attainment of the minimum age mentioned in the Schedule to this Article shall be allowed to count upto a maximum of four years.

(2) The addition so made shall not be included in total service under Article 408 for the purpose of counting leave as service qualifying for pension, nor be allowed in addition to the concession in Article 404A but an officer who may be entitled to the concession admissible under Article 404A and to that provided in this Article, shall be allowed whichever concession is the more favourable to him.

(3) Save as stated in Notes 1, 2, and 4 no refund of bonus or gratuity received in respect of such service shall be required from the officer.

Note 1.—Officer of the Indian Army retired as surplus under the terms of the Royal Warrant of 25th April, 1922, appointed to any of the services named in the Schedule (except the Indian Police) shall be entitled to the concession in this Article or to the following concession whichever is more favourable :—

They shall be allowed to count as service qualifying for superannuation, retiring and invalid pension, all service in the Indian Army (excluding service in the British Army which would have counted for Indian Army pension) rendered

†This Article has effect from the 26th May, 1937.

after attaining the minimum age of appointment as indicated in the Schedule below and subject to a maximum period in all of four years but the gratuity, if any, received by them under that Royal Warrant shall be refunded to Government.

Note 2.—Officers of the Indian Army retired as surplus under the terms of the Royal Warrant of 25th April 1922, appointed to the Indian Police may count all service pensionable under Indian Army Regulations towards Civil pension but the gratuity, if any received by them under that Royal Warrant shall be refunded to Government.

Note 3.—Members of the Indian Police (other than those appointed to the service under the special Regulations of the 21st February, 1923 and surplus officers of the Indian Army) are entitled to the concessions below if more favourable to them than the concession in this Article :—

Age of candidate on 1st August preceding the date of reporting for *duty in India*	Period of war service including sick leave allowed to count for *retiring* and *invalid* pension.
Under 22 years	*Nil*
22 years and under 23 years	Up to 1 year.
23 years and under 24 years	Up to 2 years.
24 years and under 25 years	Up to 3 years.
25 years and over	Up to 4 years.

Note 4.—D. F. Keegan of the Imperial Customs Service shall count as service towards invalid and retiring pension in the Custom Service his total pensionable Army Service subject to his refunding the gratuity paid to him under the terms of the Royal Warrant of the 25th April, 1922 *less* an amount equal to the allowance he would have drawn between the date of drawing the gratuity and the date from which he began to draw pay in the Customs Department.

Note 5.—Members of the Indian Forest Service and Indian Forest Engineering Service including those transferred to the Indian Service of Engineers shall be entitled to the concession in this Article or to the following concession whichever is more favourable :—

Officers retiring after 20 and less than 25 years' Service shall count for pension completed years of war service rendered after attaining the age of 20 including sick leave taken during that service up to maximum of two years and those retiring after 25 years' service up to a maximum of three years.

Note 6.—Service added under this Article as well as under Notes 2, 3 and 5 shall count towards the limit of 28 year' qualifying service prescribed in Article 475A (7)

SCHEDULE

Service	*Minimum Age*
Indian Police ...	19 years
Indian Agricultural Service ...	23 ,,
Indian Educational Service ...	23 ,,
Indian Forest Service ...	21 ,,
Indian Forest Engineering Service ...	21 ,,
Indian Service of Engineers ...	21 years ; 22 years in the case of officers recruited during the years 1919, 1923, except officers of the Indian Forest Engineering Service Transferred to Indian Service of Engineers whose minimum age of appointment will be 21 years.
Indian Veterinary Service ...	*Nil*
Indian Audit and Accounts Service ...	22 years
Imperial Customs Service ...	22 ,,
Superior Telegraph Engineering and Wireless Branches of the Posts and Telegraph Department ...	22 ,,
Geographical Survey of Indian (Class I)	*Nil*
Mines Department (Class I)	25 years
European Gardeners Service	*Nil*
Indian Railway Service of Engineers ...	22 years
Bengal Pilot Service	18 ,,
Superior Service of Military Accounts Department...	22 ,,



Auditor General's decision.—The Auditor General has decided with the concurrence of the Government of India that Article 357B, Civil Service Regulations was introduced solely with the object of making a compendium in one rule of all pre-existing orders on the subject of counting of Military service rendered in last Great War towards Civil pension and consequently it did not introduce any new condition. An investigation into the *qualify*

of the war service already admitted in audit with reference to the several orders then existing, should not therefore be made now. A check of the *quantity* of that service should also similarly be dispensed with unless there is reason for believing that entries in the 'History of Services" have been incorrectly made from the data collected in the 1919—23 period. Even so those entries should not now be changed except with the concurrence of the Government concerned.

[Auditor General's letter No. 604-A/215-43, dated 19th November 1943.]

***357B. Members of the services specified in the Schedule below who, prior to their civil employment, have rendered whole-time enlisted or commissioned service between the 4th August, 1914, and the 31st August, 1921, in His Majesty's Military, Naval or Air Forces, British or Indian, which did not earn a service pension under the Military, Naval or Air Force Rules, may count such service, including all kind of leave on full rates of pay and sick leave taken during such service, for civil pension of all kinds subject to following conditions :—**

(1) Completed years of service rendered after the attainment of the minimum age mentioned in the schedule to this Article shall be allowed to count up to a maximum of four years.

(2) The addition so made shall not be included in total service under Article 408 for the purpose of counting leave as service qualifying for pension, nor be allowed in addition to the concession in Article 404A but an officer who may be entitled to the concession admissible under Article 404A and to that provided in this Article, shall be allowed whichever concession is the more favourable to him.

(3) Save as stated in Note I, no refund of bonus or gratuity received in respect of such service shall be required from the officer.

Note —1. Officers of the Indian Army retired as surplus under the terms of the Royal Warrant of 25th April, 1922, appointed to any of the services named in the schedule shall be entitled to the concession in this Article or to the following concession whichever is more favourable :—

They shall be allowed to count as service qualifying for superannuation, retiring and invalid pension, all service in the Indian Army (excluding service in the British Army which would have counted for India Army Pension) rendered after attaining the minimum age of appointments as indicated in the Schedule below, and subject to a maximum period in all of four years but the gratuity if any, received by them under that Royal Warrant shall be refunded to Government.

Note 2.—Service added under this Article shall count towards the limit of 28 years qualifying service prescribed in Article 475A (7).

SCHEDULE.

Service	*Minimum age*
Indian Audit and Accounts Service	22 years,
Imperial Customs Service	22 ,,
Superior Telegraph Engineering and Wireless Branches of the Posts and Telegraphs Department	22 years
Geological Survey of India (Class I)	*Nil.*
Mines Department (Class I)	25 years
Bengal Pilot Service	18 years

357-C. Civil employees other than those governed by Article 357-D, who, prior to their civil appointment against war-reserved and other permanent vacancies which arose for direct recruitment before the 1st January, 1948, had rendered satisfactory paid whole-time enlisted or commissioned 'war service' between the 3rd September 1939 and the 1st April 1946, in the Armed Forces of India or similar Forces of a Commonwealth country which did not earn a service pension under the Mititary, Naval or Air Forces Rules shall be allowed to count such 'war service' including all kinds of leave on full rates of pay and sick leave taken during such service, for the purpose of civil pension subject

*This Article relates to services under the control of the Governor-General in Council and takes effect from the 24th February, 1938.

to the following conditions :—

(1) Completed years of the said 'war service' shall be allowed to count up to a maximum of five years.

†(2) In the case of Services/Posts in which a minimum age is fixed for recruitment no 'war service' rendered below that age shall be allowed to count for pension, and in the case of Services/Posts in which no minimum age is fixed, no portion of 'war service' rendered before attaining the age of 18 shall be allowed to count for pension.

(3) The addition of 'war service' shall not be included in total service under Article 408 of these Regulations for the purpose of counting leave as service for pension.

(4) 'War Service' rendered in the Armed Forces of India and rendered in similar Forces of a Commonwealth country shall be allowed to count alike for pension ; no contribution towards, or share of, a pension earned as a result of this concession being claimed from the foreign Government concerned.

(5) No refund of bonus or gratuity paid to the employees in respect of such 'war service' shall be demanded from the employee.

Government of India's decisions.—(1) See Government of India's decision No. (1) below Article 357-D.

(2) A doubt has arisen as to whether the non-pensionable service rendered during World War II should count towards civil pension in terms of Articles 357-C and 357-D of the Civil Service Regulations. The matter has been considered by the Government of India and they are of the view that a Civil employee to whom the provisions of these Articles apply, who enlisted for service during World War II and who left the Army on demobilisation at the end of that War, is entitled, subject to the conditions in the Articles, to count such military service for civil pension irrespective of whether it was pensionable or not under the military rules. Such title is, of course, subject to the proviso that a military pension has not, as a matter of fact, been earned in respect of it in conjunction with other military service.

[G.I.M.F. Memo : No. F. 3 (17)-EV/A/60, dated the 13th October 1960].

357D. Members of the Services specified in the Schedule below, who prior to their appointment to those Services/Posts against war-reserved and other permanent vacancies which arose for direct recruitment before the 1st January 1948 had rendered satisfactory paid whole-time enlisted or commissioned 'war service' between the 3rd September 1939 and the 1st April 1946 in the Armed Forces of India or similar Forces of a Commonwealth country which did not earn a service pension under the Military, Naval or Air Force Rules may count such 'war service, including all kinds of leave on full rates of pay and sick leave taken during such service, for civil pension of all kinds subject to the following conditions :—

(1) Completed years of 'war service' rendered after the attainment of the minimum age mentioned in the Schedule to this Article shall be allowed to count up to maximum of five years.

(2) The addition so made shall not be included in total service under Article 408 of these Regulations for the purpose of counting leave as qualifying in the pension.

(3) 'War service' rendered in the Armed Forces of India and that rendered in similar forces of a Commonwealth country shall be allowed to count alike for pension ; no contribution towards, or a share of, a pension earned as a result of this concession being claimed from the foreign Government concerned.

(4) No refund of bonus or gratuity paid to the employees in

†As amended Vide G.I.M.F. Notification No. F. 3(22)-EV(A)/61, dated the 27th November 1961.

respect of such 'war service' shall be demanded from the employees.

SCHEDULE

Service or Post	*Minimum Age*
Indian Audit & Accounts Service ...	... 21 years
Indian Customs Service, ...	... 21 years
Indian Defence Accounts Service. ...	... 21 years
Assistant Master, India Security Press. ...	... 24 years
Assistant Master, India Government Mint ...	... 24 years
Indian Income Tax Service. ...	... 21 years
Editor, "India Speaks". ...	... 24 years
Indian Meteorological Service ...	... 23 years
Assistant Electrical & Mechnanical Officer, Civil Aviation Department ;	... 25 years
Senior Aircraft Inspector Civil Aviation Department.	... 30 years
Aircraft Inspector, Civil Aviation Department.	... 28 years
Research Officer, Pathology, (Poultry Research Section) Indian Veterinary Research Institute Izatnagar.	... 25 years

Note—1. The provisions contained in clauses (1) and (3) of Article 357-D and those contained in clauses (1) and (2) of Article 357-D shall not apply to war service followed by civil service without break which is allowed to be counted in full towards civil pension in the case of persons who retire or die on or after the 22nd April 1960.

Note—2. The condition of completed years of war service laid down in clause (1) of Article 357-C and clause (1) of Article 357-D. shall not apply in the case of persons who had retired or died or may retire or die on or after the 22nd April, 1960 and had a break between their war service and civil service. In such cases, the war service including the fraction of a year upto the limit of 5 years) should be added to the subsequent civil service. The resultant fractions of a year equal to six months and above shall be treated as a completed year equal to six months and above shall be treated as completed six monthly period, fraction of a six monthly period, if any being omitted.

[G.I M.F. Notification No : 3(17) EV(A)/62, dated the 9th August 1962].

Note—3. The service rendered by persons during World War II in the Civil Department shall also be treated as "War Service" for the purposes of Article 357C and 357D.

[G.I.M.F. Notification No: 3 (17)EV(A)/62, dated the 4th October 1962 as amended by Notification of even No :, dated the 20th Oct. 1962.]

Government of India's decisions :—(1) A questions has been raised whether and if so, to what extent, war service rendered during the last war, by itself, or in conjunction with other military service, should be allowed to count towards civil pension in respect of 'war service' candidates appointed permanently to civil posts against vacancies arising after 31st December, 1947. After careful consideration, the Government of India have decided that such service may also be allowed to count towards civil pension to the extent of one-half. If, however, the whole or any portion of such service satisfies the conditions laid down in Article 356 of the Civil Service Regulations, that portion of the service may be allowed to count in full towards civil pension, subject to the provisions of that article. The grant of the concession is also subject to the following conditions, namely :—

(*i*) The officer concerned should not have earned a pension under the military rules in respect of the service in question ;

(*ii*) In the case of services or posts in respect of which a minimum age is fixed for recruitment, no military or war service rendered below that age shall be allowed to count for pension ;

(*iii*) War service rendered in the Armed Forces of India and rendered in similar Forces of Commonwealth country shall be allowed to count alike for pension and no contribution towards or share of a pension earned as a result of this concession shall be claimed from the foreign Government concerned.

(*iv*) No refund of bonus or gratuity paid in respect of his war service shall be demanded from the officer concerned. If, however, the officer has been granted any retirement gratuity for service covering both the post-war and war period, such gratuity shall be refundable. Also, if any, portion of the service is allowed to count towards civil pension under Article 356 of the Civil Service Regulations, the orders contained in the late Finance Department letter No. F. 11(24) R. II/35, dated the 3rd October, 1935) [*See*

Government of India's decision No. (19) below Article 356], in regard to refund of gratuity shall *mutatis mutandis* apply ; and

(*v*) The break between the military/war service and the the civil service shall be treated as automatically condoned, provided the period of the break does not exceed one year. Breaks exceeding one year but not exceeding three years may also be condoned, in exceptional cases, under special orders of Government.

The Government of India have also decided that in a case where an officer is entitled in respect of the 'war service' rendered between the 3rd September, 1939 and the 1st April, 1946 to the concession under Article 337-C or Article 357-D of the Civil Service Regulations, he may either avail himself of the concession under paragraph I above in respect of the whole of his military service, including war service', or count the service rendered during the war period for civil pension under Article 357-C or Article 357D, as the case may be, and the remaining service rendered before or after the war period to the extent of one-half of that service. If, however in the latter case, the officer concerned has rendered any military service pensionable under the military rules and satisfying the conditions laid down in Article 356 of the Civil Service Regulations, before or after the war period, but did not earn a pension by his 'war service' in conjunction with his military service, the order contained in the decision No. 19 below Article 356 C. S. R. shall *mutatis mutandis* apply.

[G. I. M. F. Memo No. F. 11 (15)-EV/56, dated the 5th August, 1958.]

Note.—This decision is also applicable to the corresponding civilians who are employed with Army and are paid from the Defence Services Estimates as well as the C.G.D. P's, Organisation *vide* Army Instruction No. 276, dated the 29th November, 1958.

(2) The orders contained decision No. (1) above may be brought to the notice of all the officers, concerned and those who are eligible to exercise an option under paragraph 2 thereof may be asked to do so as early as possible Past cases which were disposed of with reference to Article 357C or 357 D of the C. S. R. may also be re-opened and dealt with in the light of these orders.

It has been also decided that the orders contained in the aforesaid decision should be applied to officers who have retired from service before the date of issue of those orders. Necessary action to re-open such cases should be taken by the Head of Office under whom retired officer last served, or by the retired officer himself.

[G. I. M. F. Memo ; No. F. 11 (15).EV/56, dated the 19th March, 1959.]

(3) The question of allocation of pensionary charges between Civil and the Defence authorities was recently examined in connection with the cases covered by Government of India's decision No. (1) above. It has been held that for the pupose of incidence the war service and the military service that count to the extent of half under decision No : (1) above should be separated. The President has accordingly been pleased to decide that the charges in respect of war service in such cases should be borne by the civil authorities as in the cases covered by Articles 357-C and 357-D of the Civil Service Regulations, the charges in respect of military service (other than war service) being borne by the Defence authorities in accordance with para 12 of Part IV of Appendix 3 to the Account Code; Volume I.

[G.I.M.F. Memo : No. F. 3 (25)-EV-(A)/60, dated the 27th August 1960]

(4) Doubts have been expressed in regard to the extent to which leave taken during war/military service should count for civil pension. The intention is that leave taken during war/military service should count as service for civil pension to the extent to which such leave would count as service for the purpose of pension if the officer concerned had been a temporary civil employee throughout.

[G.I.M.F. Memo : No. F. 3 (26)-EV-A/60, dated the 7th September 1960]

(5) See Government of India's decision No. (2) below Article 357-C.

(6) A question has been raised whether the orders issued on the basis of the recommendations of the Pay Commission *vide* article 368 of the Civil Service Regulations and para 7 of appendix 41 to this Compilation according to which continuous temporary or officiating service which is followed without interruption by confirmation in the same or any other post, shall count in full as qualifying service towards civil pension, will apply to war/military service. After careful considration, the Government of India have, decided that continuous war/military service also will count in full towards civil pension if such service is followed without interruption by appointment to and eventual confirmation in a pensionable post in Civil Service. The grant of the concession will be subject to the following conditions :—

(*i*) The officer concerned should not have earned a pension under the military rules in respect of the service in question.

(*ii*) In the case of services or posts in respect of which a minimnm age is fixed for recruitment, no military or war service rendered below that age shall be allowed to count for pension ;

(*iii*) 'War Service' rendered in the armed forces of India and rendered in similar Forces of a Commonwealth country shall be allowed to count alike for pension and no contribution towards, or share of, a pension earned as a result of this concession shall be claimed from the foreign Government concerned.

(*iv*) No refund of bonus or gratuity paid in respect of his 'war service' shall be demanded from the officer concerned, If, however, the officer has been granted any retirement gratuity for service covering both war and post-war period, such gratuity shall be refundable.

2. The decision contained in para 1, above, shall apply in the case of those Government servants who retire or die on or after the 22nd April 1960

3. The provisions of article 357-C and 357D of the Civil Service Regulations and the orders contained in Government of India's decision No. (1) below Article 357D shall continue to apply in the case of persons who retired or died before the 22nd April, 1960, and also in the case of those who retired or died or may retire or die on or after that date if there was a break between their war/military service and civil service.

4. The service rendered by persons during World War II in the Civil Defence Department shall also be treated as 'war service' for the purpose of these orders.

[G. I. M. F Memo : No : F. 3 (43)-EV/A/60, dated the 8th December 1960.]

(7) A doubt has arisen whether the term 'pension under the military rules' mentioned in para 1 (*i*) of decision No. (1] above includes the disability pension also. The position is that wherever the disability pension includes service element, this element has to be surrendered, before the war/military service is allowed to count towards civil pension.

In a case where a Government servant gets disability pension after he becomes eligible for ordinary pension also, and that element of ordinary pension is included in the disability pension, he is not eligible to count war/military service towards civil pension in terms of Finance Ministry's orders referred to.

[G.I.M.F. Memo: No. F-3 (39)-EV(A)/61, dated the 18th September 1961].

(8) Doubts have been expressed in regard to the service rendered by persons during World War II in the Civil Defence Department to be counted towards civil pension. The intention of decision No (1) above is that such service should be treated as 'War Service' for the purpose of the orders referred to above.

[G. I. M. F. Memo No. F.3 (38) EVA/62, dated the 8th May 1962.]

(9) The Governor-General in Council is pleased to decide that for purpose of paragraph 5 of the Finance Department Office Memorandum No. 44 (12)-W/44, dated the 19th August 1944, the term "end of the war" shall be taken to mean the 31st December 1945. It has also been decided that no bonus

shall be allowed under that Office Memorandum in respect of service rendered after the 31st December 1945. The amount of bonus to the credit of individuals may therefore be disbursed to them after that date. If any temporary employee who has received the bonus is subsequently allowed to count such service for pension, he will be required to refund the entire amount of the bonus.

[G. I. M. F. Memo No. (12)-W II/45, dated the 21st December 1945]

(10) It is stated in last sentence of decision No : (9) above that if any temporary employee who has received the bonus under the unified scale of pay scheme is subsequently allowed to count such service for pension, he will be required to refund the entire amount of the bonus. A question has arisen whether the entire amount of bonus is refundable even if the Government servant is allowed to count only a portion of his temporary service and not the whole of it for pension, or whether in such cases, the recovery may be effected on a proportional basis. It has been decided that the entire amount of bonus should be recovered even in cases where the Govenment servant is allowed to count only a portion of his temporary service for pension. Such recoveries may be made in easy instalments of Rs. 5 per month

[G. I. M. F. Memo : No : F. 10 (10)-E-II II/51, dated the 1st November 1951.]

(11) A doubt has been raised regarding the exact scope of the term 'bonus' used in para 1 (iv) of decision No (1). It is clarified that the underlying idea behind waiving the recovery of the bonus or gratuity received in respect of war service in order to allow such service being counted towards civil pension subsequently under certain conditions laid down in that decision is that the bonus/gratuity which was paid by the Defence Authorities to their employees (enrolled combatant personnel/non combatant enrolled personnel) in respect of war service rendered in the Armed Forces during World War II, was not of the nature of any retirement or terminal benefit, but was a reward for serving in the War, awarded with a view to providing an incentive for the temporary employees to join the Armed Forces.

As such war bonus has no relation to the bonus paid under the Unified Scale of pay Scheme to persons serving on the Civil side or on the Defence side in a Civilian capacity, the entire amount of the latter kind of bonus shall have to be refunded in all cases, where the temporary employee is subsequently allowed to count the temporary service for pension as provided in decision No : (10) above.

[G. I. M. F. Memo : F. 3(28)-EV(A)/62, dated the 25th October 1962.]

(12) Under decision No : (1) above when a break between war/military service and civil service is condoned, the service preceding the break is counted to the extent of half.

This provision has been reviewed in the light of the Pay Commission's recommendation accepted by Government that continuous temporary or officiating service followed by confirmation should count in full as qualifying service for pension and any service preceding break/breaks, between spells of civil service, which is/are condoned under G. I. decision No : (1-A) below Article 420 is counted in full.

The President is pleased to decide that the war/military service, which has counted to the extent of half in terms of decision No : (1) referred to above will now count in full towards civil pension, subject to other conditions being fulfilled.

[G. I. M. F. Memo : No : F. 3(30)-E. IV(A)/62, dated the 19th October 1962.]

(13) The President is pleased to decide that the provisions of decisions No (3) above viz. the charges in respect of war service shall be borne by the civil authorities and the charges in respect of military service (other than war service) shall be borne by the Defence authorities, should also apply to cases covered by decison No : (6) above as amended from time to time.

The general rule is that where a period of war/military service is allowed to count towards civil pension, any gratuity paid in lieu thereof is required to

be refunded. The question arose as to whom the amount of such gratuity should be refunded. It has been decided that the amount of gratuity should be refunded and credited to the authorities who will bear the pensionary liability for the period of service allowed to be counted towards pension. The pensionary liability for war service devolves on civil authorities and that for military service (other than war service) devolves on the Defence authorities. The retirement gratuity in respect of service covering the war period should, therefore, be refunded and credited to the civil authorities and the retirement gratuity in respect of military service (other than the service covering war period) should be refunded and credited to the Defence authorities. This procedure should be followed in all cases where war/military service is allowed to count towards civil pension.

[G.I.M.F. Memo : No : F. 3 (24) EV (A)/61 ; dated the 7th March 1963]

CHAPTER XVI—CONDITIONS OF QUALIFYING SERVICE.

SECTION I.—DEFINITION OF QUALIFYING SERVICE.

Beginning of Service

***358. (*a*) Except for Compensation gratuity, an officer's service does not qualify till he has completed eighteen years of age :**

Provided that nothing contained in this clause shall apply in the case of persons who were in service on the Ist September, 1960, and in whose case a lower age limit had been prescribed.

(*b*) In other cases, unless it be otherwise provided by special rule of contract. the service of every officer begins when he takes charge of the office to which he is first appointed.

Note —In every covenant with an officer appointed in England by the Secretary of State not being a member of the Indian Civil Service, or Indian Police, or a Civil Engineer or Telegraph Officer educated at the Royal Engineering College, Coopers Hills (or a Forest Officer), a clause is inserted to the effect that service for leave and pension begins only from the date on which the officer joins his first appointment in India (in the case of an officer of the Indian Forest Service appointed in England by the Secretary of State service for pension begins from the date from which he draws pay).

Government of India's decisions—(1) See Government of India's decision No. (9) below Article 357A of the Civil Service Regulations.

(2) Whatever minimum age may have been fixed for entry into service, the minimum age after which service will count for pension has to be determined with reference to Article 338 and 360 of the Civil Service Regulations.

[G. I. M. F. File No. 12(28) EV/50]

Auditor General's decision —The effect of amendments to F.R. 9 (6)(*a*) and Article 358 and 374 of C. S. R. announced in Government of India. Finance Department Notification dated 23-6-1938 is that service for leave in case of officers of the I.C S., I.P.S. of the Indian Forest Service recruited overseas, and service for pension in the case of officers of the I. P. S., and I.F.S. will count from the date they begin to draw pay. The pay of these officers commences from the date of disembarkation subject to their proceeding to take up their duties without avoidable delay. The effect of the amendment to Article 561 C.S R. is that the members of the I.C.S. appointed on probation under Rule 2 of the I.C.S (Probationary Service) Rules, 1937, or corresponding rules made thereunder, will count service for pension from the date of covenant entered into on the statisfactory completion of the year's probation. The amendments to Article 358 (*b*) and 374 (1) C. S. R. have not been given retrospective effect, as under Article 4, C S R. an officer's service for pension is governed by the rules in force at time of retirement.

359. The following exceptions are admitted to twenty years rule :—

(1) All officers appointed in England by the Secretary of State: "Indian College Engineers" [see Article 627 (*b*)]; and

*Substituted by G.I.M.F. Notification No. F. (30)-EV/60 dated the Ist September 1960]

Police probationers appointed in India under the orders contained in the Despatch of the Secretary of State, No. 14 (Judicial), dated 15th March, 1894.

(2) **Signallers in the Indian and Indo-European Telegraph Department may count towards pension service rendered by them after they attain the age of eighteen years.**

(3) **Sub-assistant Surgeons count service from the date they pass their final examination.**

Note. 1. Pupils of the Civil Hospital Assistant class in Medical College, who were granted leave under Article 52 (*c*), count service from the date on which the leave begins.

Note. 2. The provisions of this article shall not apply to Signallers in the Indian Telegraph Department who are recruited on or after the 6th July, 1957.

Government of India's decision :—An inferior servant who was appointed at the advanced age of 63 was declared not to be entitled to an invalid gratuity and it was laid down that precautions should be taken to prevent such appointments in future.

[G. I. F. D. No. 146, dated 13-1-1879.]

360. *Omitted.*

Conditions of Qualifying Service.

361. The service of an officer does not qualify for pension unless it conforms to the following three conditions—

First—**The service must be under Government.**

Second*—The employment must be substantive and permanent.**

Third—**The service must be paid by Government.**

These three conditions are fully explained in the following Section.

Government of India's decisions :—(1) The service of a Treasurer of one or more District Treasuries who does not himself do the work of office in any of the Treasuries, but appoints an agent to do it for him, is not pensionable as no claim to pension is admitted when a person's whole time is not retained for public service [Article 352 (*c*), Civil Service Regulations], but is merely paid for work done for the State.

[G. I. F. D. No. 3230, dated 9-7-1895]

(2) In cases in which a Divisional Treasurer in a firm consisting of several partners, each of whome does the work of one of the Divisional Treasuries each such partner actually performing the work of a Treasurer at a separate treasury is entitled to pension.

[G. I. F. D. No. 895-P. dated 12-2-1907].

(3) It has been decided that on completion of his four year's term, the Solicitor to the Government of India should receive a bonus of Rs. 10,000 while in the event of an extension being granted, he should receive a further bonus of Rs. 2,500 for an additional completed year.

[G. I. F. D. No. F 9-1 Ex./26, dated 13-4-1926]

(4) See Government of India's decisions Nos. (1) and (2) below Artiele 352.

(5) Temporary service rendered by the work charged/staff of the President's Garden prior to 1st September, 1951 should be treated as qualifying for the purpose of pension and gratuity on the distinct understanding that the persons who are considered fit for confirmation were eligible for Contributory Provident Fund benefits and gratuity under the Workmen Contributory Provident Fund Rules in respect of their previous temporary service. The age from which a workman should be allowed to count his service towards pension should be regulated under the Rules in Article 358 and 360 C S.R.

[G. I. Ministry of Works, Housing and Supply Memo. No. 66/371/57-WCE, dated 16-1-1958 and Ministry of Finance U.O. No. 596-EV (A)/57, dated 7-1-1958 in file No. 11 (46)-EV/57]

(6) The recommendations of the Pay Commission (*i*) for counting towards pension of service rendered by scientific employees of *semi*-Government institutoins, financed from cess or Government grants, on their appointment to a pensionable service under the Government of India ; and (*ii*) the rate of pension contribution payable by Universities when they borrow services of

*See proviso to Article 368 of this Compilation.

Government servants who are scientists and technolgists, have been carefully considered, and it has been decided as follows :—

(*i*) A scientific employee of a *semi*-Government institution which is financed wholly or mainly from cess or Central Government grants who was on a Contributory Provident Fund basis in such an institution may, on permanent appointment without any interruption to a pensionable service or post under the Government of India, count his previous service in that institution during which he subscribed to that Fund as service qualifying for pension provided that the contribution together with interest thereon paid by the institution is made over to the Government. The service during which he did not subscribe to the Contibutory Provident Fund will not be so reckoned unless the previous employer agrees to bear proportionate charges on account of pensionary benefits for the service so rendered. If, however, the officer was not on a Contributory Provident Fund basis in such an institution, his previous service will be reckoned as qualifying for pension if the previous employer agrees to bear proportionate charges on account of pensionary benefits.

(*ii*) If the services of a Government servant who is scientist or technologist are lent to a University, the rate of pension contribution which the University will pay, will be restricted to the rate at which it contributes to the Provident Fund of its employees.

2. These orders will take effect from the date of issue of this decision and past cases of transfers will be regulated in accordance with the orders already in force. The concession sanctioned in paragraph 1 (*i*) may, however, be allowed to all officers who were in service of the Government of India on 28th March, 1960 provided that :—

(*i*) the officers who have already drawn the Contributory Provident Fund benefits in respect of their service under the *semi*-Government institutions refund either in lump sum or in monthly instalments not exceeding twelve in number, the institution's share of contribution together with interest thereon from the date of withdrawal to the date of final payment. The title to count past service for pension will not accrue until the amount refundable and interest thereon have been refunded in full.

(*ii*) if no such benefit has been received, the previous employer agrees to bear the proportionate pensionary liability.

[G I. M. F. Memo : No. F-3 (28) EV (A) 60, dated the 28th March 1960]

(7) It has been represented to the Government of India that para 2 of decision No. (6) above operates harshly against officers who were transferred from *semi*-Government Institutions to Government service prior to 28th March, 1960. The matter has accordingly been reconsidered and the President has been pleased to decide that the concession sanctioned in paragraph 1 (*i*) of the aforesaid decision should be extended to all officers who were in service of the Government of India on 28th March, 1960 provided that :—

(*i*) the officers who have already drawn the Contributory Provident Fund benefits in respect of their service under the *semi*-Government institutions refund either in lump sum or in monthly instalments not exceeding twelve in number, the institutions' share of contribution together with interest thereon from the date of withdrawal to the date of final payment. The title to count past service for pension will not accrue until the amount refundable and interest thereon have been refunded in full.

(*ii*) if no such benefit has been received, the previous employer agrees to bear the proportionate pensionary liability.

[G.I.M.F. Memo : No. F. 3(28)-EV(A)/60, dated, the 28th September 1960]

361A. The Government of India may however, in the case of service paid from General Revenues, even though either or both of

conditions (1) and (2) are not fulfilled :—

(1) Declare that any specified kind of service rendered in a non-gazetted capacity shall qualify for pension ;

(2) in individual cases, and subject to such conditions as it may think fit to impose in each case, allow service rendered by an officer to count for pension.

Subject to such conditions as it may think fit to impose, the Government of India may delegate its powers under this Article to Provincial Governments, Minor Local Governments and Heads of Department.

Note—(a) Provincial Government exercise the powers of the Government of India under clauses (1) and (2) of this Article in respect of officers serving under them if the pension does not exceed fifty rupees a month. In individual cases where the pension exceeds fifty rupees a month, they may allow half the actual non-qualifying service paid from General Revenues to count for pension subject to a maximum of twelve months in all.

(*b*) Minor Local Governments exercise the powers of the Government of India under clause (2) of this Article in respect of officers serving them if the pension does not exceed ten rupees a month.

Government of India's decisions :—(1) The Government can allow the benefit of Article 368 (now Article 361 (A), Civil Service Regulations, irrespective of the provisions of Article 381 (*b*), Civil Service Regulations, to an officer whose whole service was temporary whether followed by permanent service or not.

[G. I. F. D. N. 287 C.S.R. dated 10-7-1912]

(2) The grant of a pension under Article 368 (now Article 361A), Civil Service Regulations, to an employee whose whole service is temporary and who was discharged on a reducation of temporary establishment, is not warranted under the spirit of that Article The concession which has been embodied in Article 368 was intended to provide some means of support in their old age for temporary employees whose long and faithful service in an appointment not qualifying for pension was such as to merit special consideration. It follows then that while length of service approximating, if it does not actually come up to the service required for pension in ordinary establishments is almost an essential condition, it cannot be admitted in itself and apart from other circumstances as justifying the concession. Moreover, while it is unnecessary to limit the conditions so as to preclude a pension being given for substantially shorter periods of service, it must, be clear that cases of this kind must be altogether exceptional and that the application of the ordinary rules of compensation, superannuation or invalid pension to temporary employees can only be justified by very special circumstances Although the Government of India have no desire to fetter the discretion of Local Governments in the award of pensions under Article 368, (now Article 361A) the principles enunciated above should be generally observed in cases of this kind

[G. I. F. D. No. 413-C.S.R. dated 20-8-1912]

Note. The proposals to allow temporary service to count towards pension are considered in the light of the principle laid down in this decision so far as persons governed by the rules in C. S. R. are concerned. The decision does not, however, apply to persons governed by the Pension Rules in appendix 41 whose temporary service is allowed to count towards pension to the extent indicated in para 7 of appendix 41.

(3) The members of the additional Police Force entertained in Ajmer-Merwara in connection with the War, will be allowed to count their service in that Force for pension, if and when they are absorbed in the regular Police Force of that Province.

[Government of India, Home Department letter No 174/27/42- Police (C) dated the 8th October 1942 to the Chief Commissioner, Ajmer-Merwara received with G. I. F.D. endorsement No. D. 1990-R. 11/42 dated the 21st October 1912].

(4) The members of the additional temporary police entertained in the Central India Agency in connection with the War, will be allowed to count their service in that Force for pension, if and when they are absorbed without an interruption in the regular Police Force of that Agency.

[Political Department Memo No. F. 11 (22-E/43 dated the 4th October 1943 to the

Hon'ble the Resident for Central India, received with C. F. O. endorsement No. F. 328/43 dated the 6th October 1949]

Note.—A member of the Additional Police Force entertained in connection with the war and who was subsequently confirmed in the permanent Police Force will be allowed to count for pension, the period for which he officiated in the permanent Police Force Provided :—

(1) It is certified by the Regional Commissioner, for C. I. State that during the period in question, no other constable was appointed in the temporary Police Force, or

(2) the substitute, if appointed got no pensionary benefits for that period.

[Government of India, Ministry of States, Memo No. F. 16(5)-5/49 dated the 11th August 1949 received with Government of India Ministry of Finance endorsement No. F-17(2) 49 dated the 20th August 1949]

(5) The non-qualifying service which may be allowed to count for pension under Article 361A, C.S R. should not be taken into account for purpose of Article 408 *ibid* unless Service is treated as permanent for the purpose of leave also, and that total service' in the latter Article does not include the period added to service qualifying for pension under Articles 403, 404 and 404A, C. S. R.

[G. I. F. D. 6 LXXXIX. R. 11/33, dated 17-11-33.]

(6) In case a Government servant is not confirmed in a permanent post but retires while holding a temporary post constinuously for a period of 25 years or so, the provisions of para 7 of the Liberalised Pension Rules are not applicable. The Government of Bihar stated that in such cases where a Government servant has not acquired a lien on a permanent post, the full or part of the continuous service may be declared to be permanent under Rule 59 of the Bihar Pension Rules which corresponds to Article 361A of the Civil Service Regulations, and this will not contravene the provisions of para 7 of the Liberalised Pension Rules read with para 1 (*i*) of Government of India's decision No. (4) below para 13 of the Liberalised Pensions Rules in appendix 41. The Government of India agreed with this view but they suggested that the course should be followed sparingly and not as a matter of course.

[G.I.M.F. letter No. D-106/95/EV dated the 4th January, 1955 in file No. F. 7 (108)-EV/54.]

(7) The third condition in Article 361 is dealt with greater details in Article 385 *et seq* of the C. S. R. The expression "paid from general revenues" would *prima-facie* refer to "payable from General Revenues." It is presumed that the Government servant has drawn whatever was payable to him. No, special check as to whether he left any dues undrawn at any time during the service that otherwise qualifies has been prescribed or is feasible. The Comptroller and Auditor General therefore held that a claim for arears of pay and allowance for an old period, the correctness of which cannot be verified by Audit Officer does not in any way effect the validity of the Government servant's claim to count the period in question as service qualifying for pension, if the service has been verified and found acceptable (*i.e.* proved and established according to the prescribed procedure). Ministry of Finance agreed with this view.

[G. I M. F. File No. 11 (13)-E.V/57.]

Audit Instruction—See Audit instruction No. (2) below Article 408.

SECTION II—FIRST CONDITION.

362. The service of an officer does not qualify unless he is appointed and his duties and pay are regulated by the Government, or under conditions determined by the Government. The following are examples of officers excluded from pension by this Article :—

(1) A Marine Officer paid by fees fixed by the Board of Trade ;

(2) Officers of a Municipality ;

(3) Officers of Grant-in Aid Schools and Institutions (*e.g.*,) the Asiatic Society and Canning College at Lucknow) ;

(4) Subordinates appointed by Treasurers on their own responsibility, *e.g.* Tahvildars in the Province of Agra and in the Central Province ; and Potdars (money-testers) in Bengal.

Government of India's decisions.—(1) Government of India have decided that with effect from 1st June, 1949, selected categories of wholetime contingency paid staff, such as sweepers, bahishties, chowkidars, chobdars, malis or gardeners, khalassis and such other categories as are expected to work side by side with regular employees or with employees in workcharged establishments should for the present, be brought on to regular establishments of which they form adjuncts and should be treated as "regular" employees. The other contingency staff who do not fulfil these conditions *e.g.* dhobis tailors, syces, grass cutters, etc. should continue on the existing basis and should be treated to be 'casual employees.' Part-time employees of 'regular' categories as also employees of 'casual categories' who are not brought on to the regular establishments, will continue, as at present, to be paid from contingencies. The actual classification of different categories of contingent staff into 'regular' or 'casual' may be made without delay in consultation with the appropriate Division of the Ministry of Finance.

*Such of the contigency paid staff as may be brought on the regular establishments, shall receive pay in the scale of Rs. 30-½-35 or such other scale as may be admissible to employees of corresponding grade in the regular establishment to which they may be brought on. In addition, they shall be entitled to dearness, house rent, travelling, compensatory and other allowances, leave, medical attendence, rent-free accommodation, pension and rights as to tenure of office and disciplinary matters as may be admissible to comparable staff in the regular Class IV or other establishments to which they may be brought on. They shall not, however, be entitled to any overtime allowance.

[G.I.M.F. Memo : No. F. 1 (10)-Est (Spl)/49, dated 16-6-1949]

(2) Rule 38(1)(*b*)(*iv*) of the Contributory Provident Fund Rules (India), 1962, provides that a subscriber to the Fund who is permanently transferred to a pensionable service under the President, shall at his option be entitled to count towards pension "such of the period as Government may determine." In actual practice, the period of past service counting for pension is determined in accordance with certain established principles but, since these are not known generally the officers concerned may feel some difficulty in exercising an unconditional option which they are required by the rules to do within a specified period.

It is accordingly clarified that the principle which is generally observed in determining the period of past service for the purpose stated above is that only the service during which an officer actually subscribed to the Contributory Provident Fund is allowed to count for pension and that to the extent indicated below.

(*i*) the whole of permanent service.

(*ii*) the whole of temporary/officiating service followed without interruption in confirmation in the same or another post.

These orders are issued in supersession of the orders issued in Finance Ministry's Office Memorandum No. F. 31(3)-EV/54 dated the 1st June 1954 and will come into force with effect from the 22nd April 1960.

[G.I.M.F. Memo No. F. 3(10)EV(A)/62, dated the 21st June 1962.]

363. As an exception to the preceding Article, the services of Subordinates of Treasurers in the Punjab, including Tahvildars and Potdars (money testers), who were in employ on the 23rd August 1886, qualify provided that they were—

(*i*) **appointed by District Officers ;**

(*ii*) **discharging duties and receiving, pay regulated under conditions laid down by Government ; and**

(*iii*) **other than mere servants of Treasurers liable to be removed whenever a change might take place in the incumbency of the office of a Treasurer.**

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*No retrospective effect has been allowed in respect of pay, allowance, leave and pension.

Government of India's decisions. (1) Government of India have decided in consultation with the Governments of Part 'B' States that the past service rendered under an Indian State which has now become a Part 'B' State or under a Part 'B' State proper by the former State servants who have been permanently absorbed in Central Government service in the ordinary course (that is, not directly as a result of the financial integration) should be treated as equivalent to Government service for the purpose of pension and should count for pension under the Central Government rules, on such permanent absorption in the same manner as such service rendered in a Part 'A' State counts. A similar treatment should also be accorded to Central Government servant who may be absorbed in service under Part 'B' State and who may retire from that service. The respective Governments will, however, continue to be responsible for the pensionary charges in respect of service rendered under each and the liability of each Government will be allocable in the manner laid down in the Ministry of Finance (Department of Economic Affairs) Office Memorandum No. F. 15 (17) B/50 dated the 20th October, 1953. For this purpose, the service rendered under a former Indian State will be treated as service rendered under the successor * * State of which that Indian State now forms a part.

[G. I. M. F. (State and External (Affairs) letter No. F. 28 (16)/53, dated the 10th September 1954.]

(2) See paragraphs 6 (5) ; 7A(*b*) ; and 15 (2)(*b*) ; in appendix 46 to this Volume.

(3) See Government of India's decision No. (5) below Article 361.

(4) On the analogy of the orders contained in Pepsu Government's Notification No. F. Estt-11(95)51 dated the 4th March 1954 (reproduced as annexure to this decision), declaring certain permanent posts, which were considered non-pensionable or doubtful in the covenanting States, as pensionable from the date of their original creation, the President has been pleased to decide that services of those of the ex-Pepsu States officials who were absorbed in a Department of the Government of India as a result of the Federal Financial Integration may be treated as qualifying, irrespective of the fact whether these were pensionable or not under the State Government subject to the conditions prescribed in article 361,. C.S. Rs. being fulfilled.

The pensionary benefits will not be admissible to Government servants paid from contingencies and to the holders of non-pensionable posts who retired before the formation of the Union.

The pension cases of those officials who have already retired may also be decided in accordance with these orders.

[G.I.M.F. Memo : No F. 3(44)-EVA/60, dated the 13th December 1960]

ANNEXURE

Copy of Government of Pepsu, Finance Department, Notification No : F. Estt. 11 (95)51 dated the 4th March, 1954

Subject :—Treating the posts which were non pensionable in the covenanting States as pensionable.

The question whether certain permanent posts which were considered as non pensionable in the covenanting States may be considered as pensionable has been under the consideration of Government for some time. The President is pleased to order that the posts in question may be considered as pensionable if they conform to the 3 criteria laid down in Article 2 2 of P.S.R. Vol. III *viz.*

1. The service must be under Government.
2. The employment must be substantive and permanent.
3. The service must be paid by Government '

364. The service of a Native Accountant appointed to a Silladar Regiment in the Bombay Presidency on or after the 6th February, 1875 does not qualify.

Service paid from Contract Allowances

365. Service on an establishment paid from a Contract Establishment Allowance, with the detailed distribution of which the Government does not interfere, does not qualify, whether such contract allowance is a fixed amount or consists of fees.

Note—The maximum Establishment Allowance for Registration offices in Bengal is not a Contract Allowance within the meaning of this Article.

366 Service on an establishment paid from the Household Allowance of the §Viceroy, or of a Governor, or Lieutenant-Governor does not qualify.

1. If an officer has served partly (in a capacity which would have given him claim to pension if the service had been paid from the General Revenues) on the House-hold establishment of the Viceroy, and partly on establishments paid from the General Revenues, he is entitled from the General Revenues to a share of any pension to which he would have been entitled if his whole service had been paid from the General Revenues, proportionate to the length of the service which has been so paid.

Example—A B, a Messenger on pay of Rs 8 a month, has served altogether thirty two years, of which sixteen years were passed on the House-hold establishment of the Viceroy. If A, B's whole service had been paid from the General Revenues, he would have been entitled under the Rules for Inferior Service to maximum pension of Rs. 4 a month *A B*, will receive from the General Revenues is a maximum pension of Rs. 2 a month.

2. The Governor of Bombay is authorised to grant pension and gratuities at his discretion to the domestic servants in the Government House establishment retiring from the service, or to the families of such domestic servants after their decease, provided that the amount of such pensions and gratuities paid in any one year ending 31st March shall not exceed Rs. 1,320

Service under an Employer other than Government.

367. In the following cases service under an employer to whose position Government has succeeded qualifies :—

(*a*) **Service rendered to an Indian State, and continued to the British Government on the lapse or annexation of the State, when old age or infirmity renders the officer a fit object for pension.**

(*b*) **Service in the establishment employed in the Khelat territory for the assessment and collection of water rate on lands watered by the Sind Canal which was paid in part by the Khan of Khelat prior to the levy of a local cess to meet the charge.**

Government of India's decision.—An officer on foreign service who held no substantive appointment in Government service prior to his entertainment under an Indian State cannot count his foreign service except under the sanction of the Secretary of State (*now President*)

[G. I. F. D. endorsement No. 5603 P, dated 2-10-1908.]

SECTION III—SECOND CONDITION.

General Principles.

368 Service does not qualify unless the officer holds a substantive office on a permanent establishment.

Provided that in the case of an officer retiring from service on or after the 22nd April, 1960, if he was holding a substantive office on a permanent establishment on the date of his retirement, temporary or officiating service under the Government of India, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of—

(*i*) **Periods of temporary or officiating service in non-pensionable establishments ;**

(*ii*) **†Periods of casual or daily rated service and**

(*iii*) **Periods of service paid from contingencies.**

*Note :—In the case of a State Government servant who is permanently transferred to the Central Government and becomes subject to these rules under Article 4-A, the term "temporary or officiating service" used in the proviso, shall include such service rendered under the State Government.

Government of India's decisions ‡(1) When a Government servant in *quasi*-permanent service is appointed substantively to a permanent post, the

‡Inapplicable after 21st April 1960.

*Added vide G.I.M.F Notification No. F. 3(4)-EVA/61, dated the 8th March 1961.

†As amended by G.I.M.F. Notification No. F. 3(42-EV(A)/62, dated the 22nd October 1963.

§Now President.

entire period of his *quasi*-permanent service, together with one half of the period of the preceding continuous temporary service (excluding extra-ordinary leave) rendered after 2nd September, 1939 shall be deemed to be qualifying service for the grant of pension or gratuity as the case may be.

[Rule 10 of Central Civil Services (Temporary Service) Rules, 1949 published with G. I. M. H. A Notification No. 60/325/48-Ests. dated 17-3 1949.]

*(2) The grant of a pension under Article 368, Civil Service Regulations, to an employee whose whole service is temporary and who was discharged on a reduction of temporary establishment is not warranted under the spirit of that Article. The concession which has been embodied in Article 368 was intended to provide some means of support in their old age for temporary employees whose long and faithful service in an appointment not qualifying for pension was such as to merit special consideration. It follows then that while length of service approximating, if it does not actually come upto, the service required for pension in ordinary establishments is almost an essential condition, it cannot be admitted in itself and apart from other circumstances as justifying the concession. Moreover, while it is unnecessary to limit the conditions so as to preclude a pension being given for substantially shorter periods of service, it must be clear that cases of this kind must be altogether exceptional and that the application of the ordinary rules of compensation, superannuation or invalid pension to temporary employees can only be justified by very special circumstances Although the Government of India have no desire to fetter the discretion of Local Governments in the award of pensions under Article 368, the principles enunciated above should be generally observed in cases of this kind.

[Paragraph 101 (2) of the India Supplement to C.S.R. (5th Edition)]

(3) The question of counting towards pension service on contract renderd by contract officers who are later appointed to pensionable posts/services, on the analogy of the provisions contained in rule 26 of the Contributory Provident Fund Rules (India), has been under consideration of the Government of India for sometime past.

Normally a contract officer is entitled to such benefits only as may be provided for in the terms and conditions of his contract. A contract officer is usually given the benefit of Contributory Provident Fund only, and unless it is specifically so provided in the contract, service on contract does not count for pension in the event of subsequent appointment of the officer to pensionable service. If a contract officer is so appointed, his contract terminates and the provisions of the Contributory Provident Fund Rules cease to apply, as such, contract officers, including those who were holding posts in the General Administrative Reserve, though entitled to the Contributory Provident Fund benefits cannot have the benefit of counting their contract service for the purpose of pension on appointment to regular pensionable posts even if it be without interruption of duty. Rules 28 of the Contributory Provident Fund Rules (India), therefore, ordinarily has no application in such cases.

2 While the position strictly is as stated above the question has been considered how far contract service could be allowed to count for pension irrespective of the technical position stated above. In this connection it has been suggested that a contract officer could not equitably be treated less favourably than a person in purely temporary employment who is eligible to count for purposes of pension half the continuous officiating/temporary services rendred by him in a pensionable establishment immediately before confirmation. After careful consideration of the various aspects of the case it has now been decided that contract officers (including those belonging to the General Administrative Reserve) who were initially engaged on contract and were subsequently appointed to the same or a different post in a substantive capacity on pensionable basis without interruption of duty, may

*Inapplicable after 21st April 1960.

be allowed the option of surrendering the Government contribution to their Contributory Provident Fund accouut together with interest thereon, for the period of the contract. and to count one-half of their contract service towards pension. This decision will not apply in the case of those who have since quitted service, or who were appointed to pensionable post after a break in service.

3. The option referred to in the preceding paragraph, which should be exercised within a period of *three months* from the date of issue of these orders or, as the case may be, within three months of appointment to a substantive, pensionable post, may be communicated by letter to the Accounts Officer concerned. If the communication is not received by the Accounts Officer within the stipulated period, the officer concerned shall be deemed to have exercised the option of not having the period of service on contract counted for purpose of pension in terms of these orders, and the accumulation in the C. P. Fund account of the officer (*i.e.* his own subscriptions with interest thereon and the Government contribution together with interest thereon) will be refunded and treated as finally paid to him. In the case of officers opting to earn pension in respect of the period of service on contract, their C. P. Fund accumulation will be adjusted in the manner indicated in rule 18 (1) (*b*) of the Contributory Provident Fund Rules (India).

4. Attention in this connection is also invited to the Government of India, Ministry of Home Affairs, Office Memorandum No. 1/31/55—CS (A), dated the 28th November 1955, regarding the disposal of the accumulations in the C. P. Fund accounts of officers of the General Administrative Reserve appointed to pensionable posts. Such accumulations will be adjusted finally in the light of the option exercised by the officers concerned in terms of these orders. Cases in which the accumulations in the C. P. Fund Accounts have already been paid to the officers concerned who may now desire to earn pension in respect of the period of contract may also be dealt with in the light of these orders. Such officers may refund to Government either in a lump sum or in convenient instalments not exceeding twelve in number, the amount actually received by them together with interest thereon from the date of payment to the date of final refund.

5. The Ministry of Law/etc. are requested to make arrangements to communicate copies of this Office Memorandum to all officers under their administrative control who are entitled to exercise an option in terms of para 2 above. The contents of the Office Memorandum may also be noted for necessary action as and when the occasion therefor arises.

[G. I. M. F. letter No. F. 11 (30)-EV 56, dated the 20th June 1957]

(3—A) Decision No. (3) above lays down that contract officers (including those belonging to the General Administrative Reserve) who were initially engaged on contract and were subsequently appointed to the same or a different post in a substantive capacity on pensionable basis without interruption of duty, might be allowed the option of surrendering the Government contribution to their Contributory Provident Fund account together with interest thereon for the period of contract, and to count one half of their contract service towards pension.

The question in regard to the extent to which service on contract should count for pension has since been reviewed, and it has been decided by the President, in partial modification of the orders referred to above, that the contract service should be treated like any other service temporary & permanent, rendered in a pensionable establishment, and allowed to count for pension subject to the usual conditions laid down in the pension rules, irrespective of whether the officer concerned subscribed to the Contributory Provident Fund or not throughout the period of contract, provided that for the period during which he did not subscribe to the Contributory Provident Fund, he did not draw inflated rates of pay by reason of the absence of any retirement benefits.

2. It has also been decided by the President that an officer who has

exercised or is deemed to have exercised the option of not having the period of service on contract counted for purpose of pension in terms of decision No. (3) above should be given a further option to be exercised within *three months* from the date of issue of these orders, of surrendering the Government contribution to his Contributory Provident Fund account together with interest thereon, for the period of contract, and to count his contract service towards pension in terms of paragraph 1 above, Officers who now desire to earn pension in respect of the period of Contract shall refund also interest on the amount actually received from the date of payment to the date of final refund. This decision will not apply in the case of those who have already quitted service on the date of issue of these orders.

3. The Ministry of Home Affairs/etc. are requested to make arragements to communicate these orders to all officers under their administrative control who are entitled to exercise an option in terms of paragraph 2 above. The contents of this Office Memorandum may also kindly be noted for necessary action as and when the occasion therefor arises.

4. In so far as persons serving in the Indian Audit and Accounts Department are concerned, the orders have been issued after consultation with the Comptroller & Auditor General of India.

[G.I.M.F Memo No. 11 (30). EV/50, dated the 16th February 1959 as amended by Memo ; of even number dated 21-3-59.]

(4) It is stated in decision No. 3 above that cases where the accumulations in the Contributory Provident Fund accounts had already been paid to the officers concerned who might desire to earn pension in respect of the period of contract, might also be dealt with in the light of those orders. Such officers were required to refund either in a lump sum or in instalments, the amount actually received by them (*i. e.* Government's contribution as well as their own subscription) together with interestt hereon. It has since been represented that refund of the subscription portion would result in undue hardship as most of the officers who received the amounts some years ago would have spent the money in some way or the other. After careful consideration, it has been decided that the portion of the subscription Contributory Provident Fund accumulations with interest thereon which may have been received by any officer before the issue of the Office Memorandum referred to above need not be refunded for credit into his General Provident Fund account, if he so desires. Where, however, the recovery of the subscription portion has been effected in whole or in part, the amounts already so recovered need not be refunded to the officers but further recoveries may be stopped at the option of the officers concerned.

(5) Decision No : (3) and (3-A) above relate to the counting of service rendered on contract basis by officers (including these belonging to the (General Administrative Reserve) on surrendering the Government contribution to their Contributory Provident Fund Accounts together with interest thereon, in the event of their substantive appointment on pensionable basis without interruption of duty. In this connection, it has been represented to the Government of India that the contract officers who are appointed on probation to pensionable posts, are deemed to have quitted service within the meaning of Rule 23 of the Contributory Provident Fund (1) Rules and the accumulation of their Contributory Provident Fund Accounts become payable and must the paid under Rule 27 *ibid.* The recovery of Government contribution to the Contributory Provident Fund Accounts together with interest thereon, when the officers, are confirmed in pensionable posts after some time and opt for pensionary benefits in respect of their service on contract, causes undue hardship to them.

The matter has been considered by the Government of India and it has been decided to allow the officers in the above cases, in relaxation of the rules, to continue to have the Government contribution portion of the Provident Fund with interest thereon, retained in their Contributory Provident Fund Accounts until such time as they are confirmed in pensionable post/services. Such accumulations will be adjusted finally in the light of the option exercised by the officer

concerned in terms of the office Memorandum referred the above.

[G. I. M. F. Memo. No. F. 3(38)-EV/A/60, dated the 31st January 1961.]

369. An establishment, the duties of which are not continuous but are limited to certain fixed periods in each year, is not a temporary establishment : Service in such an establishment, including the period during which the establishment is not employed, qualifies ; but the concession of counting as service the period during which the establishment is not employed does not apply to an officer who was not on actual duty when the establishment was discharged, after completion of its work, or to an officer who was not on actual duty on the first day on which the establishment was again re-employed.

Government of India's orders. *Rules made in substitution of Article 369 of C. S. R. to regulate grant of pension in establishments belonging to subordinate service in the Indian Posts and Telegraphs Department, the duties of which are not continuous but are limited to certain fixed periods in each years.*

1. A person appointed substantively to a non-continuous establishment which at the time of his appointment is considered to be required for more than 6 months in each year over a period of not less than 5 years, shall be treated as belonging to a permanent establishmnet and he shall retain his permanent status during all subsequent years of employment even though the non-continuous establishment may be abolished before the end of 5 years or its duration in each year reduced to six months or less. Service in permanent establishment, including the period during which the establishment is not employed, qualifies for pension, provided that Government servant who was not on actual duty or on authorised leave on the date when the establishment was discharged after completion of its work, or on the first day on which the establishment was again re-employed, shall not count, as service qualifying for pension, the period during which the establishment is not employed.

2. A person appointed to a non-continuous establishment which is employed for periods not exceeding 6 months in a year or which at the time of his appointment is considered to be required for more than 6 months in each year but for a period of less than 5 years shall be treated as belonging to a temporary establishment. Service in such an establishment does not qualify for pension.

EXCEPTIONS :—(*a*) A member of continuous establishment originally sanctioned for a period exceeding six months a year, who has already been treated as belonging to a permanent establishment, shall retain his permanent status during all subsequent years.

(*b*) A member of a temporary establishment shall be treated as transferred to a permanent establishment from the date it is found that the establishment will (generally) be required for more than six months in each year over a period of not less than five years but no benefit in respect or past temporary service, otherwise admissible under Article 370, Civil Service Regulations, shall be allowed. He shall retain his permanent status thus acquired during all subsequent years.

3. All periods of leave earned and enjoyed whether any leave salary is drawn or not will count as service for pension.

4. Nothing in these rules shall operate to effect to the disadvantage of any person the conditions of service in respect of pension which were applicable to him on the 27th May, 1930.

[G. I. F. D. (P. & T) Notification No. S. 235/5/53, dated the 5th December, 1954, [File No. 6-(84) R II/35] and D/2057-P. T/39, dated the 31st May, 1939, (File No. 6-(122)-R 11/36)].

370. An officer transferred from a temporary to a permanent appointment can count his service in the temporary office, if though at first created experimentally or temporarily, it eventually becomes permanent.

Note :—The provisions of this article shall not apply to officers retiring from service on or after the 22nd April, 1960.

Government of India's decisons. (1) An officer transferred to a per-

manent appointment from a temporary one which is eventually made permanent can count his service towards pension, in the temporary appointment even if it is not made permanent untill after his transfer.

[G. I. F. D. No. 4328-P, dated 22-10-1892.]

(2) An officer deputed to an appointment which though at first created experimentally or temporarily but eventually made permanent can count the period of his deputation on temporary duty in respect of the temporary appointment he actually held and his *locum tenens* counting his acting service under Article 371, Civil Service Regulations.

[G. I. F. D. No. 632-P., dated 4-2-1909.]

Note.—The above order merely laid down the ruling promulgated in G. I. F. D. No. 1009-P., dated 3-3-1897 [incorporated as order No. (1) below Article 376] and do not over-rule Article 370 which provides for cases in which temporary appointment is subsequently made permanent. The Government of India's orders both of 1897 and 1909 had reference only to the rules (Article 370, 371, 376 C. S. R.) for the reckoning of service for pension and do not in any way bear on the rules for the reckoning of emoluments in Article 486, *et seq.*

[Auditor General's No. 565-Code/1061-E/24, dated 4-7-1925.]

(3) The principles underlying the rule in Article 370, Civil Service Regulations are :—

(*i*) When posts sanctioned temporarily in the first instance are subsequently made permanent, the whole temporary service if the officer or officers in the temporarily or experimentally created posts may count for pension.

(*ii*) The same appointment on the same establishment must be transferred from the temporary to the permanent footing in order to secure the benefit of this Article ; an officer may not count service in a temporary establishment merely by reason of his being transferred thence to *another* and a permanent establishment.

(*iii*) An officer transferred from a temporary to a permanent establishment may count his service on the temporary establishment if that establishment becomes permanent after his transfer.

[G. I. F. D. No. 4824-C.S.R. dated 7-8-1911.]

(4) Temporary officers of the Indian Medical Service who may be permanently appointed, should be allowed to count their temporary service for promotion and pension and to take precedence as junior of their rank.

[G. I. F. D, Endorsement No. 313-C.S.R dated 5-4-1916.]

(5) The extra service in the Mint is temporary service within the meaning of Article 368 (now Article 361-A). C. S.R.

[Para 154, India Supplement to C. S. R. (4th Edition)].

(6) It is not permissible to confirm a man in his temporary or officiating appointment after he has retired from it. [See also decision No. 17 below.]

[Para 155, India Supplement to C.S.R. (4th Edition.)]

Note.—The provision of Article 370 C.S.R. apply only to persons who retire without holding any substantive appointment. It is therefore evident that the embargo on confimations either in a temporary or officiating appointment after a person has retired from it applies only to such cases. The restriction in the above decision does not apply where the Government servant holds a substantive appointment and hold also a higher appointment in an officiating capacity before his retirement but in whose case it is known only after his retirement that the officiating appointment which he was holding could have been filled in, in a permanent or provisional permanent capacity. In such cases there should not be any objection to issuing an order confirming him against that post even though the Government servant concerned had retired in the meantime.

[G.I.M.F.U.O No. 7394-ET/49, dated 9-11-1949].

(6-A) A temporary appointment which is renewed continuously through a series of years is none-the-less the same appointment because it happens to be sanctioned for one year at a time. If for all practical purposes the work atached to a post from being temporary becomes permanent, the officer holding that post is entitled to count for pension the whole of his previous temporary service to the extent to which the work rendered in it is of the same character with work rendered after it was made permanent.

[G. I. Rev. & Agr. Dept. No. 822-F—191-2, dated 12-9-1911 forwarded with G.I.F.D. No. 5384, C.S.R. dated 26-9-1941.]

(7) The officer appointed temporarily to the Indian Educational Service on subsequent confirmation. are permitted to count such temporary service as service for leave and pension.

[G.I.F.D. No. 533 C.S R. dated 13th September, 1912.]

(8) The fact that the pay of an employee borne on the temporary Establishment as defined in paragraph 139, P. W. D. Code as amended by Standing Order No. 58, dated 1st July, 1929 (paragraph 10 of the Central P. W. D. Code 1st Edition) is charged to works in order that the accounts may correctly exhibit the cost of the works, does not in any way interfere with any privileges as regards leave, possibilities of pension to which his temporary post may entitle him now or hereafter, provided that such employees retain their place on the temporary establishment and are shown in the Establishment Returns and that their service are susceptible of verification.

[G. I. P. W. D. letter No. 905 E.B., dated 1st August, 1921, copy received with Auditor, Government of India Sanctions Endorsement No. 7198, dated 6th September 1921.]

(9) The Governor-General in Council has decided that temporary service rendered by the persons employed in a temporary capacity in offices under the control of the Indian Munitions Board, or the Board of Industries and Munitions should be allowed to count for pension under Article 370, Civil Service Regulations, in cases which satisfy all the following conditions :—

(*i*) that the offices concerned were such that their functions were transferred to them on the formation of the Board ; and re-transferred to other offices under the control of the Central Government on the dissolution of the Board.

(*ii*) that there was no essential change of duties on transfer.

(*iii*) that service in the appointment held immediately on transfer from the control of the Board was one qualifying for pension,

(*iv*) that there was no break between the service rendered under the Board and the service in the departments or offices qualifying for pension. and,

(*v*) that the service in question cannot be counted for pension under Article 357A, Civil Service Regulations.

[G.I F.D. letter No F. 11(9)-R II/38 dated the 2nd December, 1938].

Note :—The office of the Chief Controller (Surplus Stores) should, for the purposes of this decision, be regarded as an office under the control of the Board of Industries and Munitions.

[G.I.F.D. No. 11 (9) R, II/38, dated 5-4-1939.]

(10) The intention of Article 370, C.S.R. is that when an isolated post unconnected with a cadre, sanctioned temporarily or experimentally in the first instance, is subsequently made permanent, the whole temporary service of an office or officer in that post should count for pension, provided that such officers are subsequently appointed substantively to a permanent post. The concession is admissible only to officers who render temporary service, substantive or officiating while having a lien on a permanent post, and is admissible to an officer even though he no longer holds the temporary post when it is made permanent.

In applying the article the following principles should be observed :—

(*i*) The holder of a temporary post supplementing a permanent cadre of posts of the same kind and carrying parallel duties, though actually employed on work properly pertaining to a permanent post in that cadre, should still be considered to have rendred service in the temporary post.

(*ii*) When some of several temporary posts supplementing a permanent cadre as in (*i*) above are coverted into permanent posts and permanent promotion to this posts is made according to seniority or by selection, the Government servants actually so promoted should be considered as the holders of the temporary posts which have been converted, and should be allowed to count their tempo-

rary service rendered in the posts.

[G.I.F.D , No F.-11-(II)/R-II/34, dated 13-1-1939.]

Note 1.—These instructions do not cover the case of a permanent Government servant who is actually *appointed* to a temporary post which is eventually made permanent and who is not merely *employed* on work pertaining to such a temporary post forming a temporary addition to his cadre. Such a Government servant can count the period of his temporary appointment in respect of the temporary post to which he is actually appointed and his *locum tenens* can count his acting service under article 371 C.S.R.

[Auditor General's No. 21-A/8-39, dated 13-1-1939.]

(11) See Government of India's decision below Article 368.

(12) For the purpose of counting of temporary service towards pension under Article 370, Civil Service Regulations the essential requirement is that there should be an identity of functions when the post is temporary and when it is brought on to a permanent footing.

[G.I.M.F.U.O. No. 3857—EV/50, dated 10th June, 1950]

(13) Rules 28 (1)(*b*) (*iv*) of the Contributory Provident Fund Rules (India) provides that a subscriber to the fund who is permanently transferred to a pensionable service under the President and elects to earn pension in respect of such pensionable service, is entitled to count towards pension "such part of the period during which he subscribed to Fund, as Government may determine". In actual practice, the period of past service counting for pension is determined in accordance with certain established principles but, since these are not known generally, it has been represented that the Officers concerned feel great difficulty in exercising an unconditional opinion which they are required by the rules to do within a period of three months.

It is accordingly hereby made clear for the information of all concerned that the principle which is usually observed in determining the period of past service for the purpose stated above is that only the service during which an officer actually subscribed to the Contributory Provident Fund, is allowed to count for pension, and that to the extent indicated below :—

(*i*) the whole of permanent service :

(*ii*) the whole of the temporary/officiating service which would have qualified if the provisions of Article 370 and 371 of the Civil Service Regulations were applicable ; and

(*iii*) half of the remaining officiating or temporary service, subject to the conditions indicated in para 7 of Finance Ministry's Office Memorandum. No. F. 3(1)-Est. (Spl.)/47, dated the 7th April, 1950.

[Appendix 41]

[G I.M.F. Memo No. F. 31 (3)-E.V./54, dated the 1st June, 1954.]

(14) See Government of India's Order below Article 907.

(15) An officer was appointed against a temporary post on 1-4-27. He was later on confirmed in another vacancy which occurred on 29-2 36. He was invalided from the service on 4-1-43. The temporary post against which he was originally appointed was made permanent in the year 1945. A question was raised whether the service rendered from 1-4-27 to 28-2-36 can be allowed to count towards pension under Article 370 of the C. S. R. Ministry of Finance held that as the post which he previously held was made permanent after his retirement, he cannot get any advantage of Article 370 of the C. S. R. In the particular case, however, the, Government of India exercised their power under Article 361A of Civil Service Regulations and made his qualifying service for 10 years.

[G. I. M. F. U. O. No. 7461/EV/50 dated the 4th December, 1950 in File No. F. 12(27)-EV/50].

(16) Once a Government servant who is a subscriber to Contributory Provident Fund on his transfer to a permanent pensionable service has exercised the option to retain his Contributory Provident Fund benefit, he is not entitled to any pension. The option once exercised is final and cannot be revoked later on the score that the Pension Rules have been revised to the advantage of Government servants.

[G.I.M.F.U.O. No. 1997-EV/54 dated 30-8-54 in File No, F. 19(15)-EV-54.]

(17) References have been received in Home Ministry from time to time seeking advice on the question whether a Government servant, permanent or temporary, who has retired from service or has died in service or who has been granted "refused leave" under F. R. 86 or leave preparatory to retirement or leave after invalidment under S. R. 233 (*e*) could be confirmed retrospectively in a post or service in a permanent vacancy which occurred on a date falling *before the date of his actual retirement or death*. In the case of an officer on leave preparatory to retirement including 'refused leave' or leave after invalidment it may be noted that the date of actual retirement will be the date of expiry of such leave. The question has been considered by the Government of India in consultation with the Comptroller and Auditor General of India. The conclusions reached in the matter are set out below for the guidance of all concerned.

2. Confirmation of an officer is an administrative matter and the administrative authorities are competent to make such confirmations within their powers provided the requirements of the rules regulating appointment and confirmation and criteria mentioned below are satisfied.

3. So long as a permanent vacancy is available before the actual date of retirement or death of an officer and the rules and the orders about the procedure for confirmation are observed, there is no objection to confirmation being made even if the fact about the existence of the vacancy becomes known after the officer's proceeding on leave preparatory to retirement, "refused leave" or leave after invalidment, or after his retirement or death. The main criterion in such a case should be whether the officer would have been confirmed in the post had he been on duty and the existence of the permanent vacancy had been known on the relevent date. In cases of post to which appointment is by selection the officer concerned must have already been so selected when he previously officiated in those posts otherwise than as a local or purely temporary arrangement. Accordingly, both in one case of appointments by selection as well as seniority such retrospective confirmation may be made by the competent authority in a post which the officer was holding (otherwise than as purely local or temporary arrangement) or would, but for his appointment to a higher or equivalent post, have held immediately before his retirement or death or proceeding on leave preparatory to retirement or on refused leave etc. (as the case may be), or in a lower post from which appointment are normally made to a post so held.

[G.I.M.H. Affairs Memo No. 32/1/55 Ests., dated the 28th June, 1956 as amended by Memo : No. 32/1/55, dated the 27th November, 1956]

Note : The above principle has also been adopted by the Defence Department *vide* Army Instruction No. 58 of 1957 which applies to Organisations under the C. G. D. P. as well.

(18) The question of counting non-regular military (purely temporary) service which was not rendered in conjunction with 'War Service' in the Army, Navy and Air Force towards civil pension has been under consideration of the Government of India After careful consideration the Government of India have decided that continuous military (non-regular/purely temporary) service not rendered in conjuction with war service in the Army, Navy and Air Force will count in full towards civil pension if such service is followed *without interruptions* by appointment to and eventual confirmation in a pensionable post in Civil Service. The grant of this concession is subject to the following conditions :—

(1) The officer concerned should not have earned a pension under the Military rules in respect of the service in question ;

(2) In the case of services or posts in respect of which a minimum age is fixed for recruitment, no military service rendered below that age shall be allowed to count for pension ;

(3) If the officer has been granted any retirement gratuity in respect of such service, such gratuity shall be refundable.

[G.I.M.F. Memo No F 3(58)EV(A)/62 dated the 3rd February 1962]

Auditor General's decisions (1) In the case of a Government servant holding a temporary post and having no lien on a permanent post, who officiates in a higher grade in interruption of his temporary service, the Auditor General has ruled that such periods of temporary service alone will count for pension as were actually put in a temporary service which was subsequently made permanent.

(2) The fundamental basis of this Article are :—

(*i*) that the temporary office in which the man worked must itself eventually become permanent, and

(*ii*) that the only service which can count, is the service in that particular office.

[Auditor General's letter No. T. 607-E/138-26, dated the 6th September 1926]

(3) The benefit of Article 370 C.S.R. accrues by virtue of the actual service put in by the officer or officers in the temporary post. Consequently the officer proceeding on leave from such a post does not retain any connection with that post and the benefit of service does not accrue to him but to his successor who actually holds that post.

[Comptroller and Auditor General's U. O. No. 1013-A/291-53 dated 21 9-53].

(4) *Quasi*-permanent declaration is given to assure greater security of service to the Government servant concerned. The concession that all *quasi*-permanent service counts fully for pension is an *ad-hoc* benefit given under the Central Civil Service* (Temporary Service) Rules and does not in any way restrict the benefit admissible under Article 370 Civil Service Regulations. Even when a Government servant is given *quasi*-permanency declaration, if the benefit of Article 370 Civil Service Regulations is otherwise admissible he would be entitled to that also. In accordance with Article 370 Civil Service Regulations an officer transferred from a temporary post to a permanent appointment can count his service in the temporary office, if eventually it becomes permanent. The officers who were already declared *quasi*-permanent and have subsequently been confirmed againt the same post which they were holding on temporary basis would, therefore, get the benefit of entire temporary service in the spirit of Article 370 Civil Service Regulations without the necessity to withdraw or nulify the orders of *quasi*-permanency issued in their favour.

In the case of a Government servant holding a temporary post and having no lien on a permanent post, who officiates in higher post in interruption of his temporary service, such periods of temporary service alone will count for pension as were actually put in the temporary service which was subsequently made permanent. The officiating period of his service in the higher post will not be treated as qualifying under Article 370 Civil Service Regulations. But if he is declared *quasi*-permanent before his promotion to the higher grade, he will count that period in the lower post as qualifying for pension. The *quasi*-permanency declaration should not, therefore, be withdrawn or dispensed with where it is permissible.

(Comptroller and Auditor General's U.O. No 1659-A/457-55 dated the 31st December 1955).

371. An Officer without a substantive appointment officiating in an office which is vacant, or the permanent incumbent of which does not draw any part of the pay or count service, may, if he is confirmed without interruption in his service, count his officiating service.

Note—The provisions of this article shall not apply to officers retiring from service on or after the 22nd April 1930.

Government of India's decisions:—(1) An officer without a substantive appointment may count his officiating service in the following cases :—

(*a*) In an appointment which is vacant or in an appointment the permanent incumbent of which does not draw any part of the pay or count service, if he is without interruption appointed substantively in an

*See appendix 3 in Volume II of this Compilation.

appointment other than that in which he was officiating.

(*b*) If he officiates continuously in vacancies fulfilling the conditions of Article 371 but caused by the absence of different substantive incumbents and is eventually appointed substantively without interruption in appointments of the same class, though not necessarily in any of the vacancies in which he has been officiating.

When it is found impossible to determine with certainty the nature of the vacancies in which an officer has officiated, an order of the Local Government allowing him the benefit of Article 371 may be accepted. The officiating service of an officer in an appointment not vacant, the permanent incumbent of which draws part of the pay or counts service does not involve forfeiture of previous officiating service which fulfilled the conditions of Article 371, Civil Service Regulations.

[G. I. F. D. No. 3034-P dated 13-5-1904.]

(2) When a temporary appointment subsequently becomes permanent it should be treated as having become permanent with retrospective effect from the date it was created. A permanent officer holding the temporay appointment, therefore, counts service for purposes of pension in respect of the temporary appointment he actually held and his *locum tenens* counts his acting service under Article 371 of the C.S.R.

These orders have reference only to the rules for the reckoning of *service* for pension and do not in any way bear on the rules for the reckoning of *emoluments* contained in Article 486(*h*), C. S. R. which will be calculated on the pay of the permanent appointment held by the officer and not on pay drawn in respect of the temporary duty.

[G. I. F. D., No. 632-P, dated 4th February, 1909, and Auditor General's letter No 565, Code/1081-E/24 dated 4th July, 1925.]

(3) The munsiffs count as service qualifying for pension, the periods whether continuous or not during which they have held acting appointments prior to confirmation.

These orders take effect from the 8th February, 1909, the date on which the Secretary of State's despatch was received by the Government of India.

[Secretary of State's despatch No. 5 (Judicial), dated 22nd January 1909]

Note.—Tde munsiffs count as service qualifying for pension the periods, whether continuous or not, during which they hold temporary appointments or officiate in leave vacancies prior to confirmation.

(G. I. F. D., No. 733-C. S. R., dated 27th July, 1916.)

(4) The service of officiating Munsiffs in the Settlement Department counts for pension on the same terms as does their officiating employment on Judicial work.

[G. I, F, D, 1250 C. S. R., dated 8th December, 1914.]

(5) It has been decided by the Government of India that officiating service rendered in a substantive *pro tempore* vacancy caused by a military officer holding a civil appointment being detached from his department for the performance of military duties in connection with the Great War, should be treated under Article 371, C. S. R. in precisely the same manner as ordinary officiating service. The question whether, it counts for pension or not depends on whether the permanent incumbent, in fact counted service in the post during the period for which he was detached from it.

[G. I. F. D. letter No. F. 11-XXXIX- R., 11/24, dated 23rd November, 1934.]

(6) *Verification of temporary and officiating service before destruction of pay bills.*—The heads of offices should also invariably give necessary particulars with reference to Articles 370 and 371 of the C. S. R. with a view to enable the audit office to decide later on by reference merely to such particulars, whether the temporary or officiating service will qualify for pension or not ; for example in the case of officiating service, the nature of the vacancy in which the Government servant officiated and in case of temporary service, whether the temporary post was subsequently made permanent should be stated.

[G. I. F. D. letter No. D/7869-F , dated Ist December 1930.]

(7) *Omitted.*

Auditor General's decisions :—The question was referred to the Auditor General whether the service of an officer in a vacancy in a post caused by the transfer of the permanent incumbent of it on foreign service counts for pension and whether it makes any difference whether he is appointed to it in an officiating capacity or in a provisionally substantive capacity under F. R. 14 (*d*). The position is explained below in detail :—

2. In the first place it should be recognised that a provisionally substantive appointment is a substantive appointment for all practical purposes, subject only to the qualification that the arrangement will be reversed if and when the officer in whose place the arrangement is made returns to his own post, and also subject in so far as pension is concerned, the fulfilment of the conditions in Article 89, C. S. R. Subject to these conditions, a provisionally substantive holder of a permanent post carries, so long as he holds a provisional lien on that post, all the privileges and advantages which ordinarily accrue to the substantive holder of a permanent post.

3. A provisionally substantive appointment under F. R. 14 (*d*) may correspond to either an officiating appointment or a provisionally substantive appointment in the C. S. R. sense according as the conditions of Article 89 C. S, R. are not or are fulfilled. When it is of the former category, the case falls to be dealt with under Article 371, C. S. R., read with the Government of India decision contained in Finance Department letter No. 1009-P. dated the 8th March, 1897 [Government of India's decision No. (1) below Article 376] but when of the latter category it satisfies the *second condition* of Article 361.

4. In the case of an officer on foreign service, the contributions paid for him maintain his claim for pension under Article 753, C. S. R., and consequently for the period of his foreign service he should be considered to have retained no connection with his post under Government for the purpose of Article 89, C. S. R. It will not make any difference in the position even if the payment of the contribution is remitted under F. R. 119.

5. The officer on foreign service retains a lien (active or suspended, as the case, may be) on his permanent post, and even though he has thus a right to return to such a post in a substantive capacity, it does not necessarily follow that he counts service of pension in the permanent post. Since the contributions paid for him maintain his claim for pension for the period of his foreign service he need not count service for pension against any permanent post under Government. His title to pension for the period is established only secondarily by reason of his holding a lien on a permanent post under Government but primarily by reason of the payment of contributions. It is true that under Article 355 (*b*), C.S.R , two officers may not simultaneously count service for pension in respect of the same office, but the underlying principle of the rule is to protect Government from payment of two pensions in respect one and the same post, and as the claim to pension of an officer in foreign service is maintained by payment of contributions Government does not incur double liability for pension by allowing *locum tenens* to count service for pension.

6. The conclusion, therefore, is that, while an officer officiating in a vacancy caused by the detachment on *temporary duty* of the permanent incumbent of a post does not count the officiating service for pension under Article 371, C.S.R , in view of the Government decision of 1897, both officiating and provisionally substantive service of an officer rendered in a vacancy caused by the transfer of the permanent incumbent *on foreign service* counts either directly under Article 371 or under the relevant provfsions of other Articles of the C. S. R. applicable to the substantive holder of a permanent post.

[Auditor General's Memo No. 377-A/120-44-dated 1-9-1944.]

Audit Instruction :- When a fresh recruit entertained in an officiating capacity against a vacancy in a cadre is eligible for any post included in that cadre and not merely for the particular post in which he is in fact posted to officiate, the benefit of Article 371, C,S.R., should accrue to him in respect of the vacant post, service in which qualifies under this Article. Similarly, when two or more fresh recruits so eligible are entertained in an officiating capacity, against, for example, one permanent vacancy and one or more leave vacancies in a cadre it is the seniormost among these officers who should get benefit of that Article in respect of the permanently vacant post, even though he may be posted to officiate not in it but in one or other of the leave vacancies.

[Para II-A, Section III of Manual of Audit Instructions (Reprint)].

Apprentices and Probationers

372. Service as an apprentice does not qualify, except in the following cases :—

Engineer or Examiner Apprentices,
Qualified student of the Thomason College under practical training who passed out prior to the year 1924. } In the Public Works and Railway Departments.
Assistant Superintendent Apprentices in the Indian Telegraph Department.

Government of India's decisions (1) The exception in this Article, refers, so far as qualified students of the Thomason College under practical training are concerned, to passed students of the Civil Engineering class of the college under practical training as Engineers.

[G.I. Industries and Labour, Public Works Branch D. O. No. E. 13, dated 16-5-1925].

(2) The President is pleased to decide that the service rendered by an S. A. S. Apprentice in the Indian Audit and Accounts Department will be treated as temporary service for the purpose of the benefits in paragrah 7 under Section IV of Appendix 41 and will count towards pension to the extent of one half subject to the conditions laid down therein.

[G. I. M. F. Department of Economic Affairs letter No F. 13 (74)-Adm. II/56, dated the 13th August 1956 to the address of the Comptroller and Auditor General of India].

373. Tho service of a probationer who holds a substantive office and draws substantive pay qualifies. So does that of an officer who is on probation for a substantive office if he is employed in a vacancy reserved for him pending probation, and in which no other officer simultaneously counts service.

Government of India's decisions :—(1) Probationary service not followed by confirmation does not qualify for pension.

[G. I. M. F. D. Memo. No. 1620 dated 31-3-1868, and G. I, F. D., U. O. No. 6786-C,S.R., dated 22-12 1925.]

Note.—It has been decided by the Auditor General with the concurrence of the Government of India that the above orders do not debar a Government servant from counting his probationary period for pension though he is confirmed in a post other than in which he was appointed on probation.

(Auditor General's No ; 316 A/153-39, dated 27-6-1939.)

(2) and (3) *omitted.*

(4) A Government servant holding a substantive appointment in one office and transferred as a probationer on a subsistence allowance to another office may count towards leave and pension his service in the latter capacity. It is essential, however, that the officer should retain a lien on his substantive appointment so that he may return to it in the event of his not being confirmed. Moreover, as under Article 355 (*b*), C. S. R., two officers cannot simutlaneously count service in respect of the same office, no other officer may either be confirmed in the appointment substantively held by him or count for pension his service in that appointment.

[G. I, F. D. No, 59 C.S.R. dated 15-5-1912, and Auditor General's decision, No, 46, in summary of Audit decisions (Punjab) during 1912-13].

(5) On being confirmed in his appointment, a probationer of the Indian Agricultural Service will become eligible, from the date of his arrival in India, for pension under the provisions of Civil Service Regulations applicable to that Department.

[G. I. F. D. No. 238 E.B., dated 11-3-1913]

(6) See Government of India's decision No. (2) below Article 371.

374. Police probationers and temporary and officiating Assistant Superintendents of Police in all Provinces count their service as follows :—

***(1) If recruited in England—from the date from which they draw pay.**

(2) If recruited in India under the orders in Secretary of State's despatch No. 14, dated the 15th March, 1894—from the date of assuming charge of their appointments.

(3) If recruited in India before the date of the orders of 1894 mentioned in (2) above—from the date either of attaining the age of 20 years or of assuming charge of their appointments, whichever is later, provided that the service has been continuous.

375. The service of :

(1) Probationary, officiating and temporary Deputy Magistrate-Collectors and Sub-Deputy Collectors in Bengal, Bihar, Orissa and Assam.

(2) Probationary, officiating and temporary Deputy Collectors in the United Provinces,

(3) Probationary, officiating and temporary Extra Assistant Commissioners in the Punjab and Assam, and

(4) Officiating and temporary Extra Assistant Commissioners in the Central Provinces,

counts for pension from the date on which all the three following conditions are fulfilled, namely :—

(*a*) Two years' continuous probationary or officiatlng serviee as such has been rendered ;

(*b*) Departmental examinations have been fully passed ; and

(*c*) The age of twenty years has been attained.

Note. 1—The above conditions do not apply to Deputy Collectors and Sub-Deputy Collectors who began service in the Settlement Department on a temporary footing and were promoted to be probationary or officiating Deputy Collectors or Sub-Deputy Collectors in the provincial and subordinate civil services. Such officers are allowed to count the whole of their continuous service for pension from the date of their first appointment in the Settlement Department.

Note. 2.—Condition (*b*) does not apply to Sub-Deputy Collectors in Bengal and Bihar and Orissa who were appointed before the 4th July, 1892 and exempted from the operation of the rules for Departmental Examinations laid down in Resolution No. 3111-A of the Government of Bengal, dated the 4th July, 1892.

Note 3.—Sub Deputy Collectors in Bengal and Bihar and Orissa who were appointed before the 4th July, 1892, and were brought under the operation of the rules or Departmental Examinations laid down in Resolution No 3111-A of the Government of Bengal, dated the 4th July, 1892, shall be held to have passed their Departmental Examinations at the date calculated by taking the period of time between the 4th July 1892, and the actual date of passing the Examinations as the time taken to pass after first appointment as an officiating Sub-Deputy Collector.

Government of India's decisions :—(1) See Government of India's decision No. (2) below Article 371.

(2) See Government of India decision No. (4) and (5) below Article 373.

Permanent Officer deputed.

376. An officer on a permanent establishment detached on temporary duty, on the understanding that, when the temporary duty, ceases, he will return to permanent establishment, counts his detached service.

Government of India's decisions.—(1) A permanent officer doing temporary duty counts his detached service in respcct of his permanent appointment and not in respect of his temporary duty. (see Article 490).

[G. I. F. D. No. 1009-F., dated 3rd March 1897.]

(2) When, under Article 82, a Local Government suspends the lien of an officer on his substantive appointment, he counts service for pension in respect

*Applies to officers under the rule making control of Secretary of State.

of the *quasi*-permanent appointment he actually holds and consequently his *locum tenens* counts service in respect of his substantive provisional appointment.

[G, I. F. D. No 5040-P. dated 8th September, 1905.]

(3) The expression 'temporary duty occuring in this Article means duty in a temporary post.

[G. I. F. D. No. 385-C.S.R.-26, dated 8th Feburary, 1927].

(4) *Not Printed.*

(5) Article 376,Civil Service Regulations refers to cases of officers detached on duty in temporary appointment and does not cover the case of an officer officiating in permanent non-pensionable post.

[G. I. F D. letter No F-385 CSR/26, dated 8-2-1927.]

(6) The temporary post created under F. R. 127 is an addition to Government Establishment itself and if a Government servant happens to hold that post, he will still count service for pension in his permanent post alone and not in the temporary post *vide* Article 376 Civil Service Regulations. The provisions of Article 355 (*b*) C. S. R. will, therefore, be infringed if another officer (*i.e.* his *locum tenens*) is also allowed to count service for pension in the same post for the same period. The mere fact that in such a case, the pensionary cost in respect of the permanent incumbant is recovered from an outside agency should not be enough for relaxing such an important principle especially when contributions in such case are not recovered on behalf of officers with reference to their length of service but only at an average rate in respect of the post.

[Government of India, Ministry of Finance U. O. No. 6588—EV/51 dated the 25-9-1951, and Comptroller and Auditor General of India letter No. 304/12—51 dated 3-5-1951 received by Mr. L.S. Chaudri with A. G. C. R's letter No. PN 17-1/51-52/3475 dated the 19th November, 1951.]

Auditor General's decisions :—(1) An officer whose lien has been suspended under F. R. 14(*b*) will count his service under Article 376 C. S. R. in respect of his permanent post and his *locum tenens* who has been made provinsional in his place will be treated as permanent for all purposes except for pension.

[Auditor General's U. O. No. 101-A/51-42 dated the 2nd February, 1942 read with G. I. Finance Department U. O. No. 437R. II/42, dated the 20th February 1942.]

(2) See Auditor General's decision below Article 371.

(3) It is noticed that there is no uniformity in taking into account the provisional arrangements made under the rules in force before the 29th May, 1934, in calculating the total qualifying service for pension. The correct position is, therefore, summarised below for the guidance of all concerned.

Provisional appointments under Article 89 of the Civil Service Regulations were permissible only when the essential conditions laid down in that article *viz* ; of the officer being transferred to duty, which there was reason to believe, would not terminate within three years, and of his retaining no connection with his own appointment, were fulfilled. Under the Government of India, decision No. 2 below this Article, in case where the lien of an officer on his substantive appointment was suspended under Article 89 the officer counts service for pension in respect of the *quasi*-permanent appointment he actually held and consequently his *locum tenens* counts service in respect of his substantive provisional appointment (*c. f.* article 486 (*h*) of CSRs). The position remained unchanged even after the introduction of the Fundamental Rules from the Ist January, 1922 as the essential conditions regarding the suspension of lien under Article 89 C. S. R., were incorporated in Fundamental Rules 13. Until the revision of Fundamental Rules 13 and 14 on 29-5-34, provisionally substantive service under the pre-existing rules should be regarded as qualifying under the provisions of Civil Service Regulations referred to above without a fresh re-check of the fulfilment of the conditions laid down in Article 89 *ibid*. Such provisional service automatically counts as service qualifying for pension and may in future be taken into account in working out the total qualifying services on the basis of the entry of "Provisional appointment" in the service book.

Provisional arrangments under the rules in force before 29-5-34 were being

made only on the fulfilment of the essential condition that the officers retain no connection with their appointments. The condition continued to be fulfilled so long as there was no interruption in the provisional arrangement thus made and the provisional service from 29-5 34 onwards, which was in continuation of the provisional service before 29-5-34 should also be taken into account in working out the total qualifying service on the basis of the entry of prvisional service in the service book.

[Comptroller and Auditor General's letter No 5402-GE/403-55 dated the 8th August 1955.]

377. The preceding Article permits the temporary suspension of the second condition of qualifying service which forms the subject of this Section ; it does not authorise any relaxation of the first condition (Section II) or in the third condition (Section IV) and, in particular, must not be understood to countenance any modification of the rules in part VII, which apply to an officer on Foreign Service.

378. Service as Private Secretary to the Governor-General, a Governor or a Lieutenant-Governor, qualifies provided that the officer belonged before his appointment as Private Secretary ; to the Civil Service of Government, whether the Indian Civil Service or not.

Substantive Office Abolished

379. If the substantive office of an officer is abolished within the meaning of Article 426, but the officer is at the time, on special duty, or is on abolition of his office, deputed on special duty, his service on special duty qualifies, but the duty must be *Special*, mere employment in condition of permanent employment, in a temporary appointment which happens at the time to be vacant, does not qualify.

1. The service of an officer of the Marine Service continues to qualify when, upon the abolition of his appointment, he is retained on subsistence allowance or in an acting appointment.

Piece-Work

380. A Press servant who is paid for piece-work is treated as having held a substantive office, if—

(*i*) he is employed; not casually, but as a member of a fixed establishment; and

(*ii*) during the last seventy two months of his actual employment he has been attached to one office uninterruptedly for twenty four months, or it has not been through his own choice or misconduct that he has not been so attached.

Government of India's decision.—All press employees on the permanent establishment, who were in employment on the 15th July 1920, and who have rendered 25 years' continuous and approved service, whether such service be classified as permanent or temporary, shall be eligible for pension.

[G. I. Department of Industries' Resolution, No: A 371, dated 30th November 1921]

Note 1.—The Auditor General has decided that except in the case of Officers mentioned in Article 349A, C S.R., who are dealt with in Article 465-A., C.S.R. and can take a retiring pension after 25 years' service all other officers are subject to Article 465, C.S.R. in respect of superior service and cannot get a retiring pension before 30 years' service is completed. If therefore they want to go after 25 years it can only be on a medical certificate under Article 441 or else under Article 442, C. S. R.

In the case of Class IV servants, *e. g.*, a peon in a press, the concession of retiring after 25 years' service cannot of course, be given as such, servants are not eligible for retiring and superannuation pensions.

The term employees as used in the above Resolution does not include gazetted officers.

[Auditor General's letter No. 627 A/336-22 dated the 10th May 1923.]

Note 2—The Goverement of India have decided that the orders contained in their Resolution No. A-371, dated 30th November 1921, were not intended to confer on press employees on the permanent establishment any privileges in the matter of retiring after a minimum of 25 years' service not shared by employees belonging to other Subordinate services. Indeed, the privilege of optional retirement after 25 years, qualifying service is confined to the holders of posts included in Article 349-A., C. S. R. The object in view: albeit obscurely expressed, was simply to enable the counting as pensionable after 25 years continuous and approved service, of service not pensionable through out. The order

did not abrogate for these press employees the ordinary condition governing eligibility for retirement on pension.

[Government of India, Finance Department No. 2824-R-II, dated the 21st October, 1932.]

Surveys and Settlements.

381. (*a*) **The service of an officer not merely temporarily engaged in the undermentioned Settlement and Survey Departments which are (or were) on a *quasi*-permanent footing qualifies :**

The Settement Departments in Madras, Burma, the Punjab and the Central Provinces and Berar. The Revenue Survey Departments in Bengal, Madras and Bombay, The establishments of the Inam Commissioners of Madras and Bombay. The Alienation Stettlement Department in Bombay. The Madras Escheat Establishment, Madras.

(*b*) **Except in the regular Department and to the extent above specified, Settlement and Survey service does not count unless it is followed, without interruption, by qualifying Service. Settlement Service followed, without interruption, by pensionable service paid from a Patwari Fund also qualifies.**

(*c*) **Service as measurers employed in the record-of-rights work in Barar counts when such service is followed, without interruption, by qualifying service.**

Note 1.—From the dates mentioned, the following posts have been declared to be on *quasi*-permanent footing :—

(*a*) In a settlement office in the United Provinces from Ist October, 1899 :—
Head and Second Clerk.
Sadar Munsairm.
Settlement Officer's Reader.
Nazir and Record kceper

(*b*) In the Settlement Establishment in Baluchistan from 1st September, 1904 :—Superintendent(pay Rs 150), 1 Deputy Superintendent (pay Rs. 90), I Deputy Superintendent (pay Rs. 75), 2 Munsarims (pay Rs. 50 each), 2 Munsarims (pay Rs 40 each) I Head Clerk (pay Rs 90), I Second Clerk (pay Rs. 65), I Copyist (pay Rs. 50), Sarishtadar to Settlement Extra Assistant Commissioner (pay Rs. 65), I Moharrir (pay Rs. 40), I Nazir (pay Rs. 30), I Sarishtadar to Settlement Superintendent (pay Rs. 40), I Nazir to Settlement Superintendent (pay Rs 30),

Service in these posts qualifies from the dates mentioned or from any previous date from which the incumbents on Ist October, 1899 or 1st September, 1904 (as the case may be) may have been serving substantively and without interruption in one or other of them.

Note 2—Continuous service as Inspector Surveyor, Holding Marker, Draghtsman Computor and Clerk belonging to Special and Revision Survey parties in Burma qualfies.

Government of India's decisions :—(1) All settlement service even if paid from contingent grant followed without interruption by qualifying service counts.

[G. I. F. D. No. 85 P. dated 6-1-1908.]

(2) Service rendered in the Madras Forest Settlement is not to be regarded as settlement duty within the meaning of Article 381, C. S. R but as temporary duty falling within the scope of Article 77, C.S.R.

[Paragraph 199, India Supplement to C.S.R. 4th Edition]

(3) An interruption between an officer's non-qualifying service in the Survey and Settlement Department and his subsequent qualifying service may be condoned under Article 422, Civil Service Regulations, in order to make the former service qualifying under Article 381(*b*), Civil Service Regulations.

[G. I. F. D. No. 100 C.S.R. dated 23-1-1918-]

(4) The rule in the first sentences of Article 381 (*b*) does not specifically limit the subsequent qualifying Service in Surveys and Settlements.

[G. I. F. D. letter No. F/11-III R. 11/34, dated 15-3-1934.]

(5) See Government of India's decision No. (1) below Article 361A.

382. Deputy Collectors and similar gazetted officers, when not especially employed for temporary work, are not affected by the preceding article, as they count service independently of the particular department to which they happen for the time to be attached.

Exception.

383. A Medical Officer in charge of a Government vessel may count his service afloat, if he is transferred, without interruption of his service, to the Civil Medical Service.

384. Officers transferred from the Extra or Contingent List of the Customs Preventive Service in Burma or in Calcutta count their service on that list, provided the Collector declares that the transfer is made on the ground of good service rendered.

SECTION IV.—THIRD CONDITION.

Sources of Remuneration

385. Service which satisfies the conditions prescribed in Sections II and III qualifies, or does not qualify, according to the source from which it is paid, with reference to this Article, service is classified as follows :—

(*a*) **Paid from the General Revenues.**

(*b*) **Paid from Local Funds.**

(*c*) **Paid from Funds in respect to which the Government holds the position of Trustee.**

(*d*) **Paid by Fees levied by law, or under the authority of the Government, or by Commission.**

(*e*) **Paid by the Grant, in accordance with law or custom, of a tenure in land, or of any source of income, or right to collect money.**

Government of India's decisions :—(1) A lump sum recovery has been made by the Secretary of State for India, from His Majesty's Imperial Government on account of the contribution for leave and pensions of permanent Government servants in India who have been employed in the surplus stores organisation including the office of the Controller of Surplus Stores Accounts in connection with the disposal of Surplus War stores belonging to His Majesty's Imperial Government. As this contribution has been finally adjusted in the books of the Military Accountant General, it is necessary that the proportionate share of the cost of leave and pensions of permanent Government servants in respect of their service in the Surplus Stores Organisation including the office of the Controller of Surplus Stores Accounts should be adjusted in the books of the Military Accounts Department.

All service rendered by permanent Government servants in the latter organisation will count for pension and leave under the ordinary rules.

[G.I F.D. No. 5337 C S.S.A., dated the 11th December, 1925.]

(2) See Government of India's decision No. (7) below Article 361-A.

***General Revenues**

386. Service paid from the General Revenues qualifies. The fact that arrangements are made for the recovery, on the part of the Government, of the whole, or part; of the cost of an establishment or officer, does not affect the operation of this principle : Provided that the establishment or officer is appointed, controlled, and paid by the Government.

Note—In making arrengements for the recovery or cost of establishments, it should not be forgotten that Government has to bear not only the immediate cost but also that of leave allowances and pensions—(See Article 783).

Examples.—(*a*) The Shipping Master and Deputy Shipping Master and their establishments at Bombay and Deputy Shipping Master at Calcutta, the cost of which offices is provided for by shipping fees.

(*b*) The establishment of the Hughly College and Collegiate Schools while the cost thereof was borne by the Mohsin Trust Fund and also that of the Elphinstone College and High School and some other Government Medical and Educational Institutions in Bombay a portion of the cost of which is recovered from private endowments.

(*c*) Masters and Assistant Masters in School establishment in Bombay on the old system (converse to the grant-in-aid system) whose pay was met in part by local contri-

*Please see the footnote on page 21 of this Compilation.

butions, the pension in this case is reckoned on the share of pay paid by Government.

(*d*) The establishment of the Sehore (Bhopal) School the expense of which is paid in part by local subscriptions.

(*e*) Certain Customs establishments in Bombay, the cost of which is paid for by private companies.

(*f*) When Police officers are entertained at the cost of individual and corporate bodies an additional charge of one fourth of the pay of officers whose pay is not less than Rs. 100 a month, and of three sixteenths of the pay of others must be defrayed by persons for whose benefit the officers are employed : Provided always that the additional charge shall not be made when such officers do not belong to the regular Police, but are only temporarily engaged, their service not counting for pension, or when the pay of the officers is a charge upon the General Revenues.—[See Article 495 (*b*)].

(*g*) An establishment of the Accountant-General of the High Court at Bombay whose pay is provided for by a three per cent, commission on invested funds in charge of the Accountant-General.

(*h*) The office establishment of the Health Officer of the Port of Bombay and the crew of the boat placed at the disposal of that officer, a portion of whose pay is paid by the Bombay Port Trust.

(*i*) Certain additions to the Government establishments in the Bombay Presidency *e. g.* the Accountant General, Commissioner, Surgeon-General Bombay, Surgeon Colonel in Sind, Inspectors of Schools etc., the cost of which is met from the General (Provincial) Revenues which are recouped by recoveries from the several Local Funds concerned.

387 to 389. *Not printed*

Local Funds and Trust Funds.

390. Service paid from a Local Fund qualifies, or does not qualify according to the rules laid down in Chapter XLII.

391. Service paid from Funds which Government hold only as a Trustee such as under a Court of Wards or in an Attached Estate, does not qualify.

Fees and Commission.

392. Except when fees or commission are drawn in addition to pay from the General Revenues, service in an office paid only by fees whether levied by law or under the authority of Government, or by a commission, does not qualify.

1. Service as official Assignee does not qualify.

2. Service as a Thugyi (local collector of revenue paid by commission) in Lower Burma qualifies: but this concession does not extend to Upper Burma.

Government of India's order :—Service paid from fees and commissions in addition to pay from the General Revenues qualifies under Article 392 of the C. S. R., but fees and commissions should not be included in pay to determine, with reference to Article, 396, whether the Service is "Superior" or "Inferior".

[G.I.F.D. No. 544, dated the 4th February 1886.]

Tenures in Lands Etc.

393. Service paid by the grant, in accordance with law or custom, of a tenure in land, or of any other source of income, or right to collect money, does not qualify.

394. As an exception to the preceding Article, Watandars (hereditary District Officers) and their deputies in the Kaira Collectorate and in the following talukas of the Panch Mahals, namely;—Godra, Kalol and Dohad, and the Petas of Halol and Jhalod, if transferred to qualifying service, count their previous services.

SECTION V.—DISTINCTION BETWEEN SUPERIOR AND INFERIOR SERVICE.

395. Qualifying service is divided into Superior and Inferior.

396. Service rendered in all posts is classified as Central Service, Class IV, or Defence Service (Civilian) Class IV, is inferior and service rendered in all other posts is superior.

Provided that the service of a Government servant in (*a*) an appointment listed in Appendix 7—A, or (*b*) an appointment in which service before the 1st August, 1952 counted as superior, shall be treated as superior, if he held that appointment on or before the 1st August, 1952.

Government of India's decisions :—(1) The period during which an officer holding a substantive appointment which is pensionable on the superior scale officiates in an appointment which is pensionable in the inferior scale should be reckoned as superior service.

[G.I.F.D. No. 6435 P., dated 5-12-1902.]

(2) When issuing orders changing the status (from 'inferior' to 'superior' of an appointment paid for from Central Revenues the date from which the change is to take effect unless indefinite retrospective effect is intended to be given by the sanction, may be indicated in the order itself.

[G.I.F.D. No. F. 12-11, R-11/34, dated the 10th May, 1934].

(3) The Government of India have decided that all posts whose pay (if fixed) or maximum pay in the scales perscribed under the Central Civil Services (Revision of pay) Rules, 1947 does not exceed Rs. 60 per month should ordinarily be classified as Class IV posts. All services and posts which were classified as subordinate and subsequently designated as Class, III or Class IV services or posts should be re-classified in accordance with Home Affairs Office Memorandum No. 299/46-Ests. dated the 15th April, 1947. Any new posts to be created hereafter should also be classified in accordance with these instructions. The classification or reclassification in these cases may be effected by the Ministries concerned without reference to the Ministry of Home Affairs a reference to that Ministry being made only when it is proposed for any exceptional and special reasons to be specified, to classify a post, whose maximum pay does not exceed Rs. 60, in Class III.

To safeguard the position of existing incumbents of certain posts whose pay or maximum pay does not exceed Rs. 60 but which at present carry Class III status, the Government of India have decided that the reclassification of posts as above shall not adversely effect the pension of such existing incumbents and that they shall continue to enjoy Class III status as personal to them even though the posts held by them may as a result of these orders be included in Class IV.

[G. I. M. H. Affairs Memo : No. 42/19/47-Ests., dated 15-10-1948].

(4) See Government of India's decision below Article 503 of the Civil Service Regulations.

(5) There is no special consolidated list of posts classified as Central Service Class IV or Defence Service Civilians Class IV available with the Government of India. In accordance with decision No : (3) above all posts whose pay [if fixed or the maximum of whose pay is in the scale prescribed under the Central Civil Service (Revision of pay) Rules 1947] does not exceed Rs. 60 permensem should ordinarily be classed as Class IV posts. Similar orders in respect of Civilian in Defence Services are contained in Defence Service Classification Control and Appeal Rules 1952. Therefore in the case of all such posts unless otherwise indicated the presumption should be that, they are classified as Class IV and when the officer retires from such posts he should accordingly be allowed pension etc. in scale applicable to Class IV Servants.

[G.I.M.F. letter No. F. 21 (1)-EV/53, dated the 13th May 1953 to the address of Accountant General, Madhya Pradesh; Nagpur.]

397. *Cancelled.*

Service Partly Inferior and Partly Superior.

398. An officer whose service has been for some time Inferior and for some time Superior may either count :—

(*a*) the whole as Inferior towards pension or gratuity on the Inferior scale, or

(*b*) the Superior portion towards pension or gratuity on the Superior scale, and the Inferior portion towards gratuity on the Inferior scale.

Under (*a*) the pension or gratuity is calculated on the pay (whether in superior or Inferior service) which the officer drew immediately before his retirement.

Under (*b*) the pension or gratuity on the Superior scale is calculated upon the average emolument or emoluments respectively which the officer drew when last in Superior service, and the gratuity on the Inferior scale upon the pay which he drew when last in Inferior service.

Provided that the pension or gratuity on the Inferior Scale, granted under Clause (*a*), or the pension or gratuity on the Superior Scale *plus* the gratuity on the Inferior Scale granted under Clause (*b*), shall not exceed what would have been admissible if the whole service had been Superior.

If an officer has been reduced from the Superior to the Inferior Class for misconduct, he cannot have the benefit of this Article, without the special permission of the Local Government.

Government of India's decisions :—(1) The case of an officer who has rendered thirty year's qualifying service in the inferior scale in addition to qualifying service of less than ten years in the superior scale falls under clause (*a*) and not under clause (*b*) of Article 398, and he is entitled to a pension only under clause (*a*).

[G. I. Fin,, No. 2194-P., dated 29-6-1895].

(2) The concessions allowed by Articles 423(3) and 398 cannot be combined, and if an officer elects to count the superior and inferior portions of his service separately, the portions of the service counting for pension under the superior and inferior scale should be the portions actually passed in service, and not periods calculated by first applying the rule regarding condonation of deficiency in superior service in consideration of additional inferior service.

[G. I. F. D. No. 1757 P. dated the 18th April, 1896.]

(3) The power possessed by a local Government regarding the condonation of deficiency in service, under Article 423 (*i*), may be exercised in cases in which the amount of pension or gratuity is regulated by Article 398.

[G. I. F. D. No. 5379-P., dated the 21st December, 1896.]

(4) An officer claiming a superannuation pension for superior service under Article 464 can, under Article 398, also be granted a separate invalid gratuity for his inferior service previously rendered by him, without submitting a medical certificate of unfitness for further service.

[G. I. F. D. No. 1194 P., dated 17-3-1896].

(5) The last sentence of Article 398, Civil Service Regulations, refers to clause (*b*), and not to clause (*a*) of that Article.

[G. I. F. D. No. 718 P., dated 9-2-1900 (4th Edition)].

Note.—Under the substantive Rule in article 398 C.S.R as it stands "the benefit of this Article" is not be given to a Government servant reduced from superior to inferior service. Evidently, prior to the introduction of the Liberalised Pension Rules and also the Central (Class IV) Service (Gratuity, Pension and Retirement Rules) 1936, the alternative provision of Clause (*b*) of Article 398 CSR was always beneficial. This was apparently the reason for decision No. (5) that the last sentence of the Article refers to clause (*b*) thereof leaving no choice to such an officer (reduced from superior to inferior service) to elect other than the provisions of clause (*a*) thereof. The above decision in the existing conditions is anomalous. It has, therefore, been decided that the decision above should be indicating that the grant of the greater benefit, admissible under clause (*a*) and (*b*) of Article 398 CSR, would require the sanction of the Local Government.

[G.I.M F. Memo No. F. 7(66)-EV/55, dated the 10th December, 1955].

(6) Service under an Excluded Local Fund cannot be taken into account for the purposes of Article 398, Civil Service Regulations.

[Paragraph 248 of the India Supplement to C.S.R. (4th Edition).]

(7) The periods spent in training and on the journey to and from the place of training will be treated as duty for purpose of civil leave, pension and increments of civil pay in respect of Reservists of the Royal Indian Reserve when called for priodical training.

[G. I. Defence Deptt. Navy Branch letter No. 658 N. dated 15-5-1940.]

(8) Article 398(*b*) of the C. S. R. prescribes the method of reckoning gratuity or pension of persons who rendered service partly in superior and partly

inferior grade. This provision is not superseded by Rule 5 (*b*) of Central (Class IV) Service (Gratuity Pension and Retirement) Rules, 1936 which prescribes the procedure for reckoning the gratuity in respect of Class IV servants. An Officer who elects under Class (*b*) of Article 398, C.S.R. the counting of superior portion of his service towards pension and gratuity on the superior scale and the inferior portion towards the gratuity on the inferior scale will reckon only on the pay which be drew when last in inferior service. Similarly, the provision of Article 398, C.S.R. has not been modified by the New Pension Scheme also. In the case of an officer who elected alternatively under Class (*b*) of that Article, the Death-*cum* Retirement gratuity under Appendix 41 of this Compilation will have to be reckoned separately for the inferior and superior portions of his service.

[G.I.M.F. letter No. F. 15(11)E.V/52, dated the 12th November 1952 to the address of the Accountant General, Punjab].

(9) The choice to opt out of the new pension scheme was deliberately limited to those of the Class I, Class II or Class III officers who held a lien on a permanent pensionable post under a Government in India on the 30th September, 1938, and on such a post under the Central Government on the 17th April, 1950. Class IV servants were not, however, allowed such option and all of them were, therefore, covered by the Central (Class IV) Services (Gratuity, Pensions and Retirement) Rules as modified by the new pension scheme. A Class III Officer who had rendered service in Class IV prior to the Ist October, 1938 should also have the option allowed under the new pension scheme. But if he elects to count his whole service as inferior towards pension and gratuity at the inferior scale under Article 398(*a*) C. S. R., his option under the new pension scheme to be governed by the old pension rules virtually becomes obsolete and his pension is calculated only under the new rules.

The above position follows directly from the rules and all cases in which pension was sanctioned otherwise should appropriately be recalculated from the date, the pension became payable.

[G.I.M.F.U.O. No. 2488-EV/54, dated the 20th April, 1954 in file No. F. 19(10)-EV54.]

(10) See notes 2 and 3 to Government of India's decision No. (5) below para 18 in Appendix 41.

(11) A question arose whether an officer (whose services were partly inferior and partly superior and who decided to count his whole service towards inferior grade under Article 398 of the C. S. R., can elect in favour of pare 2(*c*) of the Government of India's decision No. (2) below para 9 of Appendix 41. The Government of India, Ministry of Finance, in consultation with the Comptroller and Auditor General of India have decided that as the officer was holding on the 30th September, 1938, pensionable post in class III, it was within his rights to retain his existing rules under para 9 of appendix 41. Consequently he could elect to come under para 2(*c*) *ibid*. Though appendix 41 does not provide for an option to retain old rules in respect of pre-1938 entrants of Class IV, it does not debar those who had been promoted to Class III before 17th April 1950 from drawing their pension as for class IV servants under old rules when they elect to do so under Article 398 (*a*), C.S.R. and have opted for old rules.

[Comptroller and Auditor General of India U.O. No. 175-A/135-50-PT. II, dated 26th February, 1952, received with the Government of India Ministry of Finance, U. O. No. 308-EV/, dated the 4th March, 1952.]

Audit instructions. (1) When under clause (2) of Article 423, C. S. R., the Government of India or a Provincial Government, as the case may be, has condoned a deficiency not exceeding twelve months in the qualifying service for pension on the superior scale of a Government servant who has rendered service partly inferior and partly superior, there is no technical bar to the concurrent grant of a gratuity for the inferior portion of service under Article 398(*b*) C. S. R. if satisfactory reasons exist (*e. g.* premature invaliding or compulsory retirement owing to reduction, etc.) for condoning the deficiency in superior service, independently of the co-existence of inferior service con-

donation may properly be sanctioned under Article 423(2), C. S. R. without forfeiture of gratuity. If, however, the sole reason for condonation is the fact of inferior service in addition, condonation only under Article 423 (3) and no gratuity is admissible in respect of any portion of the inferior service.

[Para 14, Section 111 of Manual of Audit Instructions, (Reprint)].

(2) See Audit Instruction below Rule 5 of the Central (Class IV) Services (Gratuity, Pension and Retirement) Rules 1936.

(3) Article 398, Civil Service Regulations, is an enabling rule and is intended to give greater benefit than admissible otherwise. Accordingly, if a Government servant who has exercised an option under the Article, on reconsideration, desires to change it, he can be permitted to do so at any time before the pension/gratuity is sanctioned and operated on.

[Pura 13 A of Section 111 of the Manual of Audit Instruction (Reprint)]

399. The claims of an officer, promoted from an Inferior to a Superior grade as a reward for meritorious service, will be specially considered by the Government of India or by the Local Government under whom the officer is serving. This rule is to be strictly interpreted and a claim under it can be founded only on exceptional promotion made out of the ordinary course.

Exceptional Cases.

400. If an officer holds two or more offices, each of which is Inferior by reason of its pay not exceeding Rs. 10, he cannot count service as superior on the ground that his aggergate pay exceeds Rs. 10 unless the offices were arranged and their pay determined with the intention that they should be held by one individual.

Government of India's decision :—See decision No. (3) below Article 396.

401. The service of a postman, or village postman, whatever his pay, is Superior service.

402. (*a*) **When the regular duties of an officer whose pay exceeds Rs. 10 but who bears an Inferior designation, are really such as are ordinarily performed by a Superior servant, his claim to pension should be specially referred to the Local Government.**

Note :—It is not intended by this Article that an Inferior servant should count service as Superior in virtue of his voluntarily assisting in Superior work. It provides for the case of a person who is *engaged under due authority to do superior work* though with an inferior designation.

(*b*) **On the other hand, an officer whose real duties are those of an Inferior servant, even though his pay exceeds Rs. 10, is not entitled to pension on the Superior scale merely because he draws pay under a Superior designation.**

Examples.—Accountant in the Province of Agra who served under the designation of "Potdars. A Lithographic Pressman designated as a "Copying Clerk".

CHAPTER XVII.—RULES FOR RECKONING SERVICE.

SECTION I.—SPECIAL ADDITIONS.

Special Appointments.

403. *Cancelled.*

404. *Cancelled.*

404A. For officers mentioned in Article 349A, the concession of adding to qualifying service is as follows :—

In the case of the Agriculture (Imperial.) Educational (Imperial and Provincial Services), Principal and Assistant Masters recruited by the Secretary of State for Service at the Prince of Wales' Royal Indian Military College, Dehra-Dun, Civil Veterinary (Imperial), Factory and Boiler and Smoke Nuisance Inspection Indian, Mines, Mint and Assay, Geological Survey and Meteorological Departments, the Provincial Judicial Services, Distillery Experts in the Salt and Excise Departments, the Director of Commercial Audit, officers of the Zoological and the Archaelogical Departments, Suprintendents of Provincial Govern-

ments' Presses, the Second Solicitor to the Government of India, Commander, Chief Engineer and First Officer of the Indo-European Telegraph Department attached to the Cableship *Patrick Stewart* and Medical Superintendent of the Indo-European Telegraph Department in the Persian Section, Presidency Magistrates, Judges of the Small Cause Court at a Presidency town and at Rangoon, City Civil Judge, Madras, Superintendent of Government Museum and Principal Librarian of the Connemara Public Library, Madras, Registrars of Joint Stock Companies for Bengal and Bombay, First and Second Assistant Secretaries to the Bengal Legislative Department and Assistant Secretaries to the Bengal Legislative Council, Port Officers in Madras Presidency not belonging to the Royal Indian Marine, Deputy Superintendent, and Remembrancer of Legal Affairs, Bengal, *Superintendent, Government Printing, India, Deputy Superintendents, Government of India Printing Presses, and Managers* of Government of India Presses, the Resident Engineer, Government Dockyard, Dawbong, Rangoon, the Press and Forms Manager, Bengal, Mathematical Adviser to the Survey of India, the *Manager and Chemist, Cordite Factory, Aruvankadu, Registrar original side, Calcutta, Official Referee and Master, Calcutta, Registrar in Insolvency, Calcutta, Deputy Registrar, original side, Calcutta, Assistant Referee and Master, Calcutta, Secretary to the Chief Justice, Calcutta, Deputy Shipping Master, Bombay and Calcutta, when held by persons recruited from the Mercantile Marine, Principal and †Vice-Principal of Government College, Ajmer, Director of Civil Aviation in India, and of such other appointments as may be definitely specified in this behalf in other Departments, except those included in clause (*i*) of Article 474A, in which recruitment is likely to take place normally after 25 years of age, officers recruited over that age may add to their service qualifying for superannuation pension (but not for another class of pension) the actual period not exceeding five years by which their age at recruitment exceeded twenty-five years. This concession will not be granted to individual officers appointed at an age exceeding twenty-five years to Departments or appointments other than those included above. No officer can claim the benefit of this Article unless his actual qualifying service at the time he quits Government service is not less than ten years.

Note :—This extra years conceded in this Article count towards the limit of 28 years, qualifying service prescribed in Article 475A.

1. The provisions of this Article apply to members of the Bar directly appointed before the 23rd February, 1937 to judicial posts ordinarily reserved for members of the Indian Civil Service but in their case, the maximum period to be added will be ten years.

2. The provisions of this article do not apply to an officer recruited on or after the 23rd February, 1937, for service as Principal or Assistant Master at the Prince of Wales Royal Indian Military College, Dehra Dun nor to officers appointed on or after that date to the post of Manager and Chemist Cordite Factory, Aruvankadu.

3. The provisions of this article also do not apply to officers of the Departments and holders of the appointments mentioned there in, who are under the rule making control of the Governor-General in Council and are recruited on or after 8th July, 1937.

Government of India's decisions :—(1) Civilian officers directly appointed to Medical Professorships; Chemical Examinerships or Alienists posts whose age at the time of appointment exceeds 25 years and who, prior to such appointment were not members of any service shall be eligible for the concession admissible under Article 404A of the C.S.R.

This concession may be applied with retrospection to 23rd July, 1913.
[G.I.F.D. No. 41-C S.R., dated 3-10-24.]

(2) The term "directly appointed" used in Rule 1 below Article 404A,

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*Now Styled Managers, Government of India Presses, Calcutta, Aligarh, Simla and Delhi.

†The words Vice Principal occurring in Art. 404-A take effect from 1st October, 1931

C. S. R. means "first appointment to post-ordinarily reserved for member of the Indian Civil Service provided that service previous to such appointment shall not count as service for superannuation pension.

[India office letter No. F-7478/40, dated the 14th May, 1940, copy received with the letter from the Government of India, Home Department No. 56/40 Judicial, dated the 23rd September, 1940.]

(3) Please see item No. (2) of the Government of India's decision below para 3 in Appendix 41.

(4) A question was raised whether the addition of years under Article 404A of the C. S. R could be allowed in calculating Death *cum*-retirement gratuity under the New Pension Scheme. The Government of India held that qualifying service for the purposes of recknoing Death-*cum*-retirement gratuity should be determined in the same way as for pension under that Scheme. For both these purposes, rules in C. S. R. for determining qualifying service are subject to the modification in Section IV of Appendix 41. Thus if a Government servant who is already eligible under the conditions of his service to period of qualifying service under Article 404A, C. S. R. for the purposes of superannuation pension has elected to come under the New Pension Scheme he will be eligible for purposes of both the Superannuation Pension and Death-*cum*-retirement gratuity under the New Scheme.

Officers recruited to in all the posts listed under Article 404A C. S. R. on or after the 8th July, 1937 will not ; however, be eligible for benefit of that Article either under the existing rules in the C. S. R. or under the New Pension Rules.

[G. I. M. F. letter No; F. 24 (3) EV/52, dated the 12th February 1952.]

(5) The Government of India in consultation with the Comptroller and Auditor General have decided that the term "age of recruitment" in Article 404-A, Civil Service Regulations, should be interpreted as the date of commencement of continuous service whether in a substantive or officiating capacity in a post to which that article applies, all service (if any) rendered by the officer before attaining the age of 30 years (or before the date of his continuous appointment to such a post, whichever is earlier) being ignored. In coming to this conclusion, the Government of India feel that the decision will work equitably in most cases, and it will obviate the following objections :—

(*a*) counting for pension the earlier qualifying period ; if any twice over and

(*b*) adoption of a hypothetical date for determining the age at recruitment.

The benefit of Article 404A. C. S. R. will not be admissible in a case where the officer is initially appointed to a post not included in that article but is subsequently appointed to such a post.

[G. I. M. F. letter No : D. 1818 EV (A)/57, dated the 24th May 1957, circulated with G. I. M. F. letter No. F-7 (17)-EV/57, dated the 8th June, 1957.]

(6) The Comptroller and Auditor General raised an issue whether in a case where a person is recruited to a non-gazetted post and subsequently appointed as a direct recruit to a post covered by Article 404A. C. S. R. and not promoted under the Departmental Rules could be considered eligible for the concession with effect from the date of his recruitment to the gazetted post. The Government of India held that the consideration underlying the grant of concession was that the incumbents who were *initially* appointed to the posts enlisted under this Article at an advance age should not be worse than those Government servants who were able to join the Government service within the normal age limit. Where an individual initially joined a post not enlisted under Article 404-A. C. S. R. and later on appointed as a result of direct recruitment or through departmental promotion to one of the posts in the list the interence should be that necessary qualifications were required by him in the course of and by virtue of service in the previous post or had already been acquired before he joined any post

under Government. The concession should not be admissible under such circumstances.

[G. I. M. F. U. O. No. 4856-EV/57, dated 18-12-1957].

Note :—The Comptroller and Auditor General considers that the concession under Article 404-A is *Ad hoc* concession not earnod by any service and is governed by a policy decision of Government. If any State Government holds a view different than that stated ih this decision in respect of their own pensioners, he would not press that Government for the adoption of tne interpretation put by the Ministry of Finance as this is a matter on which the Central and State Governments are competent to have their own views and interpretations.

[Comptroller and Auditor General's U. O. No. 34-A/419-57, dated 7-1-1958.]

(7) Note below Article 404A, C. S. R. was inserted for the 1st time in 1901. The provisions of compulsory retirement contained in Article 459 C.S.R. which held the field at that time is not exactly the same as that in Fundamental Rules 56 which governs the date of compulsory retirement now. The provision at that time was merely that an officer who has attained the age of 55 years may be required to retire by the Local Government under which he is employed. Even when he has attained the age 60 years, he cannot be retained in service. At that time, there was no distinction in this regard between Ministerial and non-ministrial. Even under the provision in paragraph 459 as it stands at present, officers other than ministerial also who have attained the age of 55 years should ordinarily be required to retire and should not be retained in service except in cases in which unquestionable public ground exist. Thus under the above provisions of the Rules as then existing the retirement of a Government servant at 55 years at his option is not compulsory retirement whereas when the Government retire him at 55 years, it is a compulsory retirement. Article 464 C.S.R. applies, to cases where Government servant himself retires at 55 years. The intention of Note below Article 404A is that the benefit of this Rule has to be given towards the limit of 28 years in the case of voluntary retirement on superannuation. As the provision of Article 404A is itself restricted for superannuation pension only, there is no question of such addition being made in the case of retirement on other kind of pension. The date of compulsory retirement is governed by the Fundamental Rules and not by Civil Service Regulations and the benefit of special additional pension does not in any case apply to a ministerial Government servant. This Note has practically lost its significance. The Comptrollar and Auditor General also agreed.

[G. I. M. F. letter No. F. 7 (157)-EV/58 dated the 18th December 1958]

(8) Cases of officers transferred from Civil employment to the Railways and *vice versa* and getting permanently absorbed in the borrowing establishments have been arising from time to time. The manner in which service for pension should be counted in such cases and the pensionary liability allocated between the establishments concerned, has been examined by Government and the following decision taken :—

(*i*) In the case of *temporary* employees transferred from Railways to Civil employment or *vice versa* and who are eligible for pensionary benefits on their permanent absorption, temporary service would count for pension as admissible under the normal rules. The pensionary charges in such cases would be apportioned between the Railway and Civil estimates in proportion to the length of qualifying service rendered under each Department.

(*ii*) (*a*) In cases of *permanent* Railway/Civil employees who are on pensionable basis on their permanent absorption in Civil/Railway Department, the service rendered by them on Railway/Civil side will count for pension under the normal rules and the pensionary liability will be allocated between the respective Departments on the basis of the length of qualifying service rendered under each Department.

(*b*) In the case of *permanent* Railway/Civil employees who are on

C. P. F. basis, on their absorption on pensionable basis on Civil/ Railway side, the employer's contribution should be resumed by Railway/Civil as the case may be. In return the service rendered on Railway/Civil side would be allowed to count for pension as under the normal rules, the pensionary liability being apportioned on the basis of length of qualifying service. However, in the case of Railways employees who had some temporary service as well to their credit and who were transferred and permanently abosorbed on civil side prior to 1-4-1957, the employer's contribution to their S. R. P. F. already resumed by Government would be taken as complete discharge of Railway's pensionary liability. The temporary service rendered on Railway side in such cases would, therefore, he allowed to count for pension as admissible under the normal rules and the liability therefor borne by the Civil estimates.

(*iii*) An employee on transfer from Railways to the Civil side or *vice versa* shall be treated as on deputation so long as he is not permanently absorbed in the Department to which he is transferred. On confirmation, if he is allowed to come over to pension, his own subscriptions to Provident Fund will be transferred to G. P. Fund/ S. R. P. F. (non-contributory) and employer's contribution, if any, will revert to the Department (Railway or Civil) from which he was transferred. That Department, in return, will bear proportionate pensionary liability. If any service contributions have been received from the borrowing Department, the lending Department will bear the pensionary liability upto the date of confirmation of the individual in the borrowing Department. otherwise upto the date of his transfer only.

The above orders do not apply to temporary officers (Class I and Class II) recruited through the U. P. S. C. on the Railways who are governed by separate orders.

[G. I. M. F. Memo. No. F. 3 (55) EV (A)/60, dated the 18th January 1962.]

Audit-Instruction :—See Audit Instruction No : (2) below Article 408, C. S. R.

***404B—An officer appointed to a service or post may add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeds twenty-five years or a period of five years, whichever is least, if the service or post is one,**

(*a*) for which post-graduate research or specialist qualification, or experience in scientific, technological or professional fields is essential, and

(*b*) to which candidates of more than twenty-five years of age are normally recruited.

Provided that this concession shall not be admissible to any such officer unless his actual qualifying service at the time he quits Government service is not less than ten years :

Provided further that any such officer who is recuited at the age of thirty five years or more may, within a period of three months from the date of his appointment, elect to forego his rights to pension whereupon he shall be eligible to subscribe to a Contributory Provident Fund.

Note :—(1) The option once exercised shall be final.

Note :—(2) The decision to grant the concession under this article shall be taken by the Administrative Ministry at the time of recruitment in consultation with the Ministry of Finance and the Union Public Service Commission. The consultation with the Union

*This article shall apply in respect of persons who are recruited after the 31st March 1960.

Public Service Commission will be restricted to these posts which fall within their purview.

Government of India's decision. In accordance with Note 2 below Article 404-B of the Civil Service Regulations, the adminstrative Ministry, for the purpose of granting concession under the said Article, is required to consult the Ministry of Finance and the Union Public Service Commission at the time of recruitment.

As a doubt has been felt in regard to the procedure which should be followed in this regard, it has been decided in consultation with the Union Public Service Commission, that in granting the concession, the administrative Ministry should first refer the case to the Ministry of Finance. Only such cases in which the requirement of concurrence of the Ministry of Finance has been fulfilled, should be referred to the Union Public Service Commission for advice Consultation with the Union Public Service Commission is to be restricted to those posts only which fall within their purview.

[G. I. M. F. Memo : No. F. 3(70)-EV (A)/61, dated the 8th January 1962]

405. *Omitted.*

406. *Omitted.*

SECTION II.—PERIODS OF LEAVE

Superior Service.

407. * Except as provided in Article 408, time passed on leave other than privilege leave, or Subsidiary leave taken under the rule in force prior to 29th July, 1920 does not count as Superior service.

Government of India's decisions—(1) Leave granted to Engineer officers not appointed from any Civil Engineering College in India underparagraph 110 of the Central P. W. D. Code (10th Edition) and periods spent by such officers after the 31st December, 1921 by permission under any rule or order in preparation for passing obligatory Examinations in Vernacular languages, should be treated as "duty" for purposes of pension.

[G. I. F. D. U. O. No. 3148—R II/34, dated 23rd November, 1934.]

(2) Government of India have ruled that the special war concession of absence on full pay for 3 months will count as service qualifying for pension.

[G. I. F. D. letter No 617-C. S. R dated the 9th July, 1918.]

(3) Study leave counts as service for pension under the rules regulating the grant of Study Leave, published as Appendix 32 in the Chaudri's Compilation of the Civil Service Regulations, Volume II.

Note.—In the case of a Government servant retiring from the service without returning to duty after a period of study leave, the study allowance will be forfeited. If the Government servant is under Civil Leave Rules, the study leave will be converted into ordinary leave to the extent of the ordinary leave standing to his credit at the date of retirement. Any balance of the period of study leave mentioned above which cannot be so converted will be excluded in reckoning service for pension, *vide* rule 8 of the Study Leave Rules.

(4) It has been decided that the extent to which leave taken under the Fundamental Rules shall count for pensions under the rules now in force for the calculation of pensions shall be determined in accordance with the following rules :—

(*i*) Any period of leave on average pay not exceeding four months, the first four months of any period of leave on average pay in excees of four m nths, or any longer period to which Government servants may be entitled under the operation of the note under Rule 81 (*b*) of the Fundamental Rules, shall count as privilege leave whether in the calculations of pension, proportionate pensions or additional pensions.

(*ii*) Any other period of leave during which leave salary is drawn shall count as leave with allowances.

[G. I. F. D., No. 1260 C. S. R. dated 21-12-1921.]

Note 1.—The Governor-General in Council has decided that in cases in which leave

*Also see article 408 (3) of the Civil Service Regulations.

on average pay alternates with deputation out of India, the leave on average pay should not be spilt up into different periods separated by deputation but treated as one continuous spell of leave and not more than four months in all, should count for pension.

[G. I. F. D. No. F. 252 C. S. R /26, dated 19th August, 1926.]

Note 2.—Leave on average pay on medical certificate granted under the proviso to F. R. 81(*b*)(*ii*) to a Government servant who subsequently retires should count for pension as leave on half average pay even though the Government servant concerned is not called upon to refund the amount drawn in excess as leave salary. This order will apply to cases in which pension was sanctioned on or after 10th August, 1937 and that pension in other cases should not be recalculated.

[G. I. F D. No. 559 R. 11/38 dated the 25th March, 1938.]

Note 3.—It is not necessary that 4 months leave on average pay referred to in the rule must necessarily be the amount that would be admissible as privilege leave under the C. S. R. conditions. It has also been decided that the two periods of leave on average pay in the case an officer who was at first on leave on average pay then on leave on half average pay and then again on leave on average pay should be treated as one continuous spell of leave on average pay in order to determine whether the whole or first four months of the leave should be treated as privilege leave for purpose of pension.

[Para 23 of India Supplement to C. S. R. (5th Edition)]

Note 4.—In case in which leave on average pay alternates with deputation out of India, the leave on average pay should not be spilt up into different periods separated by deputation but treated as one continuous spell of leave and not more than four months in all should count for pension.

[G. I. F. D. No. F. 252 – C. S. R. 26 dated 19th August, 1926.]

(5) The extent to which leave taken by Government servants governed by the Revised Leave Rules, 1933 shall count for pension under the rules in the Civil Service Regulations will be regulated by the following rules :—

(*i*) Any period of earned leave not exceeding 90 days [120 days from 1-2-49] in any one spell shall count as "Privilege leave" in the calculation of service for pensions and additional pensions.

(*ii*) Any other period of leave [including earned leave in excess of 90 days (now 120 days *vide* paragraph 18 of G.I.M.F. Memo No. F. 2(1) Est. (Spl) 48 dated 24-2-1949) in any one spell] during which leave salary is drawn shall count as leave with allowances.

(*iii*) Earned leave alternating with deputation out of India shall not be split up into different periods separated by deputation but treated as one continuous spell of leave and shall count for pension as under (*i*) and (*ii*) above.

[G. I F. D. Resolution No F. 11 (17) R. II/37, dated 22nd July 1937.]

Note :—Earned leave in Excess of 90 days [120 days from 1-2-49] taken under the orders contained in G. I. F. D. letter No. F. 12. (1) W. II/45 dated 30-7-1945 will count as privilege leave *vide* G.I.F.D. letter No. F. 12 (1)-W.II/45 dated 30-7-1945.

(5-A) Leave granted under Appendix 39 of this Compilation to Civilian personnel paid from Defence Services Estimates shall count for pension under the Civil Service Regulations as follows :—

(*i*) Any period of earned leave not exceeding 120 days in any one spell shall count as 'privilege leave in the calculation of service for pensions and additional pensions.

(*ii*) Any other period of including earned leave in excess of 120 days in any one spell during which leave salary is drawn shall count as leave with allowances.

(*iii*) Earned leave alternating with deputation out of India shall not be split up into different periods separated by deputation but treated as one continuous spell of leave and shall count for pension as under (*i*) and (*ii*) above.

2. The study leave admissible under Appendix 32 of Civil Service Regulations shall also count as service for pension.

[Army Instruction No. 55, dated the 26th Feburary, 1955].

(6) Civilian officers including Indian Medical Service Officers in Civil employ appointed to the Commonwealth Fund Service Fellowships should be granted for the period of absense from duty in India special leave on half average pay which would count as service for promotion and pension and would not be debited against the officer's leave account.

The above special leave should be treated as analogous to study leave, and like study leave should not be taken into account in calculating service for proportionate pension. It also does not count for I. C. S. Annuity, as it is not included in the term 'Active Service'.

[G. I. F. D. endorsement No. F. 8 (1) R I/40 dated 29-11-1941.]

(7) The Govenment of India have had under consideration the question whether the additional accumulation of earned leave sanctioned during the last war under the late Finance Department's letter No. F. 12 (2) W. 11/45. dated the 30th July 1945 (*incorporated* as G. I. decision No. (3) below Article 246 of the C. S. R.) may be allowed over and above the limits laid down in rules 9 and 10(*a*) of the Revised Leave Rules, 1933, as amended by Notification No, F. 2 (1) –Est.(Spl)/48, dated the 6th March 1960. It has now been decided, with the concurrence of the Comptroller and Auditor General of India, that the balance of additional leave earned in terms of para. 1B of the aforesaid letter limited to the following maximum may be carried forward and added to the earned leave accumulated under the normal rules :—

(*i*) In the case of an officer of non-Asiatic domicile in permanent employ, recruited in India, who has been in continuous service from a date prior to 1st February 1949, and who is entitled to passage concessions. 30 days

(*ii*) In the case of any other officer (whether permanent or temporary in Class I, II or III Service. 30 days

(*iii*) In the case of an officer in permanent Class IV Service. 10 days

(*iv*) In the case of an officer in permanent Class IV Service who has served in remote locality. 20 days

The total earned leave thus accumulated can be taken at any one time and will be treated as privilege leave for the purpose of Article 407 Civil Service Regulations.

[G. I. M. F. Memo : No. F. 7 (38)—Est. IV/50, dated 5th June 1950)].

(7 -A). A question has now been raised whether the balance of additional credit for the unavailed of portion of additional leave referred to in decision No. (7) above will also be carried forward over and above the limits laid down in rules 9 and 10(*b*) of the Revised Leave Rules 1933, as liberalised *vide* notification No. F. 7-(37)-E-IV/55, dated 12th April, 1956. It has been decided with the concurrence of the Comptroller and Auditor General of India that the balance of additional credit of unavailed of portion of additional leave earned under para 1-B of the letter dated 30th July, 1945 would be available over and above the limits laid down in the Revised Leave Rules 1933, as amended by the Finance Ministry's Notification No. F. 7-(37)-Est. IV/55 dated 12th April, 1956.

[G.I.M.F. Memo No : F. 7(38)-E IV/50, dated the 9th December 1957].

(8) The extra privilege leave up to one month, granted to civilians employed with various departments of the Army for the purpose of undergoing treatment of a Pasteur Institute, will be treated as duty.

The term 'Pasteur Institute' refers to any Government, Municipal, District Board or Local Board Hospital at which anti-rabic treatment is available. A patient will attend the nearest institute or hospital at which such treatment is available.

[Army Instruction No : 174, dated the 14th April 1951.]

(9) See Note to Government of India's decision below Article 368 of the Civil Service Regulations.

(10) It has been decided that rule 10 of the Central Civil Services (Temporary Service) Rules, 1949, does not cost the provision, of either Article 407 and 408 of the Civil Service Regulations. The period of leave included in the *quasi*-permanent service counts, therefore, for pension only to the extent admissible under Article 407 and 408 of the Civil Service Regulations.

[G.I.M.F. letter No. F. 12(42)—E. V/51, dated the 11th January, 1952.]

(11) See Government of India's decision No. (2—A) below Article 481.

(12) Certain doubts have been expressed regarding the position of the refused leave *vis-a-vis* the provisions of article 407 and 408-C.S.R's and it is hereby clarified for the information of all concerned that the refused leave granted under the provisions of the Fundamental Rules, or the Revised Leave Rules or the Civil Service Regulations or under any other corresponding rules shall not, in the cases of Government servants whose pension is regulated under the Civil Service Regulations, count for pension under the provisions of Articles 407 and 408 or any other Article of the Civil Service Regulations.

[G.I.M.F. Memo No. 17 (8)-EV (A)/60 dated the 28th February 1961].

Audit Instructions :—(1) (*i*) Rule 1 of the rules published in the G.I.F.D. Resolution No : 1260-C. S. R., dated the 21st December 1921 [*incorporated* as order No : 4 above], should be applied in its literal sense. It is not necessary that the four month's leave on average pay referred to in this rule should be the amount that would be admissible as privilege leave under the conditions, laid down in the Civil Service Regulations.

(*ii*) For the purposes of Government of India, Finance Department Resolution No : 1260 C. S. R. dated the 31st December, 1921, a Government servant of a vacation department who combines vacation with leave on average pay can count as service for pension only a total period of four months on each occasion ; except in cases where the total amount of vacation, taken is four months or more, in which cases the full amount of vacation, and no leave, will count as service.

(Para 16, Section III of Manual of Audit Instructions (Reprint)].

(2) For the purpose of pension the period of leave granted by foreign employers out of India to Government servants lent to them under F. R. 123 (*a*) should be treated as "leave" and not as "duty". Any such leave, if taken on full or average pay or equivalent terms should, upto a limit of four months on any one occasion, be treated as privilege leave for the purpose of Article 407, C.S.R. and all other leave with allowances should be dealt with as in Article 408. C. S. R.

[Para 17(*ii*) Section III of the Manual of Audit Instructions (Reprint)].

(3) A period of military service, which has been allowed to count as part of service qualifying for pension under civil rules, under Article 356, C. S. R. should be included in "total service" for the purpose of Article 408. Privilege leave and other leave with allowances taken during the period of military service will count for pension under Articles 407 and 408 of the C. S. R. respectively, like corresponding leave taken under civil rules.

[Para 17 (*ii*) Section III of Manual of Audit Instructions (Reprint)].

408. (1) Time passed on leave with allowances counts as service as follows :—

If the total service of the Officer is not less than—	He counts as service a period of leave out of India not exceeding—	He counts as service a period of leave in India not exceeding—
15 years	1 year	1 year
20 ,,	2 years	,,
25 ,,	3 ,,	,,
30 ,,	4 ,,	2 years
35 ,,	5 ,,	,,

Note 1.—The periods in columns 2 and 3 are not cumulative, that is, an officer may not count two year's leave in 15 years service or more than four year's leave in thirty year's service. The maximum amount of leave both in and out of India which may be counted is that shown in column 2.

Note 2.—Total service in this Article means total service reckoning from the date of commencement of service qualifying for pension and includes periods of leave.

Note 3.—For the purposes of this Article, Ceylon and the Straits Settlements are not held to be "out of India".

(2) Notwithstanding anything contained in clause (1), in respect of officers retiring from service on or after the 22nd April 1960, time passed on leave with allowances counts as service as follows : –

If the total service of the officer is :	He counts as service period of leave not exceeding—
(*i*) 15 years and above but less than 30 years.	**1 year**
(*ii*) 30 years	**2 years**

(3) Notwithstanding any thing contained in Article 407 or in this Article, in respect of officers who retire or die on or after 1st April 1963, all periods of leave with allowance shall count as service.

Note—Nothing in this Article shall affect other provisions of the Civil Service Regulations relating to the counting of special kinds of leave for pension.

Government of India's decisions :—(1) The medical leave of piece workers cannot be treated as service qualifying for pension under this Article as under Article 208, C. S. R. they are entitled to no allowance during such leave.

[Paragraph 263 of the India Supplement to C. S. R. (4th Edition).]

(1-A) It has hitherto been held that it is possible under Fundamental Rule 81(*a*) read with the Audit Instruction No. 9 there under, to grant extraordinary leave without pay in continuation of leave with allowance even when the leave is leave preparatory to retirement and that the extraordinary leave in such cases is not to be taken into account in determining the maximum period of twenty-eight months of continuous absence from duty on leave granted otherwise than on medical certificate prescribed in the said rule.

Under Article 408 of the Civil Service Regulations, if the total service of a Government servant (including periods of leave with or without allowances) is not less than 30 years, he counts as service for pension a period of leave with allowances in India not exceeding two years, and where the total service is less than 30 years, he counts as service a period of leave with allowances in India not exceeding one year only.

A question has now been raised whether extraordinary leave may be granted in continuation of and beyond a period of continuous absence on leave with allowances for 28 months preparatory to retirement in order to enable a Government servant, to drive the benefit of counting a longer period of leave with allowances for pension under Article 408-C. S. Rs.

2. There can be no question of a Government servant returning to duty on the expiry, of his leave preparatory to retirement including extraordinary leave, and the grant of extraordinary leave in continuation of the maximum permissible period of leave with allowances preparatory to retirement, merely for the purpose of giving the Government servant the benefit of counting a longer period of leave with allowances for pension under Article 408, C. S. Rs. is not considered to be justified in any case and should not be granted by the Administrative authorities.

3. The Finance Ministry therefore, request that action may be taken to ensure that all cases, in which extraordinary leave is applied for by Government servants in continuation of and beyond a period of continuous absence on leave with allowances for 28 months preparatory to retirement, are carefully examined with a view to seeing that the Government servants do not intend to derive the unintended benefit of counting a longer period of leave with allowances for pension under Article 408, C. S. Rs. If the authorities competent to sanction leave has reason to believe that an attempt is being made by the Government servant to derive the benefit under Article 408 C. S. Rs. they should refuse the extraordinary leave in such cases by exercising the discretion vested in them under Fundamental Rule 67 or rule 4 of Revised Leave Rules, 1933.

[G. I. M. F. Memo. No. F. 7(7)-Est. IV/A/60, dated the 19th February, 1960]

(2) The leave of an officer out of India should always be ascertained before a report is made as to his claim to pension.

[Para 179, India Supplement to C. S. R. (5th Edition)].

(3) The term "commencement of service" in note 2 under this Article means "actual commencement of service qualifying for pension in India."

If by special contract an addition of British service or an addition of a number of years is made to the actual Indian service, the service in India will be taken into consideration in finding out total service as used in this note.

* * * *

[G. I. F. D. U. O. Nos. 537-1, dated 7-3-1908, 777, dated 10-3 1908, and 607 dated 28-1-1908].

(4) *Not printed.*

(5) In the case of a Government servent on leave on 1st January, 1922 who in the exercise of the option given in paragraph 5 of G. I. F. D. letter No. 1079-C. S. R. dated the 26th October, 1921 cancelled the unexpired portion of his leave and took the balance of leave under the Fundamental Rules, the period of leave which shall count as privilege leave in the calculation of pensions, proportionate pensions or additional pensions shall be that which is credited as privilege leave in the leave account made up to 1st January, 1922.

[G. I. F. D. Resolution No. 1137-C.S.R. dated the 6th July, 1923.]

(6) See Government of India's decision Nos. (4) and (10) below Article 407.

(7) See Government of India's decision No. (5) below Article 391A.

(8) War service which is allowed to count towards the pension of post war service recruits to the Indian service, should not be included in total service for the purposes of this Article in the case of any service.

[G.I.F D. No. F. 15-XXXV-R. 11/29, dated 9-11-1929].

(9) *Not printed.*

(9-A) The leave granted by foreign employers out of India to Government servant lent to them—*vide* F. R. 123(*a*)—should be treated as leave and not as duty. Any such leave if taken on full or average pay or equivalent terms should upto a limit of four months on any one occasion, be treated as privilege leave for the purposes of Article 407 C. S. R. and all other leave with allowances should be dealt with as in Article 408, Civil Service Regulations.

[G. I. F. D. No. 1 (9)-R. 1/32, dated 18th February, 1932].

(10) *Deleted.*

(11) The Government of India have decided, in consultation with the Auditor General, that for the purpose of computing service under Article 408, C. S. R. periods of non-qualifying service (including periods of leave rendered after commencement of service qualifying for pension) should be excluded.

[G. I. F. D. No. 6(83)-R. 11/37, dated 23rd February, 1938.]

(12) Leave on average pay on medical certificate granted under the proviso to Fundamental Rules 81 (*b*)(*ii*) to a Government servant who subsequently retires should be commuted into leave on half average pay and should count for pension as leave on half average pay, even though the Government servant concerned is not called upon to refund the amount drawn in excess as leave salary.

It has been further decided that these orders should be applied only to cases in which pension was sanctioned on or after 13-8-1937 and that pension in other cases should not be recalculated.

[G.I.F.D. letter No. D-559-R-11/38 dated the 25th March, 1938.]

(13) Total service for the purpose of Article 408, Civil Service Regulations should be reckoned from the date of commencement of service qualifying for pension and should include 'period of leave' but should exclude all periods of non-qualifying service (including period of leave falling during such service) rendered after commencement of service qualifying for pension. The expression 'period of leave' should be taken to include leave with allowances as well as extraordinary leave without allowances taken during the course of qualifying service.

[G.I.F.D. letter No. F. 6(83) R-11/37, dated the 23rd February, 1938]

(14) See Government of India's decision No. (12) below Article 356.

(15) The Government of India have had under consideration the question as to whether the half pay leave commuted under Rule 11(*c*) of the Revised Leave Rules, 1933, into half the amount of full pay leave can be treated as leave on average pay for the purposes of Supplementary Rules and as privilege leave for the purposes of the Civil Service Regulations. It has now been decided that such 'commuted leave' should be treated in the same way as leave on half average pay for the purpose of the aforesaid Rules and as 'leave with allowances' for the purpose of Article 408 of the aforesaid Regulations.

[G.I.M.F. Memo. No. 7(82)—Est. IV/150, dated 22-9-1950.]

(16) See note to Government of India's decision No. (1) below Article 358 of the Civil Service Regulations.

(17) Study leave counts as service for pension.

[G.I.F.D. Resolution No. F. 6(12) R. 11/35, dated 21st February, 1935.]

(18) Permanent and temporary staff taken over by the Government of India from Part 'B' and 'C' States and States merged with Part 'A' States, who either elected or came on to the Central rules and condition of service are to be governed by the pension rules in the C. S. R., as applicable to post 1938 entrants. The question as to what leave (kind and extent) taken under the pre-absorption rules prior to the date of application of the Central Rules will qualify for pension under the relevant provisions of Civil Service Regulations, has been under the consideration of the Government of India for some time past. The President has now been pleased to issue the following orders there on :—

Leave shall cover as service qualifying for pension to the extent indicated below :—

Government Servants other than Class IV.

(*a*) Any period of privilege/leave/leave on average pay/earned leave not exceeding 4 months/120 days as the case may be, and the first four months/120 days of any periods of privilege leave/leave on average pay/earned leave under the State rules in excess of 4 months/120 days, as the case may be shall count as privilege leave for purposes of pension.

(*b*) In certain States, like Rampur, Bhopal and Hyderabad, there was a provision for pilgrimage leave which was an extra concession in the form of full pay leave and could be granted even in excess of four months. Such leave will be treated as leave with allowances for purposes of Article 408 C. S. R.

(*c*) Any other kind of leave during which leave-salary is drawn shall count as leave with allowances to the extent provided in Article 408 C. S. R.

Class IV Government servants.

(*a*) Any period of Privilege leave/leave on average pay/earned leave not exceeding four months/120 days as the case may be, taken under the State rules shall count as privilege leave for purposes of pension.

(*b*) Half pay leave and commuted leave taken before the date of absorption of such staff under the Central Government, shall count as qualifying service to the extent of 1/22nd of service rendered prior to that date, excluding the periods spent on extra-ordinary leave.

2. Other kinds of leave such as study leave, maternity leave, examination leave, special disability leave, War concession leave and any other special kind of leave, if admissible, may be allowed to be counted towards pension as provided in the Government of India Civil Service Regulations.

3. These orders take effect from 1st April, 1951 in the of case of Part 'B' States and from the dates on which the Central rules have been applied in the case of Part 'C' and merged States, subject to the condition that cases, if any already finalised before the issue of these orders need not be reopened.

[G.I M.F. Memo. No. 7(124) EV/53, dated the 27th March 1954.]

(19) Under Paragraph 7 of Ministry of Finance Office Memorandum No. F. 3(1)—Est. (Spl.)/47 dated the 17th April 1950 [Appendix 41] one half of the continuous temporary service rendered prior to confirmation counts for pension under the Liberalised Pension Rules, subject to certain conditions. In this connection, a question has been raised whether one half of such temporary service should also be counted for the purpose of computing "total service", as mentioned in column 1 of the table below article 408 of the Civil Service Regulations, and for applying the limits prescribed in columns 2 and 3 thereof in regard to counting leave other than privilege leave etc., for pension. The questions has been carefully considered and it has been decided that one half

of such temporary service should be counted for computing "total service", as mentioned in article 408, subject to the same conditions as in paragraph 7 of appendix 41 and the limits prescribed in column 3 of article 408(1) C.S.R. should be applied on that basis For this purpose, one half of the earlier continuous temporary service rendered prior to the commencement of qualifying service should be added staightaway to the "total service" otherwise computed and the sum total should then form the ultimate "total service". It has further been decided that all leave with allowances taken during the continuous spell of temporary service should be taken into account for computing the one-half of temporary service as mentioned above but that any period of extra-ordinary leave availed of during that period should be excluded for that purpose.

As a corollary and on the analogy of article 407 C.S.R. one-half of the period spent on privilege leave or leave on average pay upto four months in the one spell or earned leave under the revised leave rules, during temporary service, will automatically count for pension. One half of "other leave with allowances" availed of during temporary service will also count for pension, along with such leave availed of during permanent and *quasi*-permanent service subject to the limits prescribed in article 408 of the C.S.R. No portion of any extra-ordinary leave without allowances should, however, count for pension in any case.

[G.I.M.F. Memo. No. F. 11 (28)-EV/56, dated the 22nd October 1956].

Note :—The above decision applies also to the Civilian Personnel with the Army who are paid from the Defence Services Estimates and the C. G. D. P. Organisation as well *vide* Army Instruction No. 74 of 1957.

(20) See Government of India's decision No. (8) below Rule 7 of the Liberalised Pension Rules in appendix 41.

Auditor General's rulings : - (A) An official of the Postal Department was on leave on average pay for 6 days, from 16th February, 1923 to 21st February 1923, on leave on half average pay, from 22nd February, 1923 to 20th March, 1923, and on leave on average pay, from 21st March, 1923 to 23rd April, 1923. The question arose whether only the leave on average pay for 6 days (which presumably was the amount that was admissible as privilege leave under the Civil Service Regulations conditions) should be allowed to count as duty for the purpose of assessing the pension admissible or whether the subsequent period of one month and three days should also be included as duty. The Auditor General with the concurrence of the Government of India has decided that Rule 1 of the rules published with the Government of India, Finance Department Resolution, No 1260-C. S. R dated the 31st December 1921, should be applied in audit in its literal sense. It is not necessary that the 4 months' leave on average pay referred to in the Rule must necessarily be the amount that would be admissible as privilege leave under the Civil Service Regulations conditions. It has also been decided that the two periods of leave on average pay referred to above in which the leave on half average pay intervened, should be treated as one continuous spell of leave on average pay in order to determine whether the whole, or the first 4 months of the leave should be treated as one continuous spell of leave on average pay in order to determine whether the whole, or the first 4 months of the leave should be treated as privilege leave for purposes of pension.

[Auditor-General's letter No. 95-96/A 324-23, dated the 8th January, 1924.]

Note :—The above decision has effect from 1st January, 1924.]

(Auditor General's letter, No. 125/126/A-327—23, dated the 28th January, 1924.]

(2) When hospital, maternity and seanen's sick leave on full or average pay, whether taken alone or in combination with some other form of leave on average pay (except such leave as special disability leave for which special provision exists) exceeds four months, the first four months only of the entire spell of leave should be counted as privilege leave for purposes of pension.

The above orders of the Government of India have effect from the 2nd May, 1928, the date of their issue.

[C. C. A. No. 290/II-28 dated 12-10-1928.]

(3) See Audit Instruction No. (3) below Article 407.

[C. D. A. (Pension) Allahabad letter No. G. I/C/0102, dated the 15th December 1954 to the address of S. Lakhi Singh Chaudri and copy to the Government of India Ministry of Finance (Communication), New Delhi.]

Audit Instructions :—(1) See Audit Instructions Nos. (1), (2) and (3) below Article 407

(2) Non-qualifying service which may be allowed to count for pension under Article 361A, C. S. R. should not be taken into account for the purpose of Article 408 *ibid* unless such service is treated as permanent for the purpose of leave also. "Total service" in Article 408 does not also include the period added to service qualifying for pension under Article 404A, C.S.R.

[Para 18, Section III of Manual of Audit Instruction (Reprint)].

(3) If leave on average pay, is applied for after a Government servant has had leave on half average pay, in continuation of a period of leave on average pay either by the production of a medical certificate or by a Government servant proceeding out of India, Ceylon, or Nepal, the period of leave on average pay shall be treated as on spell of leave on average pay in order to determine whether the first four months of leave should be treated as privilege leave for purposes of pension.

[Para 16 (*i*), Chap, X. Section I of Manual of Audit Instruction, (Reprint)].

409. Time passed on Departmental leave by subordinates in the Survey of India, in the Bengal and Bihar and Orissa Survey Departments and in the Traverse Survey Party of the Central Provinces whose service is superior counts, provided they return to duty when required by their superior officers.

Note.—Departmental leave granted to Tindals and others under clause (*ii*) of Article 295 and to inferior servants in the Bengal and Bihar and Orissa Survey Departments employed purely on field work is treated as service qualifying for pension, Subject to any general of special order of the Governor-General in Council, time passed on departmental leave without allowance by inferior servants in the Survey of India does not count as service for pension.

Government of India's decision :—Departmental leave at the termination of service does not count even in the case of inferior servants as the leave cannot be commuted to leave without pay under Article 421 C. S. R.

[Paragraph 191 of the India Supplement to C S. R. (5th Edition)].

410. Time passed on leave obtained to be present at an examination which he passed before an officer is eligible for higher subordinate appointments, such as Deputy Magistracies, counts (See Article 285).

Government of India's decision :—See item No (1) below Article 407.

411. The Government of India may at its discretion decide in the case of an officer (including a person in training for, but not actually appointed to, Government service) who is selected to undergo a course of training, whether the time spent in training shall count as service qualifying for pension. A Local Government exercises similar powers in respect of officers serving under it.

Note 1.—The Government of India and Local Governments may delegate their power under this Article to Heads of Department as regards officers serving under them.

Note 2—The Government of India or Local Government may issue general orders under this Article in regard to any specified class of officers training.

Government of India's decisions :—(1) The Auditor General has been vested with the powers of a local Government under Article 411 in respect of non-gazetted officers under his control.

[Paragraph 193 of the India Supplement to C. S. R. (5th Edition)].

(2) Time spent by the police subordinates in pensionable service while undergoing instructions will count as service for pension.

[G. I. F. D No 3655-P , dated 14-6-1907].

Note—The term "Police subordinate" in this decision includes also candidates for direct appointment to the Subordinate Police Service. The time spent by the police subordinates in pensionable service while undergoing instruction shall count as service for pension and they should be treated as on duty.

[Paragraph 196 of the India Supplement to C. S. R. (5th Edition)].

(3) Officers holding pensionable appointments in other departments of

Government service who may be appointed Deputy Superintendent of police counts as service for pension the time spent in the training school.

Candidates for direct appointment who are not already in pensionable Government service may, similarly, on confirmation as Deputy Superintendents, count the period of that training as service for pension.

[G. I. F. D No. 5820-P., dated 18-9-1907.]

(4) *Omitted.*

(5) Owing to the absence of any definite instructions in regard to the treatment of period spent in training under the Short Term Social Work Course of the Calcutta University, no uniform practice is being followed in the matter. It has now, in consultation with the Ministry of Finance, been decided that in future in the case of labour officers who while under training under the Short Term Social Work Course in accordance with their terms of appointment are in receipt of only two-third of their pay, the period of training or attending a course should not be counted for the purpose of increment in that post. Attention in this connection is invited to Audit Instruction 3 (*it*) under F. R. 26 which stipulates that in the case of a Government servant, who while officiating in a post proceeds on training or to attend a course of instruction, and who is treated as on duty while under training, the period of such duty will count for increment in the post in which he was officiating prior to his being sent for training or instructions if he is allowed the pay of the officiating post during such period.

In the case of those labour officers, labour welfare officers. etc., who during training under the Short Term Social Work Course of the Calcutta University are in receipt of their substantive pay, the period of training will be treated as on duty and will also count for increment in the substantive post.

[G. I. Ministry of Labour Memo. No L. W. 1-57 (3). dated the 14-11 1953].

Note :—The provisions of office Memorandum referred to in para 1 above also apply to civilians paid from the Defence Service Estimates and to D. G. O. F's Organization.

[Army Instruction No. 9. dated the 3rd January 1953].

Deputation out of India.

412. When an officer is deputed out of India on duty, the whole period of his absence from India counts. When an officer on leave out of India is employed, or is detained after the termination of his leave on duty, the period of such employment or detention counts.

Secretary of States order :—The periods of deputation converted into leave should count for pension as leave and not as deputation.

[G. I. F. D. No. F. 120 C S. R., 25, dated 4-11-1925].

Recall to Duty.

413. Time spent on the voyage to India by an officer who is recalled to duty before the expiry of and recognised leave out of India counts provided his return to duty is compulsory (See Article 199).

Inferior Service.

414. An inferior servant counts leave with and without allowances not exceeding in the aggregate that which might be given with the allowances under the rules in Chapters XII and XIV.

Government of India's decisions :—(1) In calculating total leave with allowances under the preceding rule, hospital leave is not taken into account as it cannot be regarded as leave on medical certificate.

[Paragraph 201 of India Supplement to C. S. R. (5th Edition)].

(2) An inferior servant belonging to a seasonal establishment who is on leave without allowances for a period covering that which the establishment is employed, as well as that during which establishment is not employed is not entitled to the concession of counting the whole period of leave without allowances as service for pension under Article 414, Civil Service Regulations. He can count only as much of the period as fulfils the conditions laid down in Article 389; Civil Service Regulations.

[G. I. M. F. No. 7020-A, dated 13-12-1904.]

(3) The amount of privilege leave that might have been given should be calculated on the net service after deducting long leave of all sorts actually taken from the total service for the purpose of finding out the total leave that counts in the case of an inferior servant under Article 414, Civil Service Regulations.

[G. I. F. D. No. 2017 P, date 12-4-1905].

(4) In determining the periods of leave without allowances, enjoyed by an inferior servant to be reckoned as service qualifying for pension, each period should not be taken by itself, but all the leave taken with or with allowances should be added together and so much of it as does not exceed the leave, that might have been granted with the allowances under the rules treated as qualifying service and the remainder, if any, rejected as non qualifying.

[G. I , Fin—8174-P., dated 26-12-1904.]

Note —An inferior Government servant can count leave with and without allowances as qualifying service for pension up to the amount of leave "earned" under Chapters XII and XIV of the C. S. R. Such a Government servant is not as a matter of course entitled to the maximum benefit of leave prescribed in Article 414 thereof.

Illustrations :—

	Y.	M.	D.
(1) Gross service from 10th July 1909 to 23rd December 1931	22	5	14
Deduct leave taken of all kinds ...	6	9	24
	15	7	20
Privilege leave earned Chapter XII of the Civil Service Regulations. 1/11th of (*15y.—1m 20d*)	1	5	2
(2) Gross service from 10th July, 1909 to 23rd December, 1931	22	5	14
Deduct leave other than privilege leave	5	4	22
Net active service	17	0	22
Furlough earned under Chapter XIV of the Civil Service Regulati ns 1/6th (*17y 0.m.* 22d.)	2	10	3
(3) Total leave earned under Chapters XII and XIV of the Civil Service Regulations which counts for pension under Article 414, Civil Service Regulations :—			

	Y	D	M
Vide No. 1 above=	1	5	2
,, ,, 2 ,, =	2	10	3
Total =	4	3	5

The balance of leave *viz.* (6 years, 9 months, 24 days *minus* 4 years, 3 months, 5 day)=2 years, 6 months and 19 days is non-qualifying leave and the net qualifying service would be=22 years, 5 months and 14 days *minus* 2 years, 6 months and 19 days=19 years, 10 months and 25 days.

[G. I. F. D. U. O. No. 673-R/II 33, dated the 7th April, 1922 and Auditor General's endorsement No. T. 76-A. 25—33 dated the 26th April, 1933.]

(5) Periods of leave without allowances granted to piece workers on the inferior establishment of the Government of India should not count as service under Article 414, C.S.R.

[Controller of Printing & Stationary, India No. 8. D/1/39-A, dated 15 2-1939.]

415. *Cancelled.*

SECTION III.—SUSPENSION, RESIGNATION, BREAKS, AND DEFICIENCIES IN SERVICES.

Periods of Suspension.

***416. Time passed under suspension pending enquiry into conduct counts in full where, on conclusion of the enquiry, the Government servant has been fully exonerated or the suspension is held to have been wholly unjustified ; in other cases, the period of suspension does not count unless the authority competent to pass orders under Fundamental Rule 54 or article 193 (*b*) expressly declares at the time that it shall count, and then it shall count only to such extent as the competent authority may declare.**

417. *Omitted.*

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*Substituted *vide* G.I.M.F. Notification No : F. 4 (30)-EV (C)/62, dated 22nd August 1962.

Resignations and Dismissals.

418. (*a*) **Resignation of the public service, or dismissal or removal from it for misconduct, insolvency, in-efficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.**

(*b*) **Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.**

In cases where an interruption in service is inevitable due to the two appointments being at different stations, such interruptions, not exceeding the joining time permissible under the rules on transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation under article 422 to the extent to which the period is not covered by leave due to the Government servant.

Government of India's decision. A Government servant intending to apply for a post or posts outside his parent office/department under the Government of India should have his application forwarded through the competent authority under whom he was serving at the time of applying for the post. Such an authority should either forward the application or withhold it accordingly as the exigencies of public service may indicate but it should not forward the application conditionally, as for example, that in the event of the applicant coming out successful, he will be required to resign his post before taking up the new one. Once the application has been forwarded unconditionally and the person concerned is offered the post applied for, the should be relieved of his duties to join the new post as a matter of course and the question of his resigning the post held by him in such circumstances should not arise. Accordingly the amended article is intended to cover the cases where even though the applications were forwarded by the competent authority, the applicant had been asked for one reason or the other to resign his post before taking up the new one. The above position holds good whether the Government servant held the post in permanent or temporary capacity, before resigning the post.

Situations may arise where the application of a Government servant was not forwarded and the Government servant resigned his appointment of his own volition with a view to his taking up the new post or where it was not possible to forward his application in the public interest but the Government servant had volunteered to resign his post or where the conditions of service in an office demand as a matter of policy that the Government servant should resign his post in the event of his taking up another post outside. In all such cases, it has been held that resignation of public service will subsist and entail forfeiture of past service.

[G.I.M.F. letter No. 35 (15)-EV/60 dated the 21st September 1960 to the Secretary to the Government of Orissa, Finance Department, Bhubaneswar.]

419. (*a*) **A Government servant who is dismissed, removed or compulsorily retired from public service, but is reinstated on appeal or revision is entitled to count his past service.**

(*b*) **The period of break in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of retirement, and the period of suspension (if any) shall not count unless regularised as duty or leave by a specific order of the authority which passed the order of reinstatement.**

Interruption.

420. An interruption in the service of an officer entails forfeiture of his past service, except in the following cases :—

(*a*) **Authorised leave of absence.**

(*b*) **Unauthorised absence in continuation of authorised leave**

of absence so long as the office of the absentee is not substantively filled ; if his office is substantively filled, the past service of the absentee is forfeited.

(*c*) **Suspension where it is immediately followed by reinstatement, whether to the same or a different office, or where the officer dies or is permitted to retire or is retired while under suspension**

(*d*) **Abolition of office or loss of appointment owing to reduction of establishment.**

(*e*) **Transfer to non-qualifying service in an establishment under Government control. The transfer must be made by competent authority ; an officer who voluntarily resigns qualifying service cannot claim the benefit of this exception. Transfer to a grant-in-aid school entails forfeiture** [*But see Example* (*c*) *of Article 386.*]

(*f*) **Transfer to service on the House hold establishment of the Viceroy.**

(*g*) **Time occupied in transit from the one appointment to another, provided that the office is transferred under the orders of competent authority, or, if he is a non-gazetted officer, with the consent of the head of his old office.**

Government of India's decisions :—(1) If an officer is suspended and applies for pension without being reinstated, he is not eligible for any pension without the orders of the Seceretary of State (*now* President).

[G I F. D. No. : 5373-P dated 27-11-1899.]

(I-A) On the question whether applications from the Ex-Pakistan personnel, who are employed in the Defence Service, for regularisation/condonation of break in service from the date they made over charge in Pakistan to the date of their appointment in India, and who applied at a late stage, may be entertained as and when they are presented regardless of time factor or each case may be decided on merits, it has been decided that requests for condonation of break in service of these personnel will not be considered except in the following circumstances :—

(*a*) The displaced person himself is not responsible for the delay.

(*b*) The period of break is not unduly long and was due to causes beyond his control.

(*c*) He is otherwise entitled to joining time or leave under the existing orders issued by the Defence Ministry.

(*d*) The nature of option or/and the details of Pakistan service can be verified from the official records or satisfactory collateral evidence.

[Government of INDIA, Ministry of Defence Office Memorandum No. F. 29 (32)/55/12648/D/Civ-II) dated the 12th November 1957.]

(2) Previous service of an officer would be forfeited if the new post to which he is transferred was not created until he joined it in that case condonation under Article 422. C. S. R. would be required.

[Para 206 of the India Supplement to C. S. R. (5th Edition.]

(3) Joining time would not qualify if no allowances are admissible under Article 190, C.S.R.

[Para 208 of the India Supplement to C.S.R. (5th Edition.)]

(4) An officer who is discharged on the abolition of an appointment is entitled to the benefit of clause (*d*) of this Article even though the appointment abolished may not have been that which he held or even one of the particular establishment on which he was actually serving.

(G. I. F. D. No: 5594 P., dated the 9th September, 1907.]

(5) In the case of Government Officer volunteering for the front, absence will not be regarded as an interruption of duty for leave already earned and it will count for pension but not for leave.

[G. I. F. D. No. 1181-C.S.R., dated 20-11-1914.]

(6) The period of absence of ex-I.N.A. personnel since the date of removal, dismissal or discharge from the Army after re-capture to the date of reinstatement in civil posts should be treated as absence on leave to the extent leave on average and half average pay was due, to the extent such leave was not due, under suspension.

No payment beyond what they may have got already from the enemy the I. N. A. or the Indian Army shall be admissible during the priod between the date of falling into the hands of the enemy and the recapture and the period between the date of recapture and the date of discharge, removal or dismissal from the Army.

The payment to be made for the period of suspension referred to in sub-para 1 above in all cases should be the maximum amount of subsistence allowance normally admissible, no recoveries being, however, made in cases when payments already made are in excess of the subsistence allowance.

[G. I M. H. Affairs Memo No. 349/46 Ests, dated 19the January 1946.]

(7) The question of treatment of the previous service, in the event of re-employment under the Government of India, of such of the ex-Central Government servants as were removed, discharged or dismissed from service on account of their patriotic activties or their participation in national movements designed to secure the independence of the county, or who resigned their appointments out of patriotic motives or in order to participate in the national movements, has been under consideration for some time past. The following decisions have been reached in the matter and are hereby communicated for information and guidance.

2. (*i*) These *ex*-Government servants would be eligible for re-employment under the Government of India (but not reinstatment, unless in any case this has already been ordered). They should be re-employed, as far as possible in the same post or grades from which they were removed or dismissed or from which they resigned, or in equivalent or higher posts, and if they are, eligible for employment in all other respects, the restrictions regarding age limits shall be relaxed in their case. The age of superannuation of such persons shall be the same as would have been applicable to them if they had continued in service ununterruptedly.

(*ii*) On re-employment which would, in the case of persons who previously held their apppintments in a substantive capacity and subject to the availability of permanent posts, be in a permanent capacity, the actual previous service rendred by these Government servants should be treated as qualifying service for purposes of pension (if and to the extent to which it would have been so treated but for their discharge, dismissal, etc.) and seniority. They will also be allowed to carry forward the balance of leave on average pay due on the date of their discharge, dismissal or resignation, calculated with reference to the leave rules to which they were then subject or the maximum amount of earned leave which they can accumulate under the new leave rules applicable to them in their re-employed posts, whischever is less. The period of break in service would itself not count for any purpose but otherwise the service will be regarded as continuous.

(*iii*) The initial pay of such Government servants on re-employment should be determined in the following manner :—

(*a*) If they are re-employed in their original post or grade or in a post or grade corresponding thereto their basic pay in the prescribed scale of pay for the post or grade in question should be fixed under Fundamental Rule 22(*a*)(*ii*) with reference to the substantive pay last drawn and they should be granted in addition one increment for every three completed years of the break in their service. If before dismissal, discharge, or resignation a person had been officiating continuously in a post higher than his substantive post for period of not less than tnree years, then his officiating pay may be treated as his substantive pay for the purposes of fixation of

initial pay at the time of re-employment.

(*b*) If in any case they are re-employed in posts lower than those previously held by them, they should only be allowed to count their total past service for increments in the prescribed time scale of their present post *plus* one increment for every three completed years of break in service.

Note—For the purposes of these orders, posts or grades will be deemed to be "corresponding" posts or grades if the difference between the minimum *and* the maximum of the 'prescribed' time-scales thereof is within 20 per cent of the lower figures, doubtful and hard cases, if any, being referred to the Ministry of Finance for decision.

(*iv*) The above concessions, in so far as they relate to facilities for re-employment, and to fixation of pay and counting of previous service for leave and seniority on such re-employment, shall also be applicable to the cases of persons who may have been holding their previous posts temporarily and who may have been discharged on the basis of adverse police reports etc, provided that, so far as fixation of pay is concerned, no benefit will be given if the period of service in those posts was less than three years.

(*v*) Ex-Government servants who may be employed in pursuance of these orders and who may already be in receipt of any pension in respect of their past service will have such pension held in abeyance and any gratuity received by them in respect of their past service shall also be subject to refund in order to enable them to count their past service for future pension *vide* Articles 511 and 514(*b*), C.S.R.

3. The Federal (*now Union*) Public Service Commission shall be consulted as usual, in cases in which persons may be re-employed in posts direct appointment to which can be made only in consultation with the Commission. For this purpose all available records of such persons shall be referred to the Commission. The Commission, if they consider it to be necessary, may also interview such persons. Actual appointment of such persons should be made only after the Commission have certified them to be suitable for appointment to the posts n question.

4. Care should be taken to ensure that the above concessions are not abused. All claims should be carefully scrutinised and a reference should be made to the Ministry of Home Affairs where there is any doubt whether the activities of the persons concerned to which the dismissal, discharge or resignation is claimed to relate could appropriately be deemed to be patriotic activities in connection with the national movements. A reference should also be made to the Home Affairs Ministry in cases where the above concessions are claimed by any persons on the ground that they resigned their previous appointment out of partiotic motives etc. In the case of temporary Government servants who were discharged on the basis of adverse police reports, it should be verified, with reference to the contents of such reports and other relevant records, that their discharge was in fact, due to political reasons. Subject to these reservations Ministries may dispose of claims for concessions under these orders from persons who were previously employed under them direct in consultation with the appropriate financial authorities.

[G.I.M.H. Affairs Memo No. 15/21/58, Ests; dated the 11th July 1949]

Note—This decision also applies to the corresponding civilian personnel paid from the Defence Services Estimates *vide* Army Instruction No. 10 of 1950]

(8) See Government of India's order No. (2) below rule 5 of the Liberalised Leave Rules in appendix 14.

Auditor General's decision :—The period spent in captivity by a civil officer in Military employ who was taken prisoner of war, counts for pension.

[Auditor General's No : 563-A & A-360/19, dated 8-7-1919.]

Audit Instruction :—A period of overstayal of leave does not count for pension.

[Para 20, Section III of Manual of Audit Instructions (Reprint).]

421. The authority who sanctions the pension may commute retrospectively periods of absence without leave into leave without allowances,

Auditor General's decision :— The power under Article 421, Civil Service Regulations of commuting retrospectively periods of absence without leave into leave without allowances is absolute, the purpose of the rule being merely to obviate, for purposes of period, the forfeiture of past service.

Similar power conferred by Fundamental Rule 85 (*b*) is also absolute and the words "as in clause (*a*)" used in line 2 of clause (*b*) cannot be taken to qualify the latter part of the rule.

[Auditor General's No. 63-A/17-35, dated the 22nd March, 1935.]

Condonation of Interruptions and Deficiencies.

422. Upon such conditions as it may think fit in each case to impose the authority competent to fill the appointment held by an officer at the time condonation is applied for were he to vacate that appointment, may condone all interruptions in his service.

Note 1—The powers under this Article shall be exercised subject to any rules which the Government of India may deem fit to prescribe.

**Note* 2—The provisions of this Article shall not apply to officers retiring from service on or after the 22nd April, 1960. For this purpose the expression officers retiring from service on or after 22nd April, 1960" will include officers who retired on or after the 1st November, 1959 but before the 22nd April, 1960 and got the benefit of liberalisations in pension as result of the orders issued on the recommendations of the Pay Commission.

Interruptions in service (either between two spells of permanent or temporary service or between a spell of temporary service and permanent service or *vice versa*) in the case of the officers referred to above may be condoned by the Ministries of the Government of India subject to the following conditions, namely –

1. The interruptions should have been caused by reasons beyond the control of the Government servant concerned;
2. Service preceding the interruption should not be of less than five years' duration and in cases where there are two or more interruptions, the total service, pensionary benefits in respect of which will be lost if the interruptions are not condoned, should not be less than five years, and
3. the interruption should not be more than of one year's duration. In cases where there are two or more interruptions the total of the periods of all interruptions that are condoned should not exceed one year.

Government of India's decisions :—(1) The Surveyor General may condone an interruption between an officer's permanent service vitiated by resignation and subsequent temporary service which qualifies under Article 381 (*b*), Civil Service Regulations and is followed without interruption by qualifying service.

[Para 294 of the India Supplement to C. S. R. (4th Edition).]

(1—A) Ministry of Finance Memo : No. F. 5 (57)-EIV/47, dated the 4th July 1947 and the 18th November 1954, whereunder the break in the service if any, of temporary Government servants who are retrenched from one Central Government office on reduction of establishment and receive orders of appointment in another such office while working in the old post, or immediately after discharge from the old post, or while on terminal leave, or immediately on the expiry of terminal leave, is condoned for the purpose of reckoning continuous service, if the period of break does not exceed the joining time upto a maximum of 30 days, which the competent authority may grant in excercise of the powers delegated to him under Supplementary Rules 301 and 302. In this connection a question has been raised whether the condonation of break in such a case would entitle the Government servant concerned to count his previous temporary service for the purpose of pension.

2. The matter has been carefully considered by the Government of India and it has been decided that the condonation of break under the provisions of the above O. M. would carry with it the benefit of counting the previous service towards pension.

[G.I.M.F. Memo No. F. 25 (11)-EV/59, dated the 20th October 1959]

(1-AA) The Government of India have had under consideration the review of the scope of application of articles 422 and 423, Civil Service Regulations in the light of the recent amendments to the Pension Rules issued on

*Added vide G.I.M.F. Notification No. 12 (19)-EV/A/60 dated, the 16th May 1961

the basis of the recommendations of the Pay Commission. In view of the large scale liberalisations in respect of counting of qualifying service and reckoning of emoluments for pension and retirement benefits to all categories of temporary and permanent Government servants, Government consider that there is little justification left for the exercise of powers by an authority lower than the President to condone any interruption of deficiency in service for purposes of pension and gratuity. Accordingly, the President has been pleased to decide as follows—

(1) The powers delegated to the authorities concerned under article 422 Civil Service Regulations shall be withdrawn in respect of persons retiring from service on or after the 22nd April 1960 and also in respect of those who retired on or after the 1st November 1959 but before the 22nd April 1960 and got the benefit of liberalisation in pension as a result of the orders issued on the recommendations of Pay Commission. Powers to condone interruptions in service (both permanent and temporary) may, however, be exercised by the Administrative Ministries in cases where the following conditions are fulfilled :—

(*i*) The interruptions should have been caused by reasons beyond the control of the Government servant concerned.

(*ii*) Service preceeding the interruption should not be less than of five year's duration, and in cases where there are two or more interruptions, the total service, pensionary benefits in respect of which will be lost if the interruptions are not condoned, should not be less than five years.

(*iii*) The interruption should not be more than one year's duration. In cases where there are two or more interruptions, the total of the periods of all the interruptions that are condoned should not exceed one year.

(2) The provisions of article 423 Civil Service Regulations will not apply to the officers retiring from service on or after the 22nd April 1960 and also to those who retired on or after the 1st November 1959 but before the 22nd April 1960 and got the benefit of liberalisations as a result of the orders issued on the recommendations of the Pay Commission.

(3) In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India who will exercise the powers vested in the Ministries under these orders in respect of such personnel.

Note. Also see Government of India's decision No. (9 to 12) below Article 357-D. [G I M F. Memo. No F. 12(19)-EV/A/60, dated the 30th January 1961].

(1AAA) Decision No. (1-AA) above explains the present scope of application of articles 422 and 423 CS Rs.

A doubt has been felt in certain quarters whether the provisions of the orders referred to above would apply in the case of displaced Government servants from Sind/N.W.F.P. etc. also.

The matter has been examined in consultation with the Ministry of Home Affairs and the Comptroller and Auditor General. The position is that the breaks in the service of such employees were mainly caused due to circumstances attendant at the time of partition of the country. Such breaks may not, therefore be comparable to the break in services of other Government servants which are condoned under Article 422 CS Rs.

It is accordingly clarified that the orders contained in decision No. (1AA) above do not supersede the provision contained in the Ministry of Home Affairs' Office Memorandum No. 31/119/52-DGS dated the 31st January, 1953, regarding condonation of break in the services of the displaced Government servants from Sind/N.W.F.P. etc. and other similar orders issued from time to

time on the subject.

[G.I.M.F. Memo. No. F. 12(19)-EV/A/60, dated the 28th December 1961].

(2) The powers of condonation specified in Article 422 carry with them the powers of reviving service rendered prior to interruptions, but forfeited under Article 418 (*a*).

[G. I. Fin., No. 5469, dated 23-12-1897]

(3) Usually condonations of interruptions are not allowed under this Article unless there are some reasons for doing so, that is, if it can be shown that the Government servant had good reasons for resigning his appointment in the first instance or if he was compelled by reasons beyond his control (*e. g.* through illness etc.) to quit service before due time and it is considered fit to permit certain past qualifying service for pension.

[G. I. M. F. U. O. No 2247-EV/49 : dated 1-4-1949].

(4) A question has been raised about the treatment for purposes of seniority, of the period of break in service between the dates of discharge, reversion and reappointment or promotion of employees who have been re-employed or promoted to their original posts under Instructions 12 of the Instructions for Reternchment. After careful consideration, it has been decided that Government servants who have been reinstated in the relevant grades under the provisions of the instruction *ibid* should be treated for the purpose of seniority as if they had not been reverted or retrenched to the lower grades at all.

[G. I. M. H. Affairs Memo : No: 54/56/50—CS., dated the 6th December 1950.]

Note. Para 12 of the Instructions for Retrenchment is reproduced below :—

"12. Ministries will have the discretion to review cases of discharge and reversions to the extent considered practicable and if they so desire, re-appoint or promote to the relevant grade persons who could have been retained in those grades under these instructions."

(5) *Not Printed.*

(6) Cases in which Military service is allowed towards pension it carries with it a condonation of break, but the period of break does not count for pension.

[G. I. M F. U. O. No. 3329-E, V/51, dated the 18th June 1951.]

(7) Under Ministry of Home Affair's Office Memorandum No. 9/1/54-RPS, dated the 9th October, 1956, where a Central Government servant whose services have been terminated on payment of pay and allowances *in lieu* of the period of notice is able to secure another appointment under the Central Government within the notice period, the break in service may be condoned by the appointing Authority and service in the new appointment treated as continuous with that in the previous appointment for all purposes including fixation of pay seniority, leave and gratuity or other retirement benefits ; provided that he shall refund to Government the pay and allowances of the former post/grade, for the unexpired portion of the notice after his re-employment as well as any gratuity or other terminal benefits is respect of his previous service.

2. A question has been raised whether a *quasi*-permanent Government servant, who has been given notice of termination of his service but who secures alternative employment during the period of notice or terminal leave granted to him, should be allowed the benefit of his *quasi*-permanent pay while fixing his pay in the new post. It has been decided in consultation with the Ministry of Finance that in such cases.

(*i*) the initial pay of *quasi*-permanent employees securing alternative employment during terminal leave period of notice, may be fixed with reference to the *quasi*-permanent pay last drawn, on the principle of FR 22 (*a*) (*i*) or FR 22 (*a*) (*ii*), as the cases may be, and

(*ii*) in cases where the alternative employment is in a lower post/grade and the *quasi*-permanent pay exceeds the maximum pay of such lower post/grade, pay will be limited to the maximum of the scale of the lower post/grade and no personal pay should be allowed over and above such maximum ;

Provided the *quasi*-permanent employees refund to the Government the pay and allowances of the former post/grade for the unexpired portion of the notice period as well as any gratuity or other terminal benefits in respect of their previous service.

3. It has been also decided that formal sanction shall be accorded in each case, by invoking the provisions of F. R. 27. Past cases, however, will not be re-opened.

[G. I. M. H. Affairs Memo : No F. 7/26/58 TS, dated the 6th February 1959].

(8) It has been represented that as on the civil side, breaks in temporary service are condoned in terms of decision No. (1AA) above similar treatment should be accorded to temporary military service which is followed by civil service with a break.

The President is pleased to decide that the provisions of decision No. (1AA) above shall also apply to persons who have rendered temporary or non-regular military Service and have secured civil pensionable employment with an interruption between the military and civil service.

It has also been decided that in such cases the pensionary liability in respect of military service shall be borne by the Defence authorities and the Government servant will be required to refund the service gratuity, if any. received by him in respect of the military service rendered by him, before he is allowed to count that service towards civil pension.

[G.I.M.F. Memo No. F. 3 (30)-EVA/62, dated the 20th October 1962].

(9) The President is pleased to decide that the following concessions shall be granted to the temporary Government servants who are discharged due to reduction of establishment from one Central Government office and re-appointed in another Central Government office :

(*i*) If the orders of appointment to the new post are received by the Government servant concerned while in his old post, or while on terminal leave :—

Joining time with pay and travelling allowance on transfer scale will be admissible in all cases where the appointing authority certifies that the transfer is in the the public interest and the previous service rendered under Government is one of the considerations justifying his appointment to the new post. In cases where this certificate is not forthcoming, the Government servant shall be allowed only joining time pay and transfer travelling allowance.

(*ii*) If the orders of appointment to the new post are received by the Government servant concerned soon after discharge from his old post, or after the expiry of terminal leave, and the Government servant joins his new post without delay :—

No travelling allowance will be admissible but the period of break may be converted into joining time without pay by the Head of Departments under whom the Government servant concerned is presently employed, provided that the period of break does not exceed 30 days and that the Government servant has rendered not less than three years continuous service on the date of his discharge.

2. In all cases in which there is no break, or the break if any is converted into joining time with or without pay, the past service will count for pension and carry forwarded of leave will be permissible. The carry forward of leave in the case of Government servants retrenched from one Central Government Department and appointed in a Railway Department or *vice versa* may be regulated under Finance Ministry's Office Memorandum No. F. 7(165)-E. IV/59 dated the 28th October 1959.

3. In cases where the period of break in service exceeds 30 days, this question of condoning the break either for purposes of pension or for carry forward of leave will have to be examined under the orders issued on the

subject from time to time and may be decided by the Administrative Ministries in consultation with the Ministry of Finance.

4. In all cases in which the break in service is condoned, an entry to that effect will be made in the service book of the person concerned, quoting reference to the authority condoning the break.

5. The benefit of previous service will not be allowed for fixation of seniority in the new post, even if the break in service if any, is condened.

[G.I M.F. Memo : No. 12 (19)-IV (B)/63, dated the 17th September 1963 as amended by Memo : No. 12 (19)-EIV(B)/63, dated the 15th January 1964.]

Auditor General's decisions :— (1) The authority competent to sanction the pension of an officer can condone under the article an interruption between an officer's non-qualifying service and his subsequent qualifying service in order to make the former service qualifying for pension under Article 370, 371, 381, (*b*) and 381 (*c*) of the C.S.R.

[Auditor General's No. 52-A/14-34, dated 8-3-1934.]

(2) The Auditor General has with the concurrence of the Government of India decided that the exercise of powers by a Provincial Government in the matter of condonation of interruption in service under Article 422 C. S. R. should properly be treated as an "act of discretion" rather than an "act of grace". He has stated that according to the literal interpretation of the rule a Government in India is competent to exercise the power given by that rule, but since this will be an "act of discretion" on the part of the Government it will be permissible for it to do so only if its decision is in the *favour* of the officer. If, otherwise, the consent of the Secretary of State will be necessary under Section 247 (6) of the Government of India, Act 1935, as in that case it will mean an "award of a pension less than the maximum pension allowable under rules.

[Auditor General's No. 760-A/197-42, dated the 26th September, 1942].

423. (1) Upon any condition which it may think fit to impose the authority competent to sanction the pension of an officer may condone a deficiency of three months in his qualifying service.

(2) The Government of India and the Provincial Governments may similarly condone a deficiency not exceeding twelve months.

(3) If an officer claiming superior service has also rendered inferior service, the Government of India or the Provincial Government under whom he is serving may condone a deficiency in his qualifying service for pension on the superior scale not exceeding one-half his inferior service, subject to a maximum of twelve months in all.

Note. The provisions of this article will not apply to the officers retiring from service on or after the 22nd April, 1960. For this purpose the expression "officer retiring from service on or after the 22nd April, 1960" will include officers who retired on or after the 1st November, 1959 but before the 22nd April, 1960 and got the benefit of liberalisations in pension as a result of the orders issued on the recommendations of the Pay Commission.

Government of India's decisions. (1) The word "deficiency" includes not merely the period by which an officer's qualifying service falls short of the minimum length of qualifying service, which would entitle him to pension, but should be read as including the difference between the total amount of his service qualifying for pension and the total length of service necessary to earn the maximum amount of pension admissible under the rules.

[G I.F.D. No. 4169., P., dated the 16th August. 1900.]

(2) Article 423 is not intended to be used merely to allow Government servants to retire on full pension voluntarily a little sooner than they otherwise could.

[G. I. Home Department letter No, 389, dated 14-9-1901.]

(3) The term "pension" which occurs in Article 423 of the Civil Service Regulations is not used there in contradistinction to "Gratuity" but includes it, *vide* Article 41 *ibid.*

[G. I. F. D., No. 1194-C. S. R., dated 22-10-1915].

(4) A question having arisen as to whether a deficiency can be condoned under Article 353, Civil Service Regulations; in case when an individual has been dismissed from service and it is proposed to grant him a compassionate allowance under Article 353, Civil Service Regulations, the Government of India have considered that the grant of a compassionate allowance being an 'act of grace' the grant of any, further concession in the shape of a condonation of deficiency would not be justified, and it is undesirable therefore that sanctioning authorities should sanction condonation of deficiencies in such cases.

[G. I. F. D., letter No. F,—4 (6) R II/37, dated 19th August, 1937.]

Note.—The decision will also be observed in respect of Civilian personnel paid from Defence Services Estimates as well as D. G. O. F.'s Organisation.

(Army Instruction No. 194, dated the 31st July 1954.)

(5) See Government of India's decisions No. (2) and (3) below Article 398.

(6) The Government of India have decided that when combination is allowed under clause (2) of Article 423, C. S. R., there is no technical bar to the concurrent grant of a gratuity for the inferior portion of service under Article 398 (*b*), C. S. R. They have further ordered that if satisfactory reasons exist (*e.g.*, premature invaliding or compulsory retirement owing to reductions etc.) for condoning the deficiency in superior service, independently of the co-existence of inferior service, condonation may properly be sanctioned under Article 423 (2) C. S. R, without forfeiture of gratuity. If, however, the sole reason for condonation is the fact of inferior service in addition, condonation may be sanctioned only under Article 423(3), and no gratuity is admissible in respect of any portion of the inferior service.

[Controller of Civil Accounts letter No. T. 1397. NGE/64-30, dated 18-9-1833]

(7) Sub-paragraph (*vi*) of paragraph I of the Government of India. Ministry of Finance, Office Memorandum No. F. 3 (31)-Est, (Spl)/50, dated the 16th February 1951 [*incorporated as Government of India's decision below para 13 of appendix 41*] specially prohibits in any circumstances the condonation of a deficiency in the minimnm qualifying service which has to be rendered before a Government servant becomes eligible for a death-*cum*-retirement gratuity or a family pension. The purport of the words. "In other cases" in that sub-paragraph is that the condition under Article 423, C. S. R. is permissible only in the type of cases of Government servants mentioned therein who have rendered not less than the minimum qualifying service prescribed in paragraph 3 (2) and 5 (1) of Appendix 41. The intention is to apply the same principle in all cases of condonation of deficiency in qualifying service, whether under Article 423 (1) or 423 (2) of the Civil Service Regulations. Since, however, the powers of condonation under Article 423 (2) can be exercised only by the Finance Ministry of the Government of India or by the Finance Department of the State Government, it was not considered necessary to refer specifically to Article 423 (2) in paragraph 1 (*vi*) of Finance Ministry's Memorandum No. F. 3. (31)-Est (Spl)/50, dated the 16th February 1951 referred to above.

In view of the position explained in paragraph I above the Government of India consider that there should be no difficulty in dealing with cases of Government servants who have exercised option (*c*) in para 2 of Government of India's decision No. 2 below para 9 of appendix 41. When once a deficiency is condened, the total qualifying service to be taken in account for all purposes *i. e.* whether for gratuity or family pension, is the total service reckoned after (and not before) the condonation.

[G. I. M. F. letter No. F. 24 (33) EV/52, dated the 24th July, 1952 to the address of the Secretary to Government of Punjab, Finance Department, Simla, copy received with G. I. M. F, lettler No. D. 2639/53, dated the 15th May 1953.]

(8) A question was raised that in view of the fact that the deficiency in Government qualifying service can be condoned under the Liberalised Pension Rules in a case where the Government servant retires on invalid or compensation pension, there is no reason why the same benefit should not be allowed where the qualifying service is less than the minimum of five or twenty five

years prescribed for the eligibility for death-cum-retirement gratuity and family pension, in order to make up the prescribed minimum service.

The Government of India explained that the benefit of death-cum-retirement gratuity and family pension provided in the old pension rules scheme are really new concessions which were not contained in the old pension rules in the Civil Service Regulations. The minimum service of eligibility for these concessions was prescribed on the specific recommendation of the Central Pay Commission and once these minimum were fixed, it was considered inappropriate to lower them further indirectly by allowing benefits like condonation of deficiency etc. The restriction in regard to condonation was, therefore, deliberately imposed with the object of limiting the new benefits to cases for which they were really intended and the Government of India consider that by imposing this restriction they have not taken away any benefit which the Central Pay Commission intended to confer on any category of Government servants.

Where, however the minimum qualifying service for the eligibility for death-cum-retirement gratuity and family pension has been rendered, the question of condonation would stand on a different footing. In such cases, subject to certain conditions, condonation was allowed even under the old rules in the case of Government servants retiring on invalid or compensation pension. The same concession has merely been retained under the new pension scheme by making a specific provision in this behalf in G. I. M. F. Memorandum No. F. 3(3) 31-Est(Spl)-50, dated the 16th February 1951. [*incorporated* as Government of India's decision No. (1) below para 13 in appendix 41] No new distraction has, however, been introduced between those who retire on invalid or compensation pension and those who die prematurely while in service. In fact, the real distinction that has been drawn in between those who have rendered the prescribed minimum service for death benefits and those who have been not, the idea being that the death benefit should not become admissible to the family of a deceased officer, by condonation of any deficiency in his qualifying service, if otherwise such service was sufficient to qualify for those benefits.

[G. I. M. F. letter No. F. 5 (3) E V./54 dated, the 20th April, 1954 to the address of Secretary to Government of Saurashtra, Finance Department Rajkot.]

(9) On a question being raised whether deficiency in qualifying service for the purpose of pension should be condoned, the Government of India decided that no deficiency in the prescribed minimum qualifying service of an officer for the purposes of granting a family pension to his family should be condoned.

[Shri R.P. Padhi, Joint Secretary to Government of India, Ministry of Finance D.O.No. 1587-EV (A)/60, dated the 1st June 1960 in file No. 12 (1) EV/60.]

Audit Instructions:—(1) A deficiency in effectivie service for special additional pension cannot be condoned under this Article.

[Para 21 (*ii*) Section III of Manual of Audit Instruction (Reprint).]

(2) See Audit Instruction below Article 398.

423A. *Cancelled.*

CHAPTER XVIII—CONDITIONS OF GRANT OF PENSION.

SECTION I.—CLASSIFICATION OF PENSIONS.

424. Pensions for "superior service" are divided into four classes, the rules for which are prescribed in the following Sections of this Chapter.

(*a*) **Compensations** (*see* **Section II**).
(*b*) **Invalid pensions** (*see* **Section III**).
(*c*) **Superannuation pensions** (*see* **Section IV**).
(*d*) **Retiring pension** (*see* **Section V**).

425 Pensions for "Inferior service" are regulated by Articles 481 to 485.

SECTION II.—COMPENSATION PENSION.

***426. If an officer is selected for discharge owing to the abolition of his permanent post, he shall, unless he is appointed to another post the conditions of which are deemed to be at least equal to those of own, have the option—**

(*a*) of taking any compensation pension or gratuity to which he may be entitled for the service he has rendered, or

(*b*) of accepting another appointment on such pay as may be offered, and continuing to count his previous service for pension.

†426. If an officer is selected for discharge owing to the abolition of permanent post, he shall, unless he is appointed to another post the conditions of which are deemed by authority competent to discharge him to be atleast equal to those of his own, have the option—

(*a*) of taking any compensation pension or gratuity to which he may be entitled for the service he has already rendered, or

(*b*) of accepting another appointment or transfer to another establishment even on a lower pay, if offered, and continuing to count his previous service for pension.

Government of India's decisions.—(1) *Omitted.*

(2) A reduction in the number of men paid for piece-work and treated as having held a substantive office under Article 380, Civil Service Regulations, should be considered as an abolition of their appointments within the meaning of Article 426, Civil Service Regulations, and the saving may in such cases be calculated on the average earnings of the last six months as laid down in Rule 1, Article 486, Civil Service Regulations.

[G. I. F. D., No. 6611-P., dated the 29th October, 1903.].

(3) If an officer is transferred to a non-qualifying appointment in the interests of the public service and under orders of a competent authority, he is entitled to a compensation pension if discharged on abolition of that non-qualifying appointment.

[G.I.F.D., No. 490 dated the 21st May, 1882.]

(4) It was represented to the Government of India that if a surplus employee on re-absorption in another Defence Installation, resigned his job within a month of re-absorption, he sould not be deprived of his retirement gratuity to which he would have been otherwise eligible. It has been decided that in such cases the eligibility of the individual concerned to gratuity under :

(*a*) Article 426 Civil Service Regulations.,

(*b*) Rule 2 of the Civilians in Defence Services (Temporary Service) Rules, 1949.

(*c*) Para 4 (*a*) (*ii*) of Ministry of Defence letter No. 2 (23)-D-11/49, dated the 19th August. 1949 as amended by Corrigendum No. 20 (53)53/1775/R/D(Lab), dated the 26th June, 1953.

(*d*) Para 4 (*a*) (*i*) of Ministry of Defence letter No. 4(1)50/14965/D-11 dated the 2nd January 1951.

(*e*) Para 1(*iv*) of the Ministry of Defence, letter, No. 17(2) 53/6460/D (Civ), dated the 4th June 1953, as modified by letter No. 20(81) 53/499-I, 12/D (Lab), dated the February 1954.

(*f*) Para 1 (*i*) of Ministry of Defence letter No. 20 (69)/53/3499/R/D (Lab), dated the 9th December 1953, as modified by letter No. 20 (69)55/429-R/D (Lab.) dated the 25th February, 1954.

(*g*) Ministry of Defence letter No. 985.R/D(Lab), dated the 4th April 1954,

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*This applies to officers under the rule making control of the Secretary of State and takes effect from the 9th June, 1937.

†Applies to officers under the rule making control of the Central Government and takes effect from the 9th June, 1937.

will not be affected by his resignation. This decision is, however, subject to the following conditions :—

(*i*) If the person discharged is offered an alternative post, the conditions of which are deemed by the authority competent to discharge him to be at least equal to the post from which he is discharged and he refused to accept it, no gratuity will be paid. But if the post offered and refused is inferior to the post from which he is discharged, the gratuity will be paid ; and

(*ii*) If a temporary employee is offered a post at the time of discharge at the same place at which he was recruited, although the post may be lower than the post held by the individual at time of discharge but it is of the same grade to which he was initially recruited and he refuses such an offer the gratuity should be refused. Where there is, however, a break in service, initial recruitment would, of course, refer to the post to which the person was recruited after the break in service. But if such a post is offered outside the place of recruitment, and the individual refuses to accept it, the gratuities can only be refused if the individual was liable to be transferred to such a place in his initial appointment, at the time of recruitment. In neither of the cases one months's notice of termination of service or pay in lieu thereof will be admissible.

[G.I., Ministry of Defence No. 20(62)53/236/D(Lab-II), dated the 3rd December, 1954.]

Audit Instructions. The claim to pension or gratuity of a Government servant discharged owing to the abolition of a permanent post is not invalidated in audit by the fact that the Government servant was subsequently declared to be an enemy subject during war.

[Para 21 A Section III of the Manual of Audit Instruction (Reprint) copy received with Comptroller and Auditor General's Memo No. 203A/22-53, dated the 24th February, 1953.]

427. *Cancelled.*

Selection for discharge.

428. The selection of the officers to be discharged upon the reduction of an establishment should *prima facie* be so made that the least charge for compensation pension will be incurred,

Government of India's Instructions for retrenchment/reversion of Civilians paid from Defence Services Estimates. 1. These instructions will determine the order in which persons employed on a temporary or officiating basis in any grade in appointments paid from Defence Service Estimates should be reverted or discharged when such reversion or discharge becomes necessary either in the event of reduction in the number of posts in the grade which can be held on such basis, or for other reasons.

2. (*a*) For the purpose of these instructions, a person is said to be "educationally qualified" for a grade when he possesses the minimum educational qualifications prescribed for direct recruitment to the grade on a permanent basis. For grades or posts for which no educational qualification is prescribed, the minimum educational qualification required of the next lower grade or post from which promotion is made to that grade or post will be regarded as the prescribed educational qualification.

(*b*) The following categories of employees are referred to as "excepted categories" :—

(*i*) permanent displaced Government servants nominated or deemed to have been nominated to the grade by the Transfer Bureau of the Ministry of Home Affairs or the Tranfer Officer of the Ministry of Defence.

(*ii*) persons holding liens on permanent appointment in other grades or offices from which promotions or transfers are normally permissible.

3. Among persons who do not hold liens on any posts under Government persons who are *quasi*-permanent in respect of the grade under the Civilians Defence Services (Temporary Service) Rules 1949, shall, irrespective of the categories to which they belong, be discharged or reverted only after all those who are not *quasi*-permanent have been discharged.

Provided that between scheduled caste employees and others this instruction will be subject to the provisions of instruction 10.

Explanation ;—Persons who hold liens on permanent posts under Government and are therefore ineligible for *quasi*-permanent certificates should, if they are educationally qualified or belong to excepted categories, be [grouped along with *quasi*-permanent employees for determining the order of discharge or reversion.

4. Subject to the provisions of instruction 7 below :—

(*i*) persons who are not educationally qualified for the grade or post and who do not belong to excepted categories should, as a class, be discharged or reverted *before.*

(*ii*) those who are educationally qualified or belong to excepted categories irrespective of their age.

5. Persons in each of the two categories mentioned in instruction 4 should be divided, by the Departmental Promotion Committee/Grading Committee concerned into :—

(*a*) Outstanding,

(*b*) not outstanding but fit for permanent retention in the grade ; and

(*c*) not fit for permanent retention in the grade.

6. (*i*) In each of the categories (*i*) and (*ii*) mentioned in instruction 4 any person in category (*c*) should be discharged or reverted before any one in category (*b*) or (*a*). Persons in category (*b*) should then be discharged or reverted before any one in category (*a*) and finally those in category (*a*).

(*ii*) Within each category persons will be discharged or reverted in order of juniority unless a different rule is specified in respect of the grade concerned.

(*iii*) In the case of reversion or discharge from Selection posts, the order of reversion in each of the categories will be the reverse order of merit for permanent retention except that when two or more persons are of equal merit it will be the order of juniority among them in the grade.

7. Government will however, have the discretion to exempt from the strict operation of instruction 4 those educationally unqualified persons who have put in three years of service in the grade or in an equivalent grade (as defined in instrution 8) by the date on which the reversion or discharge is proposed to be made and retain them in the grades or posts concerned in preference to persons [other than displaced Government servants] who are educationally qualified but have been placed in a lower category. They should not, however, be retained in preference to displaced Government servants (who are educationally qualified or belong to excepted categories) irrespective of the category in which the latter may be placed nor in preference to educationally qualified persons who are placed in the same or a higher category.

It is proposed to exercise this discretion only in the case of those persons who have been graded as outstanding' by the relevant Promotion Committee /Grading Committee. These persons may be retained provisionally and their cases referred to the Government ef India, Ministry of Defence, for confirmation together with their confidential reports and records of service.

Note. The words "displaced Government servants" in this paragraph mean both permanent and temporary displaced Government servants *vide* Army Instruction No. 400 of 1951].

8. Except where a different rule regarding seniority has been or may be prescribed in consultation with the Ministry of Defence after 1st September 1949, seniority for purposes of these instructions will be determined on the basis of the length of continuous service in the grade or in an equivalent grade, service in an equivalent grade being defined as service on a rate of pay higher than the minimum of the time scale of the grade concerned. The scale of pay prescribed under the Civilians in Defence Services (Revision of Pay) Rules 1947 will be

taken as the time scale of the grade for this purposes and pay will have the same meaning as in F. R. 9(21) (reproduced below).

"9(21) (*a*) Pay means the amount drawn monthly by a Government servant as—

(*i*) the pay, other than special pay or pay granted in view of his personel 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 position in a cadre, and

(*ii*) overseas pay, technical pay, special pay and personal pay, and

(*iii*) any other emoluments which may be specially classed as pay, by the Governor General in Council."

9. Persons recruited direct to a grade also may, instead of being discharged, be reverted to a lower grade from which promotions are normally made to the grade. On such reversion their positions in the seniority list of the lower grade should be determined after counting their service in the higher grade as service in the lower grade. They should thereafter be categorised (*a*), (*b*) or (*c*) with reference to the nature of duties in that lower grade and the question of their retention in the lower grade determind in accordance with the relevant provisions of these instructions. If, inspite of the credit given in the lower grade for service in the higher grades the persons concerned are found to be junior to some of the persons already in the lower grade or placed in lower categories than the latter, they should not be retained in service in preference to such persons in the lower grade.

10. If in a grade in an office the number of persons of Scheduled Castes is less than 12½% of the posts held by direct recruits in the grade the following special instructions apply :—

Notwithstanding the provision of instructions 6 above—

(*i*) Scheduled Caste employees who are :—

(*a*) educationally qualified or belong to excepted categories and have been placed in categories (*a*) and (*b*) should be retained in preference to persons of other communities till they form 12½% among the direct recruits.

(*b*) are not educationally qualified (and do not belong to excepted categories) but are placed in catagories (*a*) and (*b*) should be retained in preference to all non-Scheduled Caste employees who are not educationally qualified or do not belong to excepted categories untill the scheduled caste employees form 12½% among the direct recruits.

Explanation :—Nothing in this Rule will prevent a Scheduled Caste employee being considered in accordance with Instruction 7 should such consideration be necessary.

(*ii*) In Armed Forces Headquarters Scheduled Caste candidates, who were recruited as clerks on or before the 31st December 1947 being educationally qualified, are eligible for confirmation without reference to the Union Public Service Commission, on their completing three years of service, should irrespective of whether they are in category (*a*), (*b*) or (*c*) be retained in service, provided the Government of India is satisfied that they are likely to prove fit for confirmation on completion of three years' service.

11: An exemption from the possession of minimum qualifications given on a special or general basis in the past should be reviewed in the light of these instructions and if the continuance of any relaxations beyond those contained in instructions 7 is considered necessary, a reference should be made to the Ministry of Home Affairs through the Ministry of Defence.

EXPLANATORY NOTES.

1. *Instruction 1.* Temporary or officiating employment includes *quasi*-permanent employment.

2. *Instruction. 2.* (*i*) The distinction to be drawn in the first instance to between educationally unqualified persons and other. "Excepted categories"

are ranked with educationally qualified persons.

(*ii*) Educationally unqualified Class IV employees promoted to clerical posts will not be covered by the term "excepted categories" unless there is a regular and recognised system of promotions from the Class IV grades concerned to such posts nor will deputationists from subordinate offices or State Governments be covered unless there is a recognised system of recruitment from those offices or Governments to the grade or post in the office in which they are employed.

3. *Instruction 3.* Persons who hold liens on posts in other grades are not eligible to be declared *quasi*-permanent in terms of the Civilians in Defence Services (Temporary Service) Rules 1949. The question of making them eligible for *quasi*-permanent status in the higher grade in which they are officiating is under consideration. Pending a decision, however, employees who are debarred from *quasi*-permanent status oniy on the ground of their holding a lien on a lower post should be treated at par with *quasi*-permanent employees of the higher grade in question.

4. *Instruction 4.* Persons in category (*i*) of instruction 4 are not eligible for the grant of *quasi*-permanent certificate. This does not therefore conflict with instruction 3.

5. *Instruction 5.* It is essential to ensure that the categorisation should be done in such a manner as to secure impartial assessment of the capabilities of Government servants and to preclude undue bias or influence. The Departmental Promotion Committee/Grading Committee competent to deal with promotions to the grade (and where there is no promotion to the grade) from the grade, should therefore be responsible for the categorisation.

6. *Instruction 6.* Paragraph 5 of the Ministry of Home Affairs' Office Memorandum No. 2320/58 NGS of 25th May, 1948 which is reproduced below may be treated as cancellcd in respect of unqualifiables (*a*) who are overage and (*b*) who can be retained under the concession in this instruction.

"*Treatment of unqualifiable persons*—It is intended that unqualifiable persons should be discharged as and when qualified or qualifiable persons become available to fill vacancies thus created. To this end, all Ministries are requested to prepare lists of unqualifiable assistants and clerks in the Secretariat and attached Offices under their administrative control and to forward such lists to the Director, Transfer Bureau, in this Ministry. A revised procedure for registration of Government employees in the Transfer Bureau has been settled and is being communicated to all Ministries in our Office Memorandum No. 30/61/48-Apptt., dated the 25th May, 1948, issuing separately.

Government of India's order. In Defence Service Civilian establisment where retrenchment/reversion is being made on the basis of juniority in service, *i.e.* without initially categorising the temporary employees into 'A' 'B' and 'C' as provided for in A. I. 107/53, Schedule Caste employees should be afforded protection from retrenchment/reversion up to the extent of 12½% of the posts held by direct recruits in the grade. In other words in the establishments left over after retrenchment/reversion, Schedule Caste candidates should be protected upto 12½% of the direct recruits in the grade.

This applies to the establishments under the D.G.O.F. also.

[Army Instruction No. 238, dated the 25th September, 1954.]

429. The discharge of one officer to make room for another better qualified is not the abolition of an appointment within the meaning of Article 426 ; the abolition must produce a real saving to Government. Particulars of the saving effected should be fully set forth in every application for Compensation pension. The saving should always exceed the cost of pension ; otherwise it may perhaps be better to postpone the reduction of establishment or abolition of appointment. (*See orders printed as appendix 8.*)

Note—The relaxation of the condition laid down in this Article requires the sanction of the Provincial Government in respect of appointments which it is competent to abolish, and otherwise of the Government of India.

Government of India's decisions :—(1) A reduced compensation pension may be granted in cases in which the savings effected by the re-organisation of

an establishment are insufficient to meet the full pension admissible under rules.

[G. I. F. D. No. 214, dated the 14th January, 1890.]

(2) In the case of men whose service qualifies under Article 380, Civil Service Regulations, a reduction in their number should be considered as an abolition of their appointments within the meaning of Article 426, and the saving in such cases should be calculated on the average earning of the last six months of service on the principle laid down in Rule 1 under Article 486, Civil Service Regulations.

[F. & C. Deptt. No. 6611-P., dated 20-10-1903]. [Para 218, India Supplement to C.S.R. (5th Edition)]

(3) A man discharged on the reduction of the establishment which causes no saving to Government cannot be granted furlough as he has then no substantive appointment nor is it possible to comply with the requirements of Article 214, Civil Service Regulations, and his case should be referred to the Government of India.

[Paragraph 220 of the India Supplement to C.S.R. (5th Edition)].

(4) Article 429, does not apply to new cases specially dealt with under Article 434 of the C. S. R.

[G. I. F. D. U. O. No. 95-R., C. S. R. dated 29-2-1915]

Auditor General's Instruction :—The saving referred to in Article 429, Civil Service Regulations, should be calculated with reference to the emoluments actually drawn at the time of the abolition of the post.

[Auditor General's No. 296-Admn. 1/76.35, dated 12-6-1935.]

Restrictions.

430. A deputy Collector, Munsiff, or similar officer who blongs to the public service apart from his particular local appointment cannot obtain a compensation pension on the abolition of a particular appointment.

431. No pension is admissible to an officer for the loss of an appointment on discharge after the completion of a specified term of service.

432. No pension may be awarded for the loss of a duty or local allowance.

433. Schoolmasters or other officers who, in addition to their other duties, are employed in any capacity in the Postal Department, are not entitled to Compensation pension on being relieved of such duties.

Special Cases.

434. If it is necessary to discharge an officer in consequence of a change in the nature of the duties of his office, the case should be referred to the Local Government, who will deal with it in accordance with the rules laid down in this Section as to notice of discharge and compensation pension or gratuity.

435. If of two appointments held by one officer only one is abolished and it is desired to give him an immediate pension in respect of the abolished post, the case should be specially referred for the orders of the Government of India or of the Provincial Government competent to abolish the appointment.

Notice of Discharge

436. Reasonable notice should be given to an officer in permanent employ before his services are dispensed with on the abolition of his office. If, in any case, notice of at least three months is not given, and the officer has not been provided with other employment on the date on which his services are dispensed with, then, with the sanction of the authority competent to dispense with, the officer's services, a gratuity not exceeding his emoluments for the period by which the notice actually given to him falls short of three months, may be paid to him, in addition to the pension to whicn he may be entitled

under Articles 474 to 481 ; but the pension shall not be payable for the period in respect of which he receives a gratuity in lieu of notice.

1. The gratuity prescribed in this Article is not granted as compensation for loss of employment but only in lieu of notice of discharge with a view to mitigate the hardship caused to an officer by the sudden loss of employment. When, therefore, an officer discharged without notice is provided with some other employment on the date on which his services are dispensed with, whether that employment be in qualifying or non-qualifying service, he is not entitled to any gratuity.

2. Unless it contains an express statement to the contrary, an order for the abolition of an office or appointment shall not be brought into operation till the expiry of three months after notice had been given to the officer whose services are to be dispensed with on such abolition. The immediate head of the office of the department will be held responsible that there is no un-necessary delay in giving such notice. In the case of an officer on leave, the order shall not be brought into operation until the leave expires.

Note.—"Emoluments" in this rule means the emoluments or leave allowances for partly the one, partly the other) which the officer would be receiving during the period in question had the notice not been given to him.

Government of India's decisions :—(1) If no pay in lieu of discharge is paid, the pension should take effcet from the date of discharge.

[Para 223 India Supplement to C. S. R. (5th Edition).]

(2) If an officer is transferred to a non-qualifying appointment in the interests of the public service and under of a competent authority, he is entitled to a compensation pension if discharged on abolition of that non-qualifying appointment.

[G. I. F. D. No. 4904, dated 30-4-1882.]

(3) A permanent Government servant served with notice of discharge shall suffer no reduction in his total emoluments for three months counting from the date of the notice.

[G. I. Fin., 34-22 P., 8-8-1893]

Auditor General's decision :—The gratuity paid in lieu of notice on abolition of an appointment should be charged to the particular department to which the pay of the appointment was debited before its abolition.

[C.G.—1445, dated 27-10-1900.]

436A. Whenever it is found necessary to determine the service of an officer serving under a contract within the period of his agreement, a specific intimation of the determination of the agreement and of the grounds on which it has been determined shall be furnished to the officer in writing.

Offer of Re-employment.

437. *Cancelled.*

438. The rule in Article 511 and 512, requiring the refund of a compensation gratuity on re-employment, applies to a gratuity awarded under Article 436, if the officer is permanently re-employed within three months from the date of notice. But the officer need not refund that proportion of his gratuity under this rule which the interval of his non-employment bears to the whole period for which the gratuity is given. If the officer is re-employed only temporarily, he need refund no part of his gratuity ; but if such temporary employment is foreseen, the gratuity should be proportionately reduced.

439. *Cancelled.*

Acceptance of new Appointment.

440. If an officer who is entitled to Compensation pension accepts instead another appointment in the public service and subsequently becomes again entitled to receive a pension of any class; the amount of such pension shall not be less than he could have claimed if he had not accepted the appointment.

Government of India's decision : The term "pension" as used in Article 450, Civil Service Regulations. includes gratuity and that Article applies in cases coming under Article 398 (*b*) either to the pension or gratuity on the superior scale or the gratuity on the inferior scale.

[G.I.F.D. No. 6364-P., dated 28th February 1894.]

SECTION III.—INVALID PENSION.

441. An invalid pension is awarded, on his retirement from the public service, to an officer who by bodily or mental infirmity is permanently incapacitated for the public service, or for the particular branch of it to which he belongs.

Rules Regarding Medical Certificates.

442. Except as provided under Article 448, an officer applying for an invalid pension shall submit a medical certificate of incapacity in the manner specified below :

(*a*) **If the officer submitting the application is on leave elsewhere than in India, then the examination shall be arranged through the Indian Missions abroad by a Medical Board consisting of a Physician, a Surgeon and an Ophthalmologist each of them having the status of a consultant. The services of doctors approved for the officers and staff of the Mission concerned shall be utilised for this purpose provided they fulfill the above conditions. A lady doctor shall be included as a member of the Medical Board whenever a woman candidate is to be examined.**

(*b*) **If the officer submitting the application is in India, then the examining medical authority shall be—**

(1) **a Medical Board, in the case of all Gazetted Govenment servants and those non-Gazetted Government servants whose pay as defined in Rule 9 (21) of the Fundamental Rules, exceeds Rs. 500 per mensum ;**

(2) **a Civil Surgeon or a District Medical Officer or Medical Officer of equivalent status in other cases.**

(*c*) **Except in the case of the officer on leave elsewhere than in India, no medical certificate of incapacity for service may be granted unless the applicant produced a letter to show that the head of his office or department is aware of his intention to appear before the Medical Officer. The Medical Officer shall also be supplied by the head of the office or department in which the applicant is employed with a statement of what appears from official records to be the applicant's age. Where the applicant has a service book, the age there recorded should be reported**

(*d*) **In the case of civilians in the various administrative service and departments of the Indian Army including the Military Accounts Department who, under an agreement, are liable for field service, in capacity for service, must be established by a military Medical Board the members of which will attest the medical certificate.**

Government of India's decisions :— (1) *Omitted.*

(2) It has been decided that so far as the Indian Posts and Telegraphs Department is concerned the Superintendent Mental Hospital, Thana and the Superintendent Mental Hospital, Yarvada should be recognised as equivalent to a Medical Officer in charge of the Civil Station for the purpose of Article 442 (*d*) of the Civil Service Regulations in respect of mental diseases only.

[F. A. Communication's endorsement No. 190 8-41, dated the 5th June, 1941 and 4 190-17-142 dated 18-10-1942.]

(3) See Government of India's decision No. (4) below Rule 6 of the Civil Pensions (Commutation) Rules.

(4) A few cases have recently come to notice in which Government servants or candidates for service who were declared unfit by Civil Surgeons/ individual medical officers or Medical Boards have appealed against the findings on the strength of admissible medical opinion long after they were declared unfit in the first instance or discharged from service. In view of the fact that it is not possible to keep the posts open indefinitely for such Government

servants or candidates for service without causing serious administrative inconvenience, it has been decided that Government servants or candidates for Government service who are declared unfit by Civil Surgeons/individual medical officers/Medical Boards should, if they desire to appeal against such decisions, do so together with the requisite evidence in support of their case within one month from the date of issue of the communication in which the findings of the medical officers/Medical Boards are communicated to the candidate/ Government servant.

[G. I. Ministry of Health Memo No F. 7 (1)-10/53M II. dated the 1st May 1953]

(5) A question has arisen whether the fees paid by a Government servant to a Medical Officer/Medical Board outside India in connection with his medical examination for purposes of invalidment from service under Article 442 of the Civil Service Regulations should be reimbursed to him by Government. It has now been decided that such fees should be reimbursed to the Government servant concerned, irrespective of the fact whether the medical examination is held in India or outside.

In so far as persons serving in the Indian Audit Department are concerned, these orders have been issued in consultation with the Comptroller and Auditor General of India.

[G. I. Ministry of Health Memo No. 7 (1)-16/53-M, II, dated the 27th August, 1953]

443. (*a*) **A succinct statement of the medical case, and of the treatment adopted should, if possible, be appended.**

(*b*) **If the Examining Medical Officer, although unable to discover any specific disease in the officer, considers him incapacitated for further service by general debility while still under the age of fifty-five years, he should give detailed reasons for his opinion, and, if possible, a second medical opinion should always in such a case be obtained.**

(*c*) **In a case of this kind, special explanation will be expected from the head of the office or department of the grounds on which it is proposed to invalid the officer.**

Government of India's decision : – The requirement of Article 443 C. S. R. need not be insisted upon in the case of an inferior servent invalided for general debility while his age is less than 55 years and the medical officer certifies him to be of over that age.

[Paragraph 229 of the India Supplememt to C. S. R. (5th Edition)]

444. A simple certificate that inefficiency in due to old age or natural decay from advancing years, is not sufficient in the case of an officer whose recorded age is less than fifty-five years, but a Medical Officer is at liberty, when certifying that the officer is incapacitated for further service by general debility, to state his reasons for believing the age to be understated.

Government of India's decision : – (*i*) Senile cataract, arterail changes consequent on senile decay, general nervous-breakdown, and commencing cataract may be treated as specific diseases as they may come before a man reaches the 55th year of his age.

(*ii*) The pension of an officer retiring before he attained the age of 55 years on an invalid pension due to incipient cataract is not subject to reduction under Article 478 (*a*), Civil Service Regulations, as his incapacity is due to a specific disease and not to old age and natural decay.

[Paragraph 230 India Supplement to C.S.R. (5th Edition)].

Form of Medical Certificate elsewhere than in India.

445. The form of medical certificate given by the Medical Board arranged by the Indian Mission abroad, respecting an officer applying for invalid pension while on leave elsewhere than in India, shall be as follows :

"We have carefully examined Mr. .....taking into account all the facts of the case as well as his present condition, we consider that he is incapable of discharging the duties of his situation, and that

such incapabiliity is likely to be permanent. His incapacity does not appear to us to have been caused by irregular or intemperate habits."

Note :—If the incapacity is obviously the result of intemperance, substitute for the last sentence. "In our opinion his incapacity is the result of irregular or intemperate habits".

(If the incapacity does not appear to be complete and permanent, the certificate should be modified accordingly and the following addition should be made.)

We are of opinion that A/B, is fit for further service of a less laborious character than that which he has been doing (or may, after resting for.....months, be fit or further service of a less laborious character than that which he has been doing.

446. If any doubt arises regarding the validity of a certificate by the Medical Board arranged by the Indian Mission aboard the Audit Officer must not of his own motion reject the certificate as invalid but must submit the matter for the decision of the Local Government.

Note.—The Local Government may delegate its power under this Article to Heads of Departments.

Form of Medical Certificate in India.

447. (*a*) **The form of the certificate to be given respecting an officer applying for pension in India is as follows :—**

"Certified that I (we) have carefully examined *AB* **son of** *C. D.* **a _____ in the _____ His age is by his own statement _____ years, and by appearance about _____ years. I (we) consider** *A. B.*, **to be completely and permanently incapaciated for further service of any kind in the Department to which he belongs in consequence of** (*here state disease or cause*). **His incapacity does not appear to me (us) to have been caused by irregular or intemperate habits."**

Note.—If the incapacity is the result of irregular or intemperate habits the following will be substituted for the last sentence :

"In my (our) opinion his incapacity—is directly due to / has been accelerated or aggravated by—irregular or intemperate habits."

"(*If the incapacity does not appear to be complete and permanent the certificate should be modified accordingly and the following addition should be made* :)

I am/we are of opinion that *A. B.* **is fit for further service of a less laborious character than that which he has been doing [or may, after resting for ____ months, be fit for further service of a less laborious character than that which he has been doing.]**

(*b*) **The object of the alternative certificate (of incapacity), is that an officer should, if possible, be employed even on lower pay, so that the expense of pensioning him may be avoided. If there be no means of employing him even on lower pay, than he may be admitted to pension ; but it should be considered whether, in view of his capacity for partially earning a living, it is necessary to grant to him the full pension admissible under rule.**

447A. (*a*) **In the case of civilians in the various administrative services and departments of the Indian Army including Military Accounts Department who, under an agreement are liable for field service, and whose continuous and pensionable service is not more than 20 years, the medical certificate will take the following form if the officer is incapaciated from permanent physical unfitness to fulfil his field service obligations but is not completely incapacitated for ordinary service :—**

Certified that I (we) have carefully examined *A. B.* **son of**

C. D. **a——in the——. His age is by his own statement ——years and by appearance about——years. I (we) consider** *A. B.*, **to be incapacitated for further service in the——in consequence of** (*here state disease etc.,*) **which renders him permanently unfit physically for field service. I am (we are) of opinion that** *A. B.* **is fit for further service in any department or service of Government in which liability for field service is not a condition of employment. His incapacity does not appear to me (us) to have been caused by irregular or intemperate habits.**

Note :—If the incapacity is obviously the result of intemperance, the following will be substituted for the last sentence.

"In my (our) opinion his incapacity is the result of irregular or intemperate habits."

(*b*) **The above certificate does not give an officer any right of transfer to any other Government service or department, and an officer invalided on a certificate in this form will receive either full pension admissible under rule or such smaller amount as may be decided by the authority empowered to sanction the pension.**

Auditor General's decision. There seems to be nothing in Rules in Article 447A to suggest that when a officer is medically declared unfit for a post but is fit for further service of a less labourious character than that which he has been doing, he should not be admitted to the pension if he refuses to accept the employment even on a lower pay offered to him. The option of accepting employment on a lower pay in such cases should lie with the officer as in the case of Government servant who is selected for discharge owing to abolition of permanent post under Article 426-B.

[Comptroller and Auditor General U. O. No. 1539-A 1/376-59 of 11/59.]

Signallers in the Telegraph Department.

448. (*a*) **In the case of Signallers in the Indian and Indo-European Telegraph Departments the medical certificate prescribed by Article 447 may, if it is found after medical examination that it cannot be granted, be dispensed with in special cases when inefficiency is not the result of misconduct and instead of it two certificates.—**

(*i*) **one in form A signed by two superior Officers of the Telegraph Department ; and**

(*ii*) **the other in form B signed by the Director-General of the Telegraph=may be substituted.**

Form A.—"We certify that, after a perusal of the records of *AB's* **service and of the report of his immediate superior during the last twelve months of his service, we are satisfied that he is permanently incapacitated for the duties of a Signaller in the Telegraph Department."**

Form B.—After a careful consideration of *A. B's.* **case, I concur with Messrs** *C* **and** *D* **in thinking that he is permanently incapacitated for the duties of a Signaller in the Telegraph Department and accordingly recommend that he may be permitted to retire on the pension or gratuity for which he may be found eligible."**

(*b*) **The practice enjoined in Article 447** (*b*) [**and 453**]* **of re-employing pensioners should be carefully followed as far as practicable in these cases.**

(*c*) **Officers permitted to retire under this Article may be granted a pension or gratuity of only four-fifths of the amount that would be admissible for a man permanently unfit for any duty.**

Note 1—This Article applies to men who are 'Signallers' including in that term Telegraph Masters who are members of the signalling staff, when they retire.

*The words in brackets occurring in Article 448(*b*) do not apply to officers under the rule-making control of the Central Government.

Note 2.—The provisions of this Article shall not apply to Signallers in the Indian Telegraph Department who are recruited on or after the 6th July, 1957.

Special Precautions in the Police.

449. District Superintentendents of Police should be on their guard against endeavours to retire on invalid pension by officers who are capable of serving longer.

450. Medical Officers should confine themselves to recommending leave to such policemen as are not likely to benefit by a further stay in hospital and should not certify that a policeman is incapacitated for further service unless they are officially requested to report upon his incapacity for further service.

451. Medical Officers should be specially searching in their examination of the physical unfitness of every applicant for pension, and, however the number of applicants for pension is large, the examination should, if possible, be conducted by two Medical Officers.

Restrictions.

452. An officer discharged on other grounds has no claim under Article 441, even although he can produce medical evidence of incapacity for service.

453. *Cancelled.*

454. If the incapacity is directly due to irregular or intemperate habits, no pension can be granted. If it has not been directly caused by such habits, but has been accelerated or aggravated by them, it will be for the authority by which the pension is grantable to decide what reduction should be made on this account.

Government of India's decisions. (1) The mere fact that an officer has suffered from syphilis taken by itself is not sufficient to bring him under the operation of this Article.

[G. I. F. D. 3896, dated 22-8-1899.]

(2) Unsoundness of mind caused by drug habits is a sufficient cause for invalding an officer.

[Para 231, India Supplement to C. S. R. (5th Edition)].

(3) The views of the Government of India regarding cases in which retirement is due to invaliding on account of syphilis are clearly expressed in Financial Department letter No. 4421, dated the 8th November, 1904, to the Punjab Government. The decision in each case must be left to sanctioning authority. The audit officer should certify the applicant's title to pension or gratuity with some such provision as the following :—

> "Provided the sanctioning authority is of opinion, on consideration of the medical certificate and other evidence as to habits and character, that the incapacity has not proved to be caused by irregular or intemperate habits."

[G. I. F. D. No. 5031 P., dated 31-8-1908].

(4) The expression 'irregular or intemperate habits' occurring in this Article refers to incapacity on account of drug habit or on account of diseases resulting from immoral habits. Cases where incapacity occurs due to other causes *e. g.* work at irregular hours during War and after, due to exigencies of service and not due to own violation do not come under the purview of this Article.

[G. I. M. F. U. O. No. 6382-E. V/48, dated 13-10-48].

Applicant to be discharged.

455. An officer who has submitted under Article 442 a medical certificate of incapacity for further service shall, if he is on duty, be invalided from service from the date of relief of his duties, which should be arranged without delay on receipt of the medical certificate or, if he is granted leave under the Note below Article 827-A, on the expiry of such leave. If he is on leave at time of submission of the medical certificate, he shall be invalided from service on the expiry of

that leave or extension of leave, if any, granted to him under the Note below Article 827-A.

Government of India's decisions :—

(1)]
(2) |
(3) } *Omitted.*
(4) |
(5)]

(6) A Government servant was retained in service even when he was found medically unfit. Although his retention was irregular the Government of India held that as he was retained in service and actually discharged duties of his post retention should be regularised by issue of *ex-post facto* sanction and he should be paid the pay of the period of his duty.

[G. I. M. F. U, O No. D-2636-EV/53, dated the 20th April 1953.]

(7) See Government of India's decision No. (17) below Article 49.

456. *Deleted.*

457. *Deleted.*

SECTION IV.—SUPERANNUATION PENSION.

458. A Superannuation pension is granted to an officer in superior service entitled or compelled, by rule, to retire at a particular age.

459. (*a*) (*i*) **Ministerial officers who have attained the age of 55 may be required to retire, but should ordinarily be retained in service so long as they remain efficient until they come under the provisions of clause** (*e*).

(*ii*) **A ministerial officer, who entered Government service on or after the 1st April, 1938, or who being in Government service on the 31st March, 1938 did not hold lien or a suspended lien on a permanent post on that date, must not be retained after the age of 55 years except on public grounds, which must be recorded in writing, and he must not be retained after the age of 60 years except in very special circumstances. The power to retain such an officer after the age of 55 years but not after 60 years will be exercised by heads of departments, provided that extensions are limited to a period of one year at a time.**

(*b*) **Officers, other than ministerial, who have attained the age of 55, should ordinarily be required to retire, and should not be retained in service except where unquestionable public grounds for retention exist which must be recorded in writing, and there is no doubt as to the physicalfitness of the officer.**

(*c*) **Each officer's case should be taken up when he is approaching the age of 55 and before the expiry of each extension of service. Extensions may not be granted for any period exceeding one year at one time.**

(*d*) **The powers given by the preceding clauses may be exercised by the authority competent to fill the appointment (if vacant) of the officer who is required to retire or retained in service.**

(*e*) **An officer who has attained the age of 60 cannot be retained in the service of Government save in very exceptional circumstances, and with the sanction of the Local Government.**

(*f*) **No claim to compensation from an officer who was required to retire under the provisions of this Article will be entertained.**

Note.—The provisions of this Article do not apply to officers referred to in the Note under Article 550.

Government of India's decisions :—(1) Government Pleaders are not subject to the operation of Article 459 (*a*), Civil Service Regulations, which is a rule for compulsory retirement on pension of officers who have attained the age of 55 years.

[G. I. F. D. No. 1855, dated the 25th April, 1896.]

(1-A) *Omitted.*

(IAA) Government have had under consideration for some time past the question whether the age of compulsory retirement of Government servants should be raised above 55 years.

2. It has now been decided and the President is pleased to direct that the age of compulsory retirement of Central Government servants should be 58 years subject to the following exceptions :-

(*i*) The existing rules under which ministerial Government servants recruited before 1-4-1938 are to be retained in service upto the age of 60 years subject to their continuing to be efficient and physically fit after attaining the age of 55 years will remain in force.

(*ii*) The age of compulsory retirement for those categories of class IV staff who are at present entitled to serve upto the age of 60 years including new entrants should continue to be 60 years.

(*iii*) Government servants who are on leave preparatory to retirement on the 1st December, 1962 will not be entitled to the benefit of the increased age of compulsory retirement unless they are permitted to resume duty after the appointing authority is satisfied that they are efficient and physically fit.

3. Scientific and technical personnel may be given extension of service beyond the age of 58 years subject to their fitness and suitability for work.

4. Those who have already retired before the 1st December, 1962 or who are on refused leave on the 1st December, 1962 beyond the date of their compulsory retirement are not entitled to resume duty under these orders. However, those who on 1st December. 1962 are on refused leave beyond the date of compulsory retirement may be re-employed, if fit.

5. Persons on extension of service on the date of issue of these orders may be allowed to continue in service upto the age of 58 years.

6. Notwithstanding anything contained in the foregoing paragraph, the appointing authority may require a Government servant to retire after he attains the age of 55 years on three months notice without assigning any reason. This will be in addition to the provisions already contained in rule 2(2) of the Liberalised Pension Rules 1950, to retire an officer who has completed 30 years qualifying service, and will normally be exercised to weed out unsuitable employees after they have attained the age of 55 years. The Government servant also may. after attaining the age of 55 years, voluntarily retire after giving three months notice to the appointing authority.

7. These provisions will have effect from 1st December, 1962.

[G. I. M. Affairs Memo : No : 33/18/62-Ests (A), dated the 30th November 1962.]

Note :—It has now been decided that the Ministry of Finance need not he consulted in cases even where it is proposed to grant two year's extension of service at a stretch to any technical personnel on their attaining the age of 58 years *i. e.* extension of service to the age of 60 years.

[G.I.M H. Affairs Memo. No. 33/25/62 Est (A), dated the 15th March 1963]

(IAAA) Certain points which have been raised in connection with decision No: (IAA) above are clarified as under :-

(A) PARA 2 (*i*) OF DECISION NO : (IAA)

Clarification has been sought as to the real significance of the term "ministerial Government servants recruited before 1st April. 1938." That category covers the ministerial Government servants who are governed by the provisions of F. R. 56 (*b*) (*i*) *i. e.* those ministerial Government servants, who, being in Government service on the 31st March. 1938, held a lien or a suspended lien on a permanent post on that date. Officers of this category will, after they attain the age of 55 years be retained in service on a year to year basis. It is not the intention that they should be automatically kept in service upto the age of 58 and thereafter retained till they attain the age of 60 years on years to year basis.

(B) PARA (6) OF DECISION NO. : (IAA)

Enquiries have been made whether the three month's notice can be served by Government on a Government servant on or before he completes the age of 55 years. As has been already mentioned in the decision there is a provision in the Liberalised Pension Rules to retire an officer who has completed 30 years' qualifying service, after giving three months' notice. That position remains unaltered. Government could if it so desired dispense with the service of an employee who is governed by those rules, and who has completed 30 years' qualifying service prior to attaining the age of 55 years after giving him 3 months notice. In addition to this Government has now the option to dispense with services of an employee after he has attained the age of 55 years after giving him three months' notice.

[G. I. M. Affairs Memo : No 33/18/62 Ests (A), dated the 31st December 1962]

(2) *Omitted.*

(3) In the case of an officer whose year of birth is known but not the exact date, the Local Government may adopt the rule that the 1st July should be treated as the date of birth for the purpose of determining when he should be held to attain the age of 55 years. Similarly, if only the year and month of birth are known, the 16th of the month is taken to be the exact date of birth for purpose of pension.

[G.I. Fin., No. 3836 P., dated 3-10-1896, and G.I.F.D. No. 7455-P., dated 24-12-1907.]

(4) With reference to Fundamental Rules 56 and 86, the Government of India have decided that the grant of leave to an officer who has attained the age of 55 years under Rules 86 automatically carries with it the extension of service required.

[G. I. F. D. No. 520/521, C. S. R., dated the 31st. May, 1922].

(5) The grant under Fundamental Rule 86, of leave extending beyond the date on which a Government servant must compulsorily retire, or beyond the date up to which a Government servant has been permitted to remain in service shall be treated as sanctioning an extension of service upto the date on which the leave expires.

[G. I. F. D. Resolution No. 1194-C.S.R., dated the 22nd October, 1922.]

(6) *Omitted.*

(7) It has been decided, following the practice in the Indian Army, that in cases in which the documents referring to the previous military service do not give the definite date of birth but only the age stated at the time of attestation, the Government servant concerned should be assumed to have completed the stated age on the date of attestation *e. g.*, if an ex-soldier was enrolled on 1st January, 1910 and if on that date his age was stated to be 18, his date of birth should be taken as 1st. January, 1892.

For the sake of uniformity of practice, it has also been decided that the method given in above paragraph should also be followed in cases where a person enters civil employ without having rendered any military service and is unable to give his date of birth but give his age. The procedure indicated in the above paragraph will apply only to cases arising in future *i. e.*, on or after the 20th May, 1938. Cases in which the date of birth has already been determined by a different method are not to be reopened.

[G. I. F. D. No. F. 6(23)-R. II/38, dated the 20th May, 1938.]

(8) and (9) *Omitted.*

(9-A) All industrial employees in the Government of India Presses shall be treated as non-ministrial. The existing substantive (permanent) incumbents of industerial posts hitherto treated as Ministerial will, however, retain their status as ministerial employees for so long as they hold these posts or other ministerial posts.

[Controller of Printing and Stationery India, Memo. No. 42/40-51-A (1), dated the 13th March 1952.]

(10) Having regard to the policy of the Government of India in the matter of continuance in service of officers beyond the date of their compulsory retire-

ment, which has been made clear to the Ministries etc., on more than one occasion in the recent past, and to the objects which the instructions contained in *paragraph 6 (reproduced as footnote on this page) of Home Ministry's Office memo. No. 30/6/48-Appts, dated the 25th May, 1948, were intended to serve namely the creation of more openings for displaced Government servants and retrenched temporary Government employees, it is hereby affirmed that those instructions were intended to, and do, extend to cases of grant of extensions of service also. Each case of extension of service should also, therefore. be referred to Home Ministry for prior approval. A reference to the Federal. (*now* Union) Public Service Commission should in addition, be made in case where this may be necessary in accordance with the instructions contained in †para 9 (reproduced as a footnote on this page) of Home Ministry's Office Memorandum No, 33/46-Ests (R), dated the 17 the June, 1946. The exercise of powers to grant extensions of service delegated to Heads of Departments, etc. under Appendix A to the Chaudri's Compilation of the Fundamental and Supplementary Rules shall also be subject to requirements of prior reference to and the concurrence of the Ministry of Home Affairs.

In this connection it may be added that Home Ministry are as a matter of policy averse to the grant of extensions of the service to superannuated officers save in case of the most exceptional nature. They consider that where due to the shortage of trained and experienced personnel it is deemed essential in the public interest to retain the services of an officer about to be superannuated, the proper procedure would be to retire the officer concerned and offer him re-employment for a limited period. Proposals for the grant of extensions of service should therefore be made only in cases where the expedient of re-employment after retirement is, for some exceptional and unavoidable reasons (to be stated), not found practicable.

The Ministry of Home affairs would also like to take this opportunity to emphasise the extreme necessity of proposal for the re-employment of, or the grant of extensions of service to superannuated officers being referred to them well in advance of (say, 3 month, from) the crucial date. The Ministry would ordinarily decline to entertain any such porposals submitted at the eleventh hour.

[Ministry of Home Affairs Memo; No. 23/20/49 Ests, dated 12-8-1949 circulated with G.I.M.F. endorsement No. D 6119 EV/49, dated the 7th September 1949].

(10A), (10B) *Omitted.*

(10—C) The age of compulsory retirement of workmen in civil establishments was prescribed as 60 years *vide* Memorandum No. F. 7 (37)-EV/49, dated 7-8-51. The orders contained in that Office Memorandum also provide that after a workman has attained the age of 55 years. the Head of Office shall undertake an annual or other periodical review of each case, and if at any time he considers any workman to be physically unfit to continue in service, he will have him examined by an appropriate medical authority, to be decided in consulation with the Ministry of Health. Since it has been found that this procedure results in delays in the finalisation of such cases, the President has been pleased to decide that in further such cases need not be referred to the Ministry of Health for decision as to the medical authority who should examine the workman concerned, and that the appropriate medical authorities should be determined as in para 2 below.

A workman whose pay, if fixed, or whose maximum pay in the time scale prescribed under the Central Civil Services (Revision of Pay) Rules,

*"6. It is also necessary in order to create more opening for the employment of priority categories that Ministries should scrutinize carefully cases of superannuated persons and not re-employ such persons except where it is clearly in the public interest to do so. In order that a uniform policy may be followed in this matter, it is requested that Ministries should refer to this (*Home*) Ministry all proposals for the re-employment of suparannuated persons."

1947 does not exceed Rs. 110 per month should be regarded as a Class IV Government servant for the purpose of determining the appropriate medical authority.

[G.I M.F. Memo; No. F. 48 (6)-EV/58 dated the 21st August, 1958 as amended by memo: of even number dated the 30th May 1963]

(10D) *Not printed*

(10E) A point has been raised whether it is necessary to consult the Ministry of Home Affairs in cases of grant of extension of service/re-employ ment to Government servants beyond the age of 60 years. Appendix A to the Chaudri's Compilation of Fundamental and Supplementary Rules and Article 520 of the C. S. R. read with Appendix 1 of Civi Service Regulations specify the powers which have been delegated to the Ministries/Heads of Departments/Union Territories/Administrations in this regard. The principles and procedure for retaining Government servants in service beyond the age of superannuation are stated in decision No. (10) above. F.R.56(*a*) contemplates that a Government servant should not normally be retained in service after the age of 60 years and that it would be only in very special circumstances that such retention should be allowed on public grounds. The Union Public Service Commission is not consulted before granting extension of service to Class I and Class II officers. In order to ensure uniformity of policy in this matter, it has been decided that in all cases/where it is proposed to give an extension of service/re-employment to Class I and Class II officers beyond the age of 60 years such cases should be disposed of in consultation with the Ministry of Home Affairs.

[G. I. M. H. Affairs Memo No. 33/13/59-Ests (A) dated the 13th March 1962.]

(10F) A question has been raised whether the incumbents of Posts which have been classified by the Committee of Secretaries as Scientific or Technical, could be granted extension/re-employment beyond the age of superannuation provided they are fit to be continued in service without satisfying the conditions laid down in para 2 (2) of decision No (10) above.

The matter has been examined and it is considered that in view of the shortage of trained and experienced scientific and technical personnel in the country and the likelihood of such shortage continuing for some years the test of public interest which has to be applied in deciding whether an individual Government servant should be retained in service beyond the age of superannuation is satisfied for the scientific and technical categories as a whole. It is not necessary for scientific and technical personnel to satisfy the other conditions laid down in para 2 (2) of decision No (10) above before they can be granted extension or re-employment. Such personnel may normally be granted extension/re-employment beyond the age of superanuation provided they are found fit for further retention in service. It would not, however, be desirable to continue in service persons who are inefficient, lacking in integrity, or otherwise unfit for further service.

[G. I. M. H. Affairs Memo. F. 33/1/62-Ests. (A) dated the 20th March 1962.]

(10G) A question has been raised as to what should be the procedure for retention in service of State Government officers on deputation to the Government of India who, while on deputation, attain the age of 55 years. At present, if the administrative Ministry considers that in the public interest it is necessary to retain in service a deputationist from a State Government after he has attained the age of 55 years, the State Government is moved in time to grant an extension of service to the officer. After receiving such a sanction all the formalities prescribed for the grant of an extension beyond the age of superannuation to an officer of the Central Government are observed * * *

The continuance of such officers in the Central Government should normally be on a re-employment basis as the officers on deputation are evidently holding a post outside their cadre. This position is far from satisfactory. It is odd to ask an officer to continue on re employment basis under the Central Government after the State Government where he holds a lien has agreed to

grant him an extension of service. It is equally inappropriate to sponsor the case of an officer on deputation under the Central Government to the State Government for the grant of extension of service, when it is known that, during the grant of extension of service, when it is known that, during the extended period the services of the officer will not be available to the State Government and the State Government cannot confirm another officer in his place. In view of these considerations it has been decided that in future in such cases it should be left to the officer concerned to approach his parent Government for grant of service. If the parent Government allows the extension, the officer may continue service on deputation terms as already settled and the formalities for the grant of extension need not be observed. If the parent Government does not allow an extension and it is considered necessary in the interest of public service to continue the officer under the Government of India it should only be on re-reemployment' basis and the necessary formalities in this regard should be observed.

[G. I. M. F. Affairs Memo : No. 33/11/62-Ests (A), dated the 12th June 1962.]

(10H) It was stated in decision No. (10—E) above that all cases where it is proposed to give an extension of service/re-employment to Classes I and II officers beyond the age of 60 years. Such cases should be disposed of in consultation with the Ministry of Home Affairs. A question has been raised whether Home Ministary is also required to be consulted in cases where initial appointments or persons are made to Classes I and II posts after the age of 60 years even on a purely temporary basis.

It has been decided that all cases of employment, whether it is a case of first employment in Government service, re-employment or extension of service, of persons after they have attained the age of 60 years to Class I and Class II posts even on a purely temporary basis should in future be disposed of in consultation with Ministry of Home Affairs.

[G.I.M.H. Affairs Memo : No. 33/8/62-Ests (A), dated the 20th September 1962-]

(11) Question has been raised whether the period of extension of service granted to an officer can be curtailed subsequently.

2. Three classes of cases involving different principles arise. Firstly there is the case where an extension order under Fundamental Rule 56 [*corresponds* to Article 459 C. S, R.] has been made and communicated to a Government servant but the order has not become effective in the sense that he has not yet reached the age of compulsory retirement. In such a case it is open to the authority making this order to cancel or modify it (*e. g.* by substituting six months for one year, on the grounds that in view of the changed circumstances brought about by the cessation of hostilities or by other factors it has become unnecessary to extend the service or, as the case may be, to extend it by as much as one year. This cancellation or alteration should be made and communicated to the Government servant before he reaches the age of compulsory retirement.

3. Secondly, there is the case where the extension has been granted for a specified period and the order has already taken effect, in such a case it is considered that it would not be proper to modify the order subsequently. Government are committed to retaing the officer for the specified period and cannot dispense with his service before the expiry of that period except on disciplinary grounds.

4. Thirdly there is the case where a Government servant who has retired from service has been re-employed for a specified period from the date of retirement. He is practically an officer on a short-term contract and unless he has been expressly told-that his service may be dispensed with at any time during the specified period by giving notice or otherwise his employment cannot be terminated prematurely.

5. In the class of cases referred to in para 3 above, there would be no objection to the permature termination of the services of the officer concerned if the order granting him the extension contained a clause providing for termination of service by, say, three month's notice, at any time within the period of

extension. In view of this position, Departments may consider it desirable to provide for a notice clause in all cases of extension of service.

[G. I. H. D. Memo. No. 445/45-Ests., dated 28-11-1945.]

(11-A) In para 4 of the Minsitry of Home Affairs Office Memoradum No. 26/6/52-Ests., dated the 11th November 1952, it was laid down that the cases of Ministerial Government servants who are governed by F. R. 56 (*b*) (*i*) should be reviewed periodically between the ages of 55 and 60 years to ensure that they are retained in service beyond the age of 55 years if they continue to be efficient. The matter has been under further consideration of Government who have decided that—

(*a*) a high standard of efficiency should be insisted upon for allowing such a ministerial Government servant to continue in Service beyond the age of 55 years, and the competent authority should consider the case of each individual on the basis of the standard at periodical reviews, say once a year ;

(*b*) an annual medical examination of such ministerial Government servants who satisfy the standard referred to at (*a*) above should be held to determine their physical fitness and mental alertness, and their continuance in service beyond the age of 55 years should be subject to their being declared physically fit as a result of such an examination. [*See decision No. (12) below this Article.*]

2. At the periodical reviews mentiond in (*a*) above the competent authority should prepare, after consultation with the appropriate Departmental Promotions Committee, if one exists :—

(*i*) a list of Ministerial Government servants as are considered efficient and suitable for further retention in service. Such persons may be retained in service for a period not exceeding one year at a time, subject to their being declared physically fit as a result of the annual medical examination referred to in (*b*) above.

(*ii*) A list of such persons as are not considered suitable for retention in service beyond the age of 55 years or after the expiry of the period beyond the age of 55 years for which their retention has been previously approved.

Every person whom the competent authority decides to retain in service as in (*i*) above should be informed that such retention (up to a date to be specified) will be subject to his continued efficiency, for which the competent authority will be the sole judge.

Every person whose name is included in list (*ii*) or who is not declared physically fit as (*i*) above should be informed in advance that he has the option either to retire with effect from the date to be specified or to proceed on such leave preparatory to retirement as he may apply for and may be admissible and granted to him. Such leave will in no case extend beyond the date of his attaining 60 years.

[G. I. M. H. Affairs Memo No-33/10/53-Est., dated the 17th July, 1954.]

(11-B) It is laid down in decision No. (11-A) above that ministerial Government servants governed by F. R. 56(*b*) (*i*) and allowed to continue beyond the age af 55 years should undergo annual medical examination to determine their physical fitness and mental alertness. It has been decided that the medical examination should be conducted by a Civil Surgeon or a District Medical Officer or a Commissioned Medical Officer in case of non-gazetted officers and by a Medical Board in case of gazetted officers. The authority conducting the medical examination should take into account the normal deterioration in health and physical fitness likely to occur during the course of service rendered by the employee and determine whether he is reasonably healthy and has the capacity of continuing to discharge the duties expected of ministerial employee.

The medical examination should normally be conducted about 4-6 weeks before date of officer's attaing the age of 55 or the date upto which his

retention has already been sanctioned. If the result of the medical examination is adverse, the retirement will ordinarily become effective not from the date which the medical examination takes place but from the date of attainment of the retention beyond the age of 55 years. In the event of result of the medical examination not becoming availabe before the relevant date, the employee may be continued in service until the result becomes available.

Where on consideration of efficiency or of physiscal fitness or mental alertness, it is decided not to retain in service a ministerial employee governed by F. R. 56 (*b*)(*i*), he may at the discretion of competent authority, be granted any leave preparatory to retirement which he may desire to take and may be due to him. In such cases the retirement will become effective from the date on which the leave preparatory to retirement expires.

[G. I. M. H. Affairs Memo. No. 30/10/53.Ests. (A), dated the 29th September, 1954]

(11-C) Decision No. (11-A) and (11-B) prescribe annual medical examination for assessing the physical fitness and mental alertness of ministerial Government servants governed by F. R. 56 (*b*) (*i*) for continuance in service beyond the age of 55 years. The Ministry of Home Affairs have had under consideration the form in which the medical authorities should be asked to report their opinion on such ministerial Government servants. It has now been decided that the following form should be used for the purpose.

FORM OF MEDICAL CERTIFICATF FOR THE MEDICAL EXAMINATION OF MINISTERIAL GOVERNMENT SERVNTS GOVERNED BY F. R. 56 (*b*) (*i*) FOR RETENTION BEYOND THE AGE OF 55 YEARS.

Signature of the candidate

Shri / Shrimati _____ son / daughter/wife of _____ a _____ in the Ministry/Department / Office of _____ _____ whose signature is given above and find that he/she is / is not reasonably healthy and has / has not the physical capacity and mental alertness for continuing to discharge srtisfactory the duties expected of a ministerial employee of his / her grade for one more year.

Date

Members of the Medical Board/Civil Surgeon of

Note. (1) While recording his/their opinion, the certifying Medical Officer/Board should make due allowance for natural physiological processes due, to age consistently with the physical and mental requirements for continuance of the candidate in service in the post he/she holds.

[G. I. M. H. Affairs Memo : No. F. 38/4/55 Ests. (A), dated the 3rd February, 1956.]

Note. 2. Ths grounds for the rejection of a candidate should be briefly stated.

[G. I. M. H. Affairs No. 38/4/55 Ests (A), dated the 24th January, 1957.]

(11D) Home Ministry's Office Memorandum No. 33/46-Ests (R), dated the 17th June 1946 provides *inter alia* for setting up of Departmental Promotion Committee for assessing the suitability and merit of candidates for purposes of promotion to selection posts *i.e.* posts which are to be filled on the basis of merit with due regard to seniority. It was also laid down in of Home Affairs decision No. (11-A) below Article 459 that the suitability for retention beyond the age of 55 of ministerial Government servants governed by F. R. 56 (*b*) (*i*) should be determined in consultation with the appropriate Departmental Promotion Committee. Enquiries have been received in this Ministry whether the Departmental Promotion Committee should be consulted on (*i*) the suitability of direct recruits and Departmental promotees for confirmation, (*ii*) promotions to non-selection posts based on seniority subject to the rejection of the unfit, and (*iii*) suitability for retention beyoned the age of 55 of ministerial Government servants governed by F. R. 56(*b*)(*i*), irrespective of whether they are holding selection posts or non-selection posts. In order

to ensure that a uniform procedure in this respect is followed in all Ministries/ Departments, the following general instructions are issued :—

A. *Confirmations.* (*a*) All cases of confirmations should be referred to a Departmental Promotion Committee. Both confirmation and denial of confirmation involve assessment of the work done by the officer concerned, and such assessment can best be done by the Departmental Promotion Committee.

(*b*) In considering the claims of promoted officers for confirmation, the Departmental Promotion Committee will be guided by the principles set forth in paragraph 1 (*iii*) of Home Ministry's Office Memorandum No. 11/55/-RPS dated the 17th, February, 1955. An Officer promoted to officiate earlier on the recommendation of a D. P. C. will therefore be entitled to earlier confirmation than others so promoted later provided that he has maintained his efficiency. In such a case, the question of the *relative efficiency* of these officers or of their categorisation as 'outstanding' 'very good,' or 'good' for the purpose of confirmation, would not arise.

(*c*) While considering the suitability of officers recruited directly through the Union Public Service Commission for confirmation the Departmental Promotion Committee will similarly be guided by the performance of the direct recruit and, provided the earlier direct recruit has come up to expectations, he will be entitled to confirmation earlier than later recruits.

Note.—(1) It may happen that an earlier recruit may have been appointed against a purely temporary vacancy whereas a later recruit may have been recruited against a permanent or likely to become permanent vacancy. In such cases direct recruits of the same category should be compared for the purpose of determining the order of confirmation. Direct recruits appointed to temporary vacancies cannot, therefore, be compared with direct recruits appointed to permanent vacancies or vacancies advertised as likely to become permanent for this purpose and cannot have any perference over the later on the ground of having been recruited earlier.

Note—(2) In the case of persons appointed initially on an *ad hoc* basis by the Ministry/Department and who are approved or recommended for appointment by the Commission subsequently against the direct recruitment quota, the date of the Commission's letter re-commending for appointment or concurring in or regularizing their appointment, as the case may be, should be deemed to be the date of Commission's recommendations. The previous service rendered by them will not, therefore be taken into account for determining the priority for confirmation.

Note—(3) As among direct recruits recommended at the same selection by the Union Public Service Commission the order of merit and not the date of joining will determine priority for confirmation.

(*d*) If cases of confirmation of direct recruits and departmental promotees are referred at the same time to the Departmental Promotion Committee, that Committee should be informed of the number of permanent vacancies available for confirmation of direct recruits and departmental promotees in accordance with the quotas prescribed in the recruitment rules. The Departmental Promotion Committee will recommend the required number of direct recruits and departmental promotees separately for each category. Here again, the question of assessing relative merit of the various officers will not arise.

B. *Promotions.* Where promotions are made on the basis of seniority subject to the rejection of the unfit, a dicision has to be taken on the suitability of each individual officer for such promotion although there is no need for a comparative evaluation of their respective merits. It is desirable that a decision on the fitness or unfitness of an officer is taken by the Departmental Promotion Committee instead of by an individual officer. Such promotions also may, therefore, invariably be referred to the Departmental Promotion Committee.

C. *Retention.* Suitability of ministerial Government servant governed by Fundamental Rule 56 (*b*) (1) for retension in service beyond

the age of 55 has to be decided in the light of an assesment of his record of service. Such assesment can best by done by a Departmental Promotion Committee. For this purpose, it would make no difference whether the person is holding a selection post or a non-selection post all such cases, therefore, should be referred to a Departmental Promotion Committee.

D. *Association of a member of the U. P. S. C. with the departmental promotion committee.* A Member of the Union Public Service Commission need not be associated with the D. P. C. for assessing the suitability of officers for promotion to non- selection posts or for determining the suitability of an officer for retention in service beyond the age of 55. The Commission should, however, be associated in all cases whenever the Departmental Promotion Committee is assembled for purposes of confirmation of officers, whether direct recruits, or promotees, in services and posts recruitment to which falls within their purview. In addition, where a reference to the U. P. S. C. is necessary in any such case under the Union Public Service Commission (Exemption from Consultation) Regulations or in terms of Home Ministry's O. M. No. 18/64/49/-Ests., dated the 13th January, 1951, such reference should be made to them together with the recommendations of the Departmental Promotion Committee. In cases falling under para 2(*ii*) of the above Office Memorandum, *viz* : where recruitment was made to posts which were temporary in the first instance but which became permanent subsequently. the Commission would decide whether the post should be advertised or whether the officer recommended by the D. P. C. may be confirmed.

[G.I.M.H Affairs Memo : No. 1/9/58-RPS., dated the 16th May 1959].

(12) In para (*b*) of decision No. (11—A) it has been laid down that ministerial Government servants who are governed by F. R. 56 (*b*)(*i*) should be subjected to a medical examination every year in order to detemine their physical fitness and that their retention in service beyond the age of 55 years should be conditional on their being declared physically fit as a result of such examination.

The matter has been since further examined. Experience of the last three years reveals that only a very small number (2½%) of these employees have been declared medically unfit There is, therefore, no special force in subjecting this entire class of employees to an annual medical examination as a matter of course. On the other hand, the public interest could be adequately met by restricting the medical examination to cases where the employing authorities have reason to believe that lack of physical fitness stands in the way of proper discharge of official duties by the Government servants concerned,

It has accordingly been decided that while the annual review by the competent authrity prescribed in para 1 (*a*) of the above Office Memorandum should continue as before in order to ensure that every ministerial officer, who is allowed to remain in service beyond the age of 55 continue to maintain a high standard of efficiency, there need not be an annual medical examination in every case. Where, however, the competent authorities have reason to believe *prime facie* that the state of an officer's physical health is not up to the required standard, it will be open to them to direct that the officer in question should undergo a medical examination and produce a certificate of fitness. The procedure for this medical examination will be the same as prescribed in decision No. (11—A) above.

(13) Some cases have come to the notice of Finance Ministry in which certain State Government servants who had been on deputation with the Government of India applied for leave preparatory to retirement in sufficient time before the date of their compulsory retirement and the same was refused

on the grounds of exigencies of public service without consulting the State Government concerned. As the grant of refused leave after the date of compulsory retirement involves the automatic grant of an extension of service to the Government servant concerned for a corresponding period, which in turn besides causing administrative complications in the matter of confirmations etc, involves financial implications in the shape of increased pensionary charges and the payment of leave salary, in some of the cases referred to them, the State Government concerned declined to bear the aforesaid financial liability on the ground that they had no say in the refusal of the leave to the Government servants concerned. This caused hardship to the Government servants concerned and embarrassment to the Government of India. In order to avoid recurrence of such cases, Ministeries are requested to ensure that the State Governments concerned are invariably consulted before leave preparatory to retirement is refused to any of their employees on deputation with the Central Government on the ground of exigencies of public service under Fundamental Rule 86 or rule 7 of Revised Leave Rules, 1933, as the case may be. If the State Government do not agree to the refusal of such leave or refuse to bear the extra pensionary liability that might be involved thereby, the proper course would be to grant the leave preparatory to retirement applied for and concurrently to re-employ the Government servant concerned in his existing post, under the provisions of Fundamental Rule 69. The leave salary of such a Government servant shall be subject to such restrictions as the Sate Government concerned may impose.

The procedure prescribed in paragraph I above will also apply, *mutatis mutandis*. in the case of Central Government servants on deputation from one department (including a commercial department) of that Government to another.

[G. I. M. F. Memo, No, F. 7 (84)—Est IV/57. dated the 31st. October, 1957.]

(14) See Government of Indla's decision No. (3) below Article 465A.

(15) The question has arisen whether the age of superannuation in the case of displaced ministerial Government servants from West Pakistan areas who were holding permanent posts under their respective provincial Governments in a substantive capacity from before the 1st April, 1938 but who have since been employed under the Central Government in a temporary capacity, should be deemed ordinarily to be 60 years under F. R. 56 (*b*) (*i*), (*Corresponds to Article 459 (a) (i) of C. S. R.*) or 55 years under F.R. 56 (*b*) (*ii*), [*Corresponds to Article 459 (a) (ii) of the C. S. R.*] which would be normally applicable to them *qua* temporary Central Government servants who entered such service on or after the 1st April 1938.

It has been decided that it would be reasonably, and in confirmity with the parctice whereunder service rendered by displaced Government servants in Provinces which are now in West Pakistan areas is treated as service under the Government of India for purposes of seniority etc., to regard permanent Government service in such areas as permanent service under the Government of India for purposes of F. R. 56 [*Corresponds to Article 459 of C.S.R.*] with the result that ministerial Government servants who were in permanent Government service in areas in West Pakistan from before the 1st April, 1938, should be governed in the matter of age of superannuation by F. R 56 (*b*) (*i*) [*Corresponds to Article 459 (a) (i) of the C. S. R.*]

[G. I. M. F. Memo No. 26/15/49-Ests, dated the 11th June, 1950 and Army Instruction No : 141 of 1950]

(16) The Government of India have had under consideration the question whether a ministerial Government servant, who is required to retire between the ages of 55 and 60, is entitled to avail himself of leave perparatory to retirement to the extent due and admissible to him under the rules. It has now been decided that whatever right to leave prepartory to retirement a ministerial Government servant had before the age of 55, he continues to retaine it even beyond that age. Except for the general over-

riding condition that no Government servant can claim leave of any nature as a matter of right, there is nothing to prevent the grant of leave preparatory to retirement to such a ministerial Government servant. Consequently whenever it is decided to retire a ministerial Government servant compulsorily between the ages of 55 and 60 there is no objection to the date of his retirement being so fixed by the competent authority that the leave, if any, which such authority may grant at his discretion could be enjoyed between the date on which the decision to retire him is taken and the date on which he is required to retire.

In so far as persons serving in the Indian Audit and Accounts Department are concerned this decision has been arrived at in consultation with the Comptroller & Auditor General.

These orders will have effect from the date of issue and past cases should not be re-opened.

[G. I. M. F. Memo : No : F. 7 (49)—Est, IV/50, dated 22nd September 1950 as modified by Memo ; of even number dated the 9th February 1953].

(17) Audit Instruction (1) below Fundamental Rule 56 provides that where Government servant holding a permanent post substantively officiating in another post, clauses (*a*), (*b*) and (*c*) (*iii*) of that rule should be applied according to the character of the post in which he is officiating, and not according to the character as the permanent post held substantively by him.

Recently doubts were felt in certain quarters about the correct interpretation of the said Audit Instruction. It was contended that the Audit Instruction referred to merely debarred a person from continuing in a non-ministerial post, whether in a permanent or officiating capacity, beyond the age of 55 years or after the expiry of a period of extension thereafter but that if such a person wished to revert to his permanent ministerial post beyond the age of 55, and if Government themselves were agreeable, there was nothing in the Audit instruction to prevent this course being adopted.

The Government of India have given careful consideration to the matter and have reached the conclusion that the correct interpretation of the said Audit Instruction is that which has been hitherto current *viz*, that the date of compulsory retirement of a Government servant who is the substantive holder of a ministerial post and is governed by clause (*b*) (*i*) of F. R. 56 but who is officiating in a non-ministerial post is the date on which he attains the age of 55 years. If such a person would like to become eligible for retention in service beyond that date, he must revert to a ministerial post before he actually attains the age of 55 years. Further, if having been appointed to officiate in a non-ministerial post before the date on which he attains the age of 55 years, such a person continues so to officiate beyond that date by virtue of necessary extension of service granted to him, or if, by a similar process, he is appointed to officiate in a non-ministerial post after he has attained the age of 55 years, he must compulsorily retire on the expiry of the term of extension of service granted to him which would include period of refused leave actually availed of, if any. He cannot thereafter claim either to revert to a ministerial post and continue in service in such a post, or to avail himself of leave of any description.

[G.I.M.F Memo No F. 22 (1)-EV/53, dated the 14th April 1953.]

(18) Persons holding non-ministerial posts whether in an officiating or substantive capacity are required to retire on reaching the age of 55 unless granted extension of service. The rules, however, do not specifically prohibit an officer officiating in a nonministerial post from reverting to a ministerial post immediately before he attains the age of 55 : and if he is permitted to do so, he can thereafter continue in the ministerial post upto the age of 60 if he is governed by F.R. 56(*b*)(*i*), subject to his being physically fit and maintaining the requisite standard of efficiency (*vide* decision No. 14, below Article 465-A). Reversion to a lower ministerial post after a long period of service in the higher posts has disadvantages likely to affect an officer's efficiency and the question whether it should be formarlly prohibited is under consideration.

The problem would not, however, arise if confirmations in higher posts were made sufficiently quickly, *i. e.* within two years continuous officiation in the higher posts. On general grounds of morale and contentment of the services also, it is desirable that employees should not be kept on an officiating basis for too long. The Home Ministry therefore desires that every effort should be made to ensure that as many as possible of the officers officiating for long periods should be expeditiously confirmed in those posts. For this purpose, full advantage should be taken of the Finance Ministry's orders that 10% of the posts likely to be required on an indefinite basis should be made permanent. Where necessary posts required in different branches or establishments could be grouped together and a combined cadre treated with a permanent strength based on the requirements of all the branches or establishments concerned. This would enable fluctuations in the requirements of any of those branches or establishments to be accomodated in others and a larger permanent strength being sanctioned than would be the case if a cushion for possible reductions had to be provided separately in each smaller unit.

[G. I. M. H. A. Memo : No. 33/10/53-Ests. dated the 16th February 1955].

(19) See Government of India's decision below Article 416.

(20) *Omitted.*

(21) and (22) *Not printed.*

(23) A question has been raised whether the retirement of a Government servant is automatic on the date on which he attains the age of compulsory retirement or some specific orders by a competent authority are necessary specifying the date on which they should retire.

The rules regulating the age of superannuation or the terms and conditions of service may provide for the compulsory retirement of a Government servant on his attaining a specific age or after completion of a specified period of service. In all such cases retirement is automatic and in the absence of specific orders to the contrary by the competent authority a Government servant must retire on the due date. It is the responsibility of the administrative authorities concerned to ensure that the Government servants under their control so retire. The date of compulsory retirement of a Government servant is known in advance and there should be no question of failure to make arrangements for his relief sufficiently in advance and complete any formalities required in that behalf. For this purpose, the authorities concerned should maintain a proper record of the dates of retirement of the Government servants working under them and take such appropriate action as may be necessary for their retirement on the due dates.

At the same time, a Government servant cannot take advantage of the non-receipt of formal orders regarding his relief etc. to say that he has been granted an extension of service. If the Government servant desires to take any leave preparatory to retirement he will naturally apply for it in good time. If not, he should bring the fact that he is attaining the age of superannuation or completing the period of service after which he has to retire to the notice of the head of the office in which he is serving or if he is himself the head of the office to that of his immediate superior. Unless he receives specific orders that he should continue in service he should make over charge on the due date to the head of the office (or such officer as may be nominated by the later), or if he is himself the head of the office to the next senior-most officer in the office who would normally be placed in charge of the office in his absence.

[G.I.M.H. Affairs Memo ; No. 33/6/56 Ests. (A) dated the 10th December 1956]

(24) A question has been raised whether it is necessary to notify the retirement of a Gazetted Officer—

(*i*) who on attaining the age of superannuation is 're-employed' from the same date and time ; or

(*ii*) who proceeds on leave preparatory to retirement ; or

(*iii*) who retires on attaining a specific age or after completing a specified

period of service

It has been decided that as all events occurring in the history of service of a Gazetted Officer are required to be notified in the official gazette, the retirement of a Gazetted Officer should also be notified in all the three cases mentioned above. In the case, however, of the notification of a case of leave preparatory to retirement, a second notification that the officer is retiring on a particular date after enjoying this leave will not be necessary.

[G.I.M.H. Affairs Memo : No. 33/6/56-Ests (A), dated the 9th April 1957.]

(25) A doubt has been raised whether a Government servant whose date of birth is 1-12-1907 and who was to retire on 1-12-1962 on attaining the age of 55 years is eligible for the benefit of enhanced age of compulsory retirement. It has been clearly provided in para 4 of decision No. (IAA) above that Government servant who have already retired before 1-12-62 will not be entitled to resume duty under the orders contained in decision No (IAA) above. As a Government servant whose date of retirement was 1-2-62 would have actually performed duty till 30-11-62 (the term 'duty' means duty as distinguished from leave preparatory to retirement), he cannot be regarded as having retired *before* 1-12-62. It is accordingly clarified that a Government servant whose date of birth is 1-12-1907 is eligible for the benefits envisaged in decision No. (IAA) above. If such a Government servant has been retired on 1-12-62, he should be called back to duty immediately, and the period of absence regularised by the grant of leave of the kind due and admissible.

[G.I.M.H. Affairs Memo : No. 33/8/63-Ests (A), dated the 4th May 1963]

(26) G. I. decision No. (1 AA) on page 277 provides that with effect from the 1st December, 1962, the age of compulsory retirement of Central Government servants shall be 58 years, and to convey the clarification that the restriction imposed by Fundamental Rule 86 or corresponding other rules shall operate in the case of Central Government servants on the date of their attaining the age of 58 years only.

Consequently, the action already taken under Fundamental Rules 86 (*a*) or corresponding other rules taking the age of 55 years as the age of compulsory retirement in respect of Government servants who were in service on the 1st December, 1962 would be imperative. The leave which was treated as lapsed or would have lapsed on their attaining the age of 55 years in accordance with the then existing orders would now be re-vived and such Government servants will also continue to earn and to enjoy leave under the normal rules till they reach the age of 58 years.

The leave that could be carried forward by such Government servants beyond 55 years of age in terms of the proviso to Fundamental Rule 86 (*a*) or corresponding other rules will cease to have the attributes of refused leave and shall not automatically be granted to them as such, on their attaining 58 years of age. For purposes of that rule, therefore, the Government servants should formally apply again for leave preparatory to retirement in sufficient time before they attain the age of 58 years. If the leave so applied for is refused in the public interest, they may be granted such refused leave after the age of 58 years. In view of the extended age of retirement, leave preparatory to retirement should now be refused most sparingly.

In the case, however, of a Government servant who has already retired after the 1st December, 1962 on his attaining the age of 58 years or who has less than six months to attain such age from the date of issue of these orders the refused leave, if any, carried forward beyond 55 years of his age under Fundamental Rule 86 (*a*) or corresponding other rules will not lapse. The Government servant may be granted, after his attaining the age of 58 years, the refused leave to the extent admissible to him on his attaining the age of 55 years, reduced by the amount of leave, if any, availed of by him out of such refused leave between the ages of 55 and 58 years *plus* the leave, if any, applied for as preparatory to final cessation of duties and refused in the interest

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The problem would not, however, arise if confirmations in higher posts were made sufficiently quickly, *i. e.* within two years continuous officiation in the higher posts. On general grounds of morale and contentment of the services also, it is desirable that employees should not be kept on an officiating basis for too long. The Home Ministry therefore desires that every effort should be made to ensure that as many as possible of the officers officiating for long periods should be expeditiously confirmed in those posts. For this purpose, full advantage should be taken of the Finance Ministry's orders that 10% of the posts likely to be required on an indefinite basis should be made permanent. Where necessary posts required in different branches or establishments could be grouped together and a combined cadre treated with a permanent strength based on the requirements of all the branches or establishments concerned. This would enable fluctuations in the requirements of any of those branches or establishments to be accomodated in others and a larger permanent strength being sanctioned than would be the case if a cushion for possible reductions had to be provided separately in each smaller unit.

[G I. M. H. A. Memo : No. 33/10/53-Ests. dated the 16th February 1955].

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(23) A question has been raised whether the retirement of a Government servant is automatic on the date on which he attains the age of compulsory retirement or some specific orders by a competent authority are necessary specifying the date on which they should retire.

The rules regulating the age of superannuation or the terms and conditions of service may provide for the compulsory retirement of a Government servant on his attaining a specific age or after completion of a specified period of service. In all such cases retirement is automatic and in the absence of specific orders to the contrary by the competent authority a Government servant must retire on the due date. It is the responsibility of the administrative authorities concerned to ensure that the Government servants under their control so retire. The date of compulsory retirement of a Government servant is known in advance and there should be no question of failure to make arrangements for his relief sufficiently in advance and complete any formalities required in that behalf. For this purpose, the authorities concerned should maintain a proper record of the dates of retirement of the Government servants working under them and take such appropriate action as may be necessary for their retirement on the due dates.

At the same time, a Government servant cannot take advantage of the non-receipt of formal orders regarding his relief etc. to say that he has been granted an extension of service. If the Government servant desires to take any leave preparatory to retirement he will naturally apply for it in good time. If not, he should bring the fact that he is attaining the age of superannuation or completing the period of service after which he has to retire to the notice of the head of the office in which he is serving or if he is himself the head of the office to that of his immediate superior. Unless he receives specific orders that he should continue in service he should make over charge on the due date to the head of the office (or such officer as may be nominated by the later), or if he is himself the head of the office to the next senior-most officer in the office who would normally be placed in charge of the office in his absence.

[G.I.M.H. Affairs Memo ; No. 33/6/56 Ests. (A) dated the 10th December 1956]

(24) A question has been raised whether it is necessary to notify the retirement of a Gazetted Officer—

(*i*) who on attaining the age of superannuation is 're-employed' from the same date and time ; or

(*ii*) who proceeds on leave preparatory to retirement ; or

(*iii*) who retires on attaining a specific age or after completing a specific

period of service

It has been decided that as all events occurring in the history of service of a Gazetted Officer are required to be notified in the official gazette, the retirement of a Gazetted Officer should also be notified in all the three cases mentioned above. In the case, however, of the notification of a case of leave preparatory to retirement, a second notification that the officer is retiring on a particular date after enjoying this leave will not be necessary.

[G.I.M.H. Affairs Memo : No. 33/6/56-Ests (A), dated the 9th April 1957.]

(25) A doubt has been raised whether a Government servant whose date of birth is 1-12-1907 and who was to retire on 1-12-1962 on attaining the age of 55 years is eligible for the benefit of enhanced age of compulsory retirement. It has been clearly provided in para 4 of decision No. (IAA) above that Government servant who have already retired before 1-12-62 will not be entitled to resume duty under the orders contained in decision No (IAA) above. As a Government servant whose date of retirement was 1-2-62 would have actually performed duty till 30-11-62 (the term 'duty' means duty as distinguished from leave preparatory to retirement), he cannot be regarded as having retired *before* 1-12-62. It is accordingly clarified that a Government servant whose date of birth is 1-12-1907 is eligible for the benefits envisaged in decision No. (IAA) above. If such a Government servant has been retired on 1-12-62, he should be called back to duty immediately, and the period of absence regularised by the grant of leave of the kind due and admissible.

[G I.M.H. Affairs Memo : No. 33/8/63-Ests (A), dated the 4th May 1963]

(26) G. I. decision No. (1 AA) on page 277 provides that with effect from the 1st December, 1962, the age of compulsory retirement of Central Government servants shall be 58 years, and to convey the clarification that the restriction imposed by Fundamental Rule 86 or corresponding other rules shall operate in the case of Central Government servants on the date of their attaining the age of 58 years only.

Consequently, the action already taken under Fundamental Rules 86 (*a*) or corresponding other rules taking the age of 55 years as the age of compulsory retirement in respect of Government servants who were in service on the 1st December, 1962 would be imperative. The leave which was treated as lapsed or would have lapsed on their attaining the age of 55 years in accordance with the then existing orders would now be re-vived and such Government servants will also continue to earn and to enjoy leave under the normal rules till they reach the age of 58 years.

The leave that could be carried forward by such Government servants beyond 55 years of age in terms of the proviso to Fundamental Rule 86 (*a*) or corresponding other rules will cease to have the attributes of refused leave and shall not automatically be granted to them as such, on their attaining 58 years of age. For purposes of that rule, therefore, the Government servants should formally apply again for leave preparatory to retirement in sufficient time before they attain the age of 58 years. If the leave so applied for is refused in the public interest, they may be granted such refused leave after the age of 58 years. In view of the extended age of retirement, leave preparatory to retirement should now be refused most sparingly.

In the case, however, of a Government servant who has already retired after the 1st December, 1962 on his attaining the age of 58 years or who has less than six months to attain such age from the date of issue of these orders the refused leave, if any, carried forward beyond 55 years of his age under Fundamental Rule 86 (*a*) or corresponding other rules will not lapse. The Government servant may be granted, after his attaining the age of 58 years, the refused leave to the extent admissible to him on his attaining the age of 55 years, reduced by the amount of leave, if any, availed of by him out of such refused leave between the ages of 55 and 58 years *plus* the leave, if any, applied for as preparatory to final cessation of duties and refused in the interest

of public service, subject to a maximum of six months in all.

Fundamental Rule 86 (*b*) or corresponding rules will apply only in cases of retention in service beyond 58 years.

A Government servant who is required to retire or who himself chooses to retire under para 6 of decision No. (1AA) on page 277 may be allowed the leave due and admissible to him provided it does not extend beyond the date on which he attains the age of 58 years. If the leave is allowed to be availed of before the expiry of the period of notice or unexpired period of notice, as the case may be, and the leave should run cocurrently.

[G-I.M. F. Memo. No. F. 7-1 (27)-Est.IV(A)/62, dated 29-3-63 as amended by Memo : of even number dated 21-8 63]

(27) The President is pleased to decide that subject to the right of Government to retire any officer on 3 months notice after he has attained the age of 55 years, the pre-1938 ministerial officers governed by F. R. 56(*b*) (*i*) should also be continued in service like all other Government servants (except those whose age of retirement is 60) upto the age of 58 years without an annual order senctioning their retention. After the age of 58 years and till they attain the age of 60 years, however, such an annual order would be necessary. There will, howevere, be a review in the case of all employees (whether pre-1938 or post-1938) to assess their suitability for retention beyond the age of 55 years. Instructions detailing the procedure for conducting this review are being issued separately. In view of this, the date of compulsory retirement of a Government servant who is the substantive holder of a ministerial post and is governed by clause (*b*)(*i*) of F. R. 56 but who was officiating in a non-ministerial post on 1st December, 1962 or who may have been appointed to officiate in such a post after this date, will be the date on which he attains the age of 58 years. If such a person would like to become eligible for further retention in service under F. R. 56(*b*)(*i*) or the grant of any leave (including leave preparatory retirement) extending beyond that date, he must revert to a ministerial post before he actually attains the age of 58 years.

2. In respect of those Section Officers of the Central Secretariat Service officiating in Grade I who are pre-1938 entrants and who have elected Class II status in the Section Officers' Grade, it has been decided, in partial modification of paragraph 5(2) of Home Ministry's order No. 3/12/60-CS (A) dated the 24th January, 1961, that they may, if they so elect, be allowed to revert to Section Officers' Grade before the age of 58 years (instead of 55 years) and to avail of the concession of retention in service beyond that age as Section Officers, under F. R. 56(*b*)(*i*).

3. A question has also arisen whether in view of the above decision, pre-1938 ministerial Government servants who are governed by F. R. 56(*b*)(*i*) and who had been promoted to officiate in highr non-ministerial posts but who subsequently reverted to their substantive ministerial posts at their request, before attaining the age of 55 years, in order to be further retained in service under F. R 56(*b*)(*i*) and who have not yet attained the age of 58 years, can now be re-promoted to the non-ministerial posts and allowed to continue therein upto that age. The President is pleased to direct that such Government servants should, subject to the rejection of those whose work has deteriorated, be considered for inclusion in the existing panel or select list for promotion. In the event of their being found fit for inclusion in such existing panel or select list, they shall be eligible for promotion to the non-ministerial appointments, subject to the availability of vacancies, until they attain the age of 58 years. In case such repromoted officers wish to continue in service beyond the age of 58, under F. R. 56(*b*)(*i*) they will have to revert to their permanent ministerial appointments before actually attaining that age.

[G.I M.H. Aflairs Memo. No. 33/2/63-Ests (A), dated the 31st December 1963.]

Audit Instruction : – When a Government servant is required to retire, revert, or cease to be on leave, on attaining a specified age, the day on which he attains that age is reckoned as a non-working day and the Government servant must retire, revert, or cease to be on leave (as the case may be) with

effect from and including that day. This rule applies to all Government servants, Civil, Military or Naval.

[Para. 2, Chap. IX Sec. I of Manual of Audit Instructions (Reprint).]

460. An officer, who is compelled to retire under the preceding Article, or who retires voluntarily under Article 464, and part of whose service has been Inferior, is entitled to pension on the same conditions as if he had been invalided under Article 481, and to the option allowed by Article 398.

Government of Indias decision :—An officer claiming a superannuation pension for his superior service under Article 464 can, under Article 398, also be granted a separate invalid gratuity for his inferior service previously rendered by him without submitting a medical certificate of unfitness for further service.

[G. I. Fin. No, 1194P., dated 17-3-1896.]

461. and 462 *Cancelled.*

463. *Omitted.*

Optional Retirement at Fifty-five.

464. An officer in Superior scrvice who has attained the age of 55 years may, at his option retire on a Superannnation pension.

Government of India' decisions :—(1)A person is not debarred from availing himself of the concession in Article 464, C.S.R. simply because he did not exercise his option immediately on attaining the age of 55 years and consequentlly he cannot be considered as retiring on grounds of inefficiency if he retires of his own accord when the extension is over. The question when an officer above 55 years of age retires on grounds of inefficiency under Article 459, C S R., or at his own option under Article 464 is one of fact and it should be recorded on the pension application in accordnce with Article 912, C.S.R.

[Paragraph 251 of India Supplement to C.S.R. (5th Edition).]

(2) Personnel recruited locally in Missions abroad are also subject to the provisions of F. R. 56 (*b*) (*ii*) irrespective of the fact whether they are India based or are appointed on local rates of pay.

[G. I, M. F No. 1597-EV/49, dated 12-3-1949 and E. A. and C. R. Ministry's U. O. No. 1180-E-II/49, dated 3-3-1949.]

SECTION V.—RETIRING PENSION.

465. A retiring pension is granted to an officer who is permitted to retire after completing qualifying Superior service for thirty years or such less time as may for any special class of officers be prescribed.

Note— Government servant who has elected to retire under this Article and has given necessary intimation to that effect to the competent authority, shall be precluded from withdrawing his election subsequently except with the specific approval of the authorit, competent to fill the appointment provided his request for withdrawl is made within the intended date of his retirements.

Government of India's decision :—The Government of India have considered with reference to Articles 458, 464, and 465 Civil Service Regulations, the question of the right of an officer who has completed his qualifying service for pension to retire at his option. They recognise that an officer who has reached the age of superannuation can exercise the right without objection; but the case of an officer who has not reached the prescribed age although he has qualified for pension under Article 465, Civil Service Regulations appears to be on a different footing. They are of opinion that unless the contrary is definitely laid down in an agreement made with the officer or in standing orders relating to his particular service, the latter is bound to obey the orders of Government if in the interest of the public service they require him to serve for a longer period than that qualifying for pension and that if he disobeys such orders he is subject to such penalities as the Government may choose to impose. It is clearly logical that if an officer at his option can remain in service after completing the period qualfying for pension, Government should be able to detain him, should circumstances arise making it

necessary in the interest of the public service for him to continue in employment, until he reaches the age of superannation and there is nothing in the wording of Article 465, Civil Service Regulations, inconsistent with this view.

[G. I, F. D. No. 94-C.S.R. dated 30-1-1917.]

465A. For officers mentioned in Article 349A, the rule for the grant of retiring pension is as follows :—

(1) An officer is entitled; on his resignation being accepted, retiring pension after completing qualifying service of not less than 25 years or in the case of officers of Imperial Service of the Forest. Geological Survey, Public Works, Railway and Telegraph Departments and any others covered by Article 635 who entered the service before the 6th day of December; 1932, not less than twenty years.

(2) A retiring pension is also granted to an officer who is required by Government to retire after completing twenty-five years' qualifying service or more.

Note. 1. Government retains as absolute right to retire any officer after he has completed twenty-five years' qualifying service without giving any reasons, and no claim to special compensation on this account will be entertained. This right will not be exercised except when it is in the public interest to dispense with the further service of an officer.

Note 2—In the case of an officer who was in the service on or before the 15th November 1919 and who fulfils the conditions of clause (1) of this Article, acceptance of his resignation will in no circumstances be deferred beyond a period of six months from the date on which his application to resign was submitted.

Note 3. A Government servant who has elected to retire under the Article and has given necessary intimation to the effect to the competent authority, shall be precluded from withdrawing his election subsequently except with the specific approval of the authority competent to fill the appointment : provided his request for withdrawal is made within the intended dated of his retirement.

Government of India's decisions —(1) Note 2 under Article 465 A, C. S. R. which was introduced with the new pension rules announced on the 15th November, 1919 reserved to Government an absolute right to decline to permit, an officer to retire before reaching the age of superannuation, should it be necessary in the public interest to retain his services. This note has, it is understood; led members of the services to fear that it may in the future be difficult to secure permission to retire before the age of superannuation. Indeed, certain officers have, it is believed, on this account refused to accept the new pension rules. In order to allay this apprehension, it has been decided ;—

(*a*) in the case of officers in service on 15th November, 1919 to substitute for the rule in Note 2 under Article 465A, C.S. R., a rule giving them the right to retire subject to 6 months' notice, and.

(*b*) in the case of officers who have joined or who may join service after that date, to substitute for the rule in Note. 2, a new rule corresponding to the rule in Article 561, C. S. R., which has always been applicable to the members of the I. C. S., and permitting them to retire on pension under the ordinary rules when their resignation has been accepted.

An officer who may have desired to elect to come under the provisions of the new pension rules, because of his objection to this note, may now elect in writing before 31st March, 1922 to do so. This option applies also to any person, who may have retired already after the announcement of new pension terms in November, 1919.

[G.I.F.D No. 1155 C.S.R dated 22-11-1921.]

(2) The right conferred by Note 1 to Article 465 A, C.S.R. is intended to be exercised only against an officer whose efficiency is impaired, but against whom it is not desirable to make formal charges of inefficiency, or who has ceased to be fully efficient but to such a degree as to warrant his retirement on compassionate allowance. It is not the intention to use the provision of the Note as a financial weapon, that is to say, the provision should be used only in

the case of officers who are considered unfit for retention on personal as opposed to financial grounds.

The word "Government" in the note should be interpreted to mean "the authority which has the power of removing the officer concerned from service under the Civil Services (Classification, Control and Appeal) Rules" and the note only applies to officers mentioned in Article 349A., C.S.R.

[G.I.F.D. No. F. 6/LXXXV-R. II/33. dated 1-11-1931]

(3) A question was raised whether Note 1 below Article 465-A, C.S.R. applies to Government servants holding posts on Contributory Provident Fund terms. It was decided that Article 465-A is applicable only to those officers who hold posts mentioned in the list below Article 349-A *ibid.* Since both Article 349-A and 465A occur in the Chapter relating to pensions the question o application of provisions of Note below Article 465-A, C.S.R. in the case of officers holding posts on Contributory Provident Fund basis does not arise.

[Shri C. B. Gulati, Peputy Secretary, Ministry, of Finance D.O. No. D-2947-E.V-A/57, dated 13-7-1957 to the address of Shri C.A. Subramanian, Deputy Secretary, Works. Housing and Supply Ministry, File. No. 7 (33)-EV/57.]

(4) See para 2 of the Government of India's decision No. (1) below para 2 of Appendix 41.

465AA.—For officers referred to in Article 349AA the rule for the grant of retiring pension is as follows :—

(1) An officer is entitled, on his resignation being accepted, to a retiring pension after completing qualifying service of not less than 30 years.

(2) A retiring pension is also granted to an officer who is required by Government to retire after completing 25 year's qualifying service or more.

Note—Government retains an absolute right to retire any officer after he has completed 25 year's qualifying service without giving any reasons, and no claim to special compensation on this account will be entertained. This right will not be exercised except when it is in the public interest to dispense with the further service of the officer.

466. (*See* **Article 509A).**

Combined Appointments

467. An officer holding two or more separate appointments may not, save with the express sanction of the Government of India in the Finance Department, or if pensions are a Provincial charge. of the Provincial Government, resign one or more of such appointments on a pension, without retiring from the public service altogether. There is no objection to his being relieved from one or more of such appointments at any time, without being compelled to leave the service altogether ; but in such case, any pension admissible to him for service in the office or offices from which he is relieved, will be deferred until he finally retires.

Note—The Government of India may delegate its power under this Article to Minor Local Governments and Heads of Departments. A Provincial Government also may delegate its power to Heads of Departments,

Government of India's decision :—The rule that an officer holding two appointments may not retire on pension from one only is based upon the principle that superannuation pensions should not he given to officers who are sufficiently efficient for the discharge of their duties and that any arrangement which encourages officers to seek superannuation when they are or can make themselves efficient causes unnecessary expense to Government.

[G.I F.D. No. 2470-P., dated 24-5-1895].

CHAPTER XIX.—AMOUNT OF PENSION.

SECTION.—GENERAL RULES.

468. The amount of pension that may be granted is determined by length of service as set forth in Article 474 to 485 Fractions of a year are not taken into account in the calculation of any pension admissible to an officer under this part of these Regulations.

Provided that in respect of officers retiring from service on or

after the 22nd April, 1960, fractions of a year equal to six months and above shall be treated as a completed six monthly period for the purpose of calculation of any pension admissible to such an officer.

468-A. A Pension fixed in rupees should be calculated to the nearest multiple of five naye paise.

Government of India's decisions (1) A question has now arisen as to how the rounding off should be done where the amount of a pension works out to a certain number of rupees and multiples of five naye paise *plus* 2.5 naye paise. It is clarified that in such cases 2.5 naye paise, will be ignored in determining the amount of pension.

[G. I. M. F. Memo : No. F. 7(8)-E. V, 57, dated the 9th May 1958]

Note.—The fraction of more than Rs. 2.5 nP. should be rounded of to 5 nP,

[G. I. M. F. File No. 7(85)-EV 58.]

(2) Persons who retired before 1-4-1957 should be fixed in accordance with the old Article 468 A of the C.S.R. in Rupees and annas and then converted into decimal coinage in accordance with the Conversion Table and should not be rounded of to the nearest multiple of 5 nP. which apply only to cases of persons who retired on or after Ist April, 1957.

[G. I. M. F. Memo No. F. 4(76)-EIV/55, dated the 17th April 1958.]

Note.. The word "retired used in this decision will have a broader connotation to include all types of casualties such as disabiiity, invalidment, death etc

The amount of pension in family pension claims, in the case of disability invalidment pensioner, who died on or after 1st April, 1957. or the amounts in the 2nd list award of family pensions in cases where the death/disqualification of the original or first recipient occured on or after 1st April, 1957, will be rounded off to the nearest 5 Naye Paise, as the casuality immediately giving rise to the claim has occured on or after 1st April 1957.

[G. I. M. F. Memo No. F. 4(76)-C & C/55, dated the 3rd February 1959].

Currency.

469. A pension is fixed in rupees and not in sterling money even though it is to be paid in England

Award of Full Pension.

470, (*a*) The full pension admissible under the rules is not to be given as a matter of course, or unless the service rendered has been really approved (*see Appendix 9*).

(*b*) If the service has not been thoroughly satisfactory, the authority sanctioning the pension should make such reduction in the amount as it thinks proper.

Provided that in cases where the authority sanctioning pension is other than the appointing authority, no order regarding reduction in the amount of pension shall be made without the approval of the appointing authority.

Note.—For the purpose of this article, Appointing authority' shall mean the authority which is competent to make substantive appointments to the post or service from which the officer concerned retires.

Government of India's decisions :—(1) A Local Government has not the power to reduce a pension already granted, when proof, which was not available at the time of sanctioning the pension, is subsequently given to the pensioner's service not having been thoroughly satisfactory.

[G. I. F. D. No· 5752. P., dated the 7th November, 1901].

(1-A) In view of the clear provisions in paragraph 10 (3) of Appendix 41 gratuity or pension shall be sanctioned under Sections II and III after giving due regard to the provisions of article 470 of the C. S. R., the net amount of death gratuity payable is the amount permissible under paragraph 3 (3) *minus* the amount which has to be reduced under provisions of Article 470 of the C. S. R. though this net amount becomes less than 12 months' emoluments.

[G. I. M. F. letter No. F. 19(21)-EV/55, dated 11-10-1955 to the Secretary to the Government of Punjab, Finance Department, Chandigarh]

(2) (*i*) The (Union) Public Service Commission will be consulted whenever it is proposed to pass an order awarding a pension, including an additional pension less than the maximum admissible under the rules.

(*ii*) The convention of prior consultation with the [Union] Public Service Commission will also apply whenever it is proposed to * * * pass an order awarding a pension including an additional pension, less than the maximum admissible. * * * *

(G. I. H. D No. F. 337/34-Ests, dated 8 6-1936).

(3) Whenever an order reducting the pension of an officer * * is passed, the officer affected shall have a right of appeal to the authority to whom an appeal from an order of dismissal or removal lies.

When the original order of reduction of pension is passed * * the Federal [*now* Union] Public Service Commission shall by convention be consulted before the order is passed. The convention shall be extended so as to require prior consultation with Commission before any order is passed * * * in appeal.

[G I. H. D No. F. 195/37-Ests- dated the 20th September, 1937.]

Note :– Consultation with the Union Public Service Commission provides a safe guard to the pensioner that the power under Article 470 (*b*) will not be exercised without due justification,

[G. I. M. F. File No. F-37 (7)-EV/60]

(4) The Government of India have hitherto taken the view that Article 470 (*b*), Civil Service Regulations, permits as a penal recovery from a pension to the person concerned while he was in service. They have now reconsidered the question and have arrived at the following conclusions : —

(*a*) Article 470 cannot be used directly to effect a penal recovery, but Government are justified in making proof of a specific instance of fraud or negligence by an officer, the ground for a finding that his service has not been thoroughly satisfoctory within the meaning of the Article for the purpose of reducing his pension.

(*b*) The measure of the reduction in the amount of pension made under the Article should be the extent by which the officer's service as a whole has failed to reach a thoroughly satisfactory standard. and any attempt to equate the amount of reduction with the amount of loss caused to Govsrnment is incorrect.

(*c*) The Article contemplates permanent reduction in the amount of pension ordinarily admissible and does not admit of the reduction of the pension payable in respect of any one particular year.

[G. I. F. D. letter No. F. 6 (10)-R. II/39, dated 8-3-1939]

(5) Article 470 C. S. R., does not operate to authorise a reduction of ordinary pension either to nothing or to a nominal amount.

[G, I. F. D. letter No. 9/1/41-Ests., dated 2nd September, 1941.]

(6) See Para 2 of the Government of India's decision No. (9) below Article 475A.

(7) Any case in which a pension or a Compassionate allowance which may be less than maximum admissible has been once sanctioned, should not be reopened without any special reasons.

[Government of India Finance Department U. O. No 1758)R,II/42 dated the 2nd September, 1942.]

(8) and (9) *Omitted.*

(10) The Ministry of Home Affairs Office Memorandum No. 39/19/51 Ests dated the 8th October 1952 explains that in case an officer against whom an enquiry is held is unable to satisfactorily account for possession by himself or by any other person on his behalf *e. g.* dependants, of pecuniary resources or property disproportionate to his known sources of income, a charge of corruption should be presumed to have been proved against him. A doubt has been expressed whether cases of the above category come within the purview of Articles 351A and 470 of the Civil Service Regulations. The position is that e service of an officer against whom a charge of corruption has been proved. her in a specific case or by the presumption stated above, cannot be ered to be thoroughly satisfactory. As such, failure on the part of the concerned to explain satisfactorily the possession of wealth dispropor-

tionate to his known sources of income is sufficient to warrant a reduction being made in the amount of his pension under Article 470 of the Civil Service Regulations. Such action under Article 470 should, however, be taken only after a charge of corruption has been proved in the above manner in a formal departmental enquiry. Similarly the term 'grave misconduct' used in Article 351A of the Civil Service Regulations is wide enough to include 'corrupt practices', In cases where the charge of corruption is proved only after pension has been sanctioned, and it is not therefore possible to invoke the provisions of Article 470 of the Civil Service Regulations, action to withhold or withdraw pension may be taken under Article 351A *ibid.* In this connection the provisions of sub-para (*a*) (*ii*) and para (*b*) of the proviso to Article 351A of the Civil Service Regulations are to be noted carefully, In accordance with these provisions the property or pecuniary resources in respect of which the departmental or judicial proceedings are instituted under Article 351A of the Civil Service Regulations should have been required by the person concerned or of any other person on his behalf, any time within the period of four years before the institution of such proceedings, if not instituted while the officer was on duty either before retirement or during re-employment.

[G. I. M. F Memo No : F. 5 (75)-EV/59. dated the 6th October, 1960.

(11) No show cause notice is required to be given to an officer when orders are intended to be passed reducing his pension under Article 470 CSR.

[G. I, Ministry of Defence UO No. 18 (3) 58/3376/D/Civ (II), dated the 20th May; 1958)

(12 The Ministry of Home Affairs has had under consideration for some time, in consultation with the Union Public Service Commission, the question whether in a departmental enquiry an officer charged with corruption should be presumed to be guilty of that charge in case he is unable to satisfactorily account for possession by himself or by any other person on his behalf, *e. g.* dependants, of pecuniary resources of property disproportionate to hls known sources of income. It is considered that a presumption of corruption fairly and reasonably arises against an officer who cannot account for large accretion of wealth wich he could not possibly have saved from his known sources of income. Such a principle has received statutory recognition in section 5 (3) of the Prevention of Corruption Act, 1947, and it is considered that its application in a departmental enquiry would not be unjust or inequitable. Accordingly, it has been decided that if an officer against whom a departmental enquiry is held is unable to explain satisfactorily the large wealth amassed by him, the officer holding the enquiry is entitled to act on the presumption that such wealth was amassed by corrupt means.

[G. I. M. H. Aflairs Memo No, 39/19/5I-Ests, dated the 8th October 1952].

(13) The question of amending the pensions Act 1871, with a view to providing for recoveries of Government dues fo be made from pension has been reviewed by the Government of India, It is felt that as a large majority of Government servants draw small pensions great deal of dis-satisfaction may be caused in them if their pensions which have enjoyed complete protection since long ,are made liable to recovery of Government dues. It has, therefore, been decided not to proceed with the amendment of the Pensions Act as proved earlier.

[G. I, M. F, Memo No. F-7 (44)-EV/58, dated the 18th May 1961].

(14) The power to reduce pension in the case of Ex-Secretary of State Officers vests in the President alone even if after independence he continued to serve under the rule making control of a State Government.

[G. I- M. F, U, O No. 2112-EV (C)/60, dated the 18th June 1961 in file No. 37 (3) Ev/60].

Auditor General's decisions :—(1) As regard (*b*) in the Government of India, Finance, Department, letter of the 8th March, 1939 (*incorparated* Government of India's decision No. 4 above) the position is that once competent authority holds [with reference to (*a*)] that the service of an of has not been thoroughly satisfactory and reduces pension under Article 4

it will not be possible for audit to challenge or question the measure by which the amount of the reduction has been determined, whether the total amount reduced happens to be equal to or more or less than theamount of any loss caused to Government by the officer's negligence or fraud. The matter will thus rest entirely with the administrative authorities and it will not be concerned.

As regards (*c*) audit will watch that the instructions contained therein are strictly observed.

[Auditor General's letter No. 199-A/305-38, dated 5-4-1939.]

(2) It has been decided that in case the pension of a Government servant who has served under more than one Government is reduced under Article 470 of Civil Service Regulations, the benefit of the reduction should be given to all the Governments, *viz.*, reduced pension should be allocated in proportion to the total qualifying service under each Government as directed in appendix 3 to the Account Code, Volume I.

[Controller of Civil Account's letter No. 2379 A. C. 350-31, dated the 27th October, 1931, to the Accountant General. Bombay.]

Audit Instruction :—See items Nos. (1) and (2) of the Auditor General's instructions below Article 351.

Limitations.

471. An officer entitled to pension may not take a gratuity instead of pension.

Note :—*See* Note 2 under Article 807.

Government of India's decisions :—(1) Article 471 applies to cases coming under Article 398 even to the extent of cancelling the choice conferred by that Article. For instance, if by his inferior service an officer has earned a pension on the inferior scale, he cannot, instead of it, take a gratuity on the superior scale for the superior service but his case must be dealt with under Article 398 (*a*). Again if the superior service entitles an officer to a pension on the superior scale he cannot elect to count the whole service (superior and inferior) as inferior towards a gratuity on the inferior scale.

[Government of India Finance Department No, 2994 F., dated the 29th June, 1895.]

(2) The Government of India have had under consideration the question whether a Government servant who is deputed or transferred to service under a body corporate owned or controlled by Government, or whose services are lent to such a body, should, in the event of his permanent absorption in service under that body, be allowed any retirement benefits in respect of his previous pensionable service rendered under Government, and if so, to what extent and in what form. After careful consideration, the President has been pleased to decide that in such a case, subject to what is stated in paragraph 2 below, an amount equal to what Government would have contributed had the officer been on Contributory Provident Fund terms under Government, together with simple interest thereon at two percent for the period of his pensionable service under Government may be credited to his Contributory Provident Fund Account with the autonomous body as an opening balance on the date of permanent absorption and Government's liability in respect of the officer's pensionable service under them treated as extinguished by this payment.

The aforesaid decision will apply, however, only where the permanent transfer from Government service to an autonomous body is in the public interest and the transfer is to a Government or *quasi*-Government Corporation and not to a private institution. In all other cases Government will not accept any liability to pay any retirement benefits for the period of service rendred by the officer before his transfer.

The concession may not be claimed as a matter of right but may be sanctioned at the discretion of Government in individual cases where it is merited.

[G.I M.F. Memo : No. F. 2(33)-EVA/60, dated the 10th November 1960].

(3) In terms of decision No. (2) above a sum representing contribution

and interest thereon is payable on behalf of a Government servant who is permanently absorbed in an autonomous body in the public interest. Enquiries have been made regarding the heads of account to which the amount of contribution and the amount of interest should be charged. It has been decided in consulation with the C. & A. G. that in such cases the amount of contribution should be charged to the head, '65 Pension and other retirement benefits-Donations to Provident Funds' while the amount of interest would be charged to the head '16-Interest on Debt and other obligations—2 Interest on Unfunded Debt-Interest on Contributory Provident Funds'.

[G.I M.F. Memo : No. 2(33)-EV(A)/60, dated the 10th January 1963.]

(4) Decision No. (2) above provides for the payment of contribution with interest thereon at the rate of 2% on behalf of a Government servant who is permanently absorbed in an autonomous body in the public interest. On a question as to how the interest on the contribution payable in terms of the oforesaid orders should be calculated, it has been decided in consultation with the Comptroller and Auditor General of India that in such cases the interest (2%) on the total balance of the contribution should be calculated for the entire period of pensionable service of the Government servant rendered prior to his permanent absorption in an autonomous body.

[G.I.M.F. Memo. No F. 2(33) EV(A)/60, dated the 20th May 1963].

472. In the case of an officer who has any service under the Imperial (British) Government, pension from Indian Revenues should not be fixed until it has been ascertained whether any pension is payable from Imperial funds in respect of the service under the British Government.

473. An officer not being a Military officer or a member of the Indian Civil Service, transferred to service under the Government of a Dominion, Crown Colony, Protectorate or a Territory mandated to the British Government, on final retirement from such service on pension or compensation allowance may be granted from Indian revenues a pension equal to the pension which would have been admissible, if he had been invalided from the service at the date of his transfer, or if no such pension would have been admissible, a pension of one sixtieth of his average emoluments for each completed year of qualifying service such average emoluments to be calculated for the last three years or, if the whole service in India is less than three years. for the whole period of service.

Note :—The sanction of the Government of India is required for the transfer of an officer to any service of the description mentioned in this Article.

Government of India's decisions :– (1) *Omitted.*

(2) The expression 'Compensation allowance' which occurs in Article 473, Civil Service, Regulations, means the pension given to an officer, whose appointment is abolished, in order to compensate him for the loss of office under Section VII of the English Superannuation Act 1859, 22 Vict., cap. 26.

[G.I.F.D. No. 1942-P., dated 22-4-1900]

473A. (1) If a civil servant, as defined by Section 12 of the Superannuation Act. 1887, is appointed by the Governor General in Council to any office under the crown in India the Governor-General in Council may direct that his service in that office shall qualify for the grant of a pension or a gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in India, and there shall be paid to or in respect of him out of the revenues of the Governor-General in Council is respect of the whole period of his absence from the United Kingdom in connection with his appointment to serve in India a pension or gratuity calculated in accordance with the Superannuation Acts, 1834 to 1935, and the orders, rules

and Regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in India.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction.

(3) Any grant made under these rules is subject to reduction or suspension or withdrawal in the same way as pension or gratuity under the Superannuation Acts, any reduction of a total award of which a grant under these rules forms part being applied proportionately.

SECTION II—AMOUNT OF SUPERIOR PENSION.

Note.—The rules in this section are to be read as superseded by ‡Rules 13 and 14 of the 'Superior Civil Service (Revision of Pay, Passage and Pension) Rules 1924 to the extent indicated in those rules.

474. (1) The amount of a pension is regulated as follows—

(*a*) After a service of less than ten years, a gratuity not exceeding (except in special cases, and under the order of the Government of India upto a maximum of 12 months' emoluments) one month's emoluments for each completed year of service. If the emoluments of the officer have been reduced during the last three years of service, otherwise than as a penalty average emoluments, may, at the discretion of the authority which has power to sanction the gratuity, be substituted for emoluments.

(*b*) After a service of not less than ten years a pension not exceeding the following amounts :—

Years of completed service.	Scale of pension	Maximum limit of pension	
		Rs.	Rs.
10	10 sixtieths of average emoluments	2,000 a year, or	166⅔ a month.
11	11 ,, ,, ,,	2,200 ,,	183⅓ ,,
12	12 ,, ,, ,,	2,400 ,,	200 ,,
13	13 ,, ,, ,,	2,600 ,,	216⅔ ,,
14	14 ,, ,, ,,	2,800 ,,	233⅓ ,,
15	15 ,, ,, ,,	3,000 ,,	250 ,,
16	16 ,, ,, ,,	3,200 ,,	266⅔ ,,
17	17 ,, ,, ,,	3,400 ,,	283⅓ ,,
18	18 ,, ,, ,,	3,600 ,,	300 ,,
19	19 ,, ,, ,,	3,800 ,,	316⅔ ,,
20	20 ,, ,, ,,	4,000 ,,	333⅓ ,,
21	21 ,, ,, ,,	4,200 ,,	350 ,,
22	22 ,, ,, ,,	4,400 ,,	366⅔ ,,
23	23 ,, ,, ,,	4,600 ,,	383⅓ ,,
24	24 ,, ,, ,,	4,800 ,,	400 ,,
25& above	30 ,, ,, ,,	5,000 ,,	416⅔ ,,

Note—For the precise meaning of average emolument, *see* Article 486 and 487.

(2) Notwithstanding anything contained in clause (1), in respect of officers retiring from service on or after the 22nd April, 1960, the amount of pension shall be regulated as follows.

(*a*) After a service of less than ten years, a gratuity not exceeding (except in special cases, and under the orders of the Government of India, upto a maximum of 12 months emoluments) one-half months emoluments for each completed six-monthly period of service. If the emoluments of the officer have been reduced during the last three years of service, otherwise than as a penalty, average emoluments may, at the discretion of the authotity which has power to sanction the gratuity, be substituted for emoluments ;

(*b*) after a service of not less than ten years a pension not excee-

‡Reproduced on pages 309 to 314 of this Compliation.

ding the following amounts :

Completed. Six monthly periods of qualifying service	Scale of pension	Maximum limit of pension.
	Rs.	Rs.
20	10 sixtieths of averag emoluments	2,000 a year or 166⅔ a month
21	10½ ,, ,, ,,	2,100 ,, 175 ,,
22	11 ,, ,, ,,	2,200 ,, 183⅓ ,,
23	11½ ,, ,, ,,	2,300 ,, 191⅔ ,,
24	12 ,, ,, ,,	2,400 ,, 200 ,,
25	12½ ,, ,, ,,	2,500 ,, 208⅓ ,,
26	13 ,, ,, ,,	2,600 ,, 216⅔ ,,
27	13½ ,, ,, ,,	2,700 ,, 225 ,,
28	14 ,, ,, ,,	2,800 ,, 233⅓ ,,
29	14½ ,, ,, ,,	2,900 ,, 241⅔ ,,
30	15 ,, ,, ,,	3,000 ,, 250 ,,
31	15½ ,, ,, ,,	3,100 ,, 258⅓ ,,
32	16 ,, ,, ,,	3,200 ,, 266⅔ ,,
33	16½ ,, ,, ,,	3,300 ,, 275 ,,
34	17 ,, ,, ,,	3,400 ,, 283⅓ ,,
35	17½ ,, ,, ,,	3,500 ,, 291⅔ ,,
36	18 ,, ,, ,,	3,600 ,, 300 ,,
37	18½ ,, ,, ,,	3,700 ,, 308⅓ ,,
38	19 ,, ,, ,,	3,800 ,, 316⅔ ,,
39	19½ ,, ,, ,,	3,900 ,, 325 ,,
40	20 ,, ,, ,,	4,000 ,, 333⅓ ,,
41	20½ ,, ,, ,,	4,100 ,, 341⅔ ,,
42	21 ,, ,, ,,	4,200 ,, 350 ,,
43	21½ ,, ,, ,,	4,300 ,, 358⅓ ,,
44	22 ,, ,, ,,	4,400 ,, 366⅔ ,,
45	22½ ,, ,, ,,	4,500 ,, 375 ,,
46	23 ,, ,, ,,	4,600 ,, 393⅓ ,,
47	23½ ,, ,, ,,	4,700 ,, 391⅔ ,,
48	24 ,, ,, ,,	4,800 ,, 400 ,,
49	24½ ,, ,, ,,	4,900 ,, 408⅓ ,,
50& above	30 ,, ,, ,,	5,000 ,, 416⅔ ,,

Government of India's decisions. (1) The question of affording relief to the person who retired before the 15th July 1952, has been engaging the attention of Government. The President has now been pleased to decide that the Central Government pensioners who retired from service before the 15th July, 1952 shall be granted a temporary increase in their pensions on the following scale :—

Pension upto Rs. 50 p. m.	A temporary increase of Rs. 10 p. m.
Pension above Rs. 50 but not above Rs. 100 p. m.	A temporary increase of Rs. 12.50 p.m.
Pension above Rs. 100 p m.	Such temporary increase as will bring the total pension to Rs. 112.50 p. m.

These enhanced rates of temporary increase will take from the 1st April 1958, that is, in respect of pensions due for the months of April, 1958 and subsequent periods *until further orders.*

[*Also see decision No.* (*1AA*) *and* (*1AAA*) *below this article.*]

In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General.

[G. I. M. F. Memo : No. F. 8 (5)-EV/57, dated the 9th June, 1958]

Note (1) This order is also applicable to the Civilian pensioners paid from the Defence Service Estimates and the C. G. D. P. Organisations *vide* Army Instruction No. 229, dated 4-10-58.

Note (2)—The enhanced rates of temporary increase mentioned above have been sanctioned to pensioners who retired before the 15th July 1952, with a view to bring them on the level of those pensioners in whose case an element of dearness allowance was taken into account while fixing their pensions. In view of this position the President has now decided that pensioners in whose pension an element of dearness allowance has been taken into account should not be allowed the benefit of temporary increase, even though it may be more advantageous. It has accordingly been decided to withdraw the provisions made in para 4 of Government of India's decision No. (31) below Article 486 and in para 3 of

Ist list of Additions and Corrections to the 5th Edition of Chaudri's Compilation of Civil Service Regulations Volume II.

No. 1

Appendix 2 *Pages 20-29*

(*i*) in Schedule I,

(*a*) under 'H—Ministry of Health', after item 1 and the entries relating thereto, the following shall be *inserted* and shall be deemed to have been inserted with effect from the 5th December, 1963, namely :—

"2. Chairman, Town and Country Planning Organisation".

(*b*) under 'I—Ministry of Home Affairs', for the existing item 7, the following shall be *substituted* with effect from the 15th day of January, 1964, namely :—

"7. Inspector General, Central Reserve Police, New Delhi."

(*ii*) in the Annexure to Schedule V, for the existing paragraph (*c*) in column 4 against item number 11(*i*), on page 29 the following shall be *substituted*, namely :—

"(*c*) in respect of fees of Government pleaders appointed by the Government of India in the Ministry of Law under clause (*a*) of rule 8B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) or of State Law Officers, where the fees payable are in accordance with the sacale of fees fixed by the High Court, or State Government or any law for the time being in force or are settled or determined by the Ministry of Law as the case may be."

[G.I.M.F. Notification No. F (3) E-II(A)/64, dated the 7th April 1964]
(C. S No. 1, dated the 30th June 1964]

No: 2

Appendix 3. *Page 48*

Insert the following as Government of India's order below rule 5 namely :—

"**Government of India's orders**. Relatives of a Government servant sometimes make representations concerning service matters affecting the Government servant. This is done in some cases in the hope of reviving a representation which the Government servant had himself made and which had been turned down. In some cases, this procedure is resorted to in order to get round the requirement that the Government servant should submit his representation through his official superiors. The practice is obviously undesirable, and should be strongly discouraged. It has accordingly been decided that no notice should be taken of a representation on service matters submitted by a relative of a Government servant. The only exceptions may be cases in which because of the death or physical disability, etc. of the Government servant, it is impossible for the Government servant himself to submit a representation."

[G I.M.H. Affiairs Memo: No: F. 25/21/63-Ests (A), dated the 19th September 1963]
(C. S. No: 2, dated 30th June 1964)

No. 3

Appendix 7 *Page 59*

Substitute the word **'authorised'** for **'un-authorised'** appearing in rule 13A and insert the following as Government of India's decision below rule 13A namely :—

"**Government of India's decision.** According to rule 13-A above the use of staff cars for journeys from residence/office to the airport/Railway Station and *vice-versa* by officers on tour in lieu of mileage allowance is to be regarded as authorised. If the family of a touring officer accompanies him on a journey to see him off at the Airport Railway Station, no charges are recoverable for such

use of the staff car. A doubt has, however, been expressed whether any charges are recoverable under Rules 21 and 22 of the Staff Car Rules in respect of the following types of journeys :—

(*a*) Diversion of the staff car on return journey to garage after leaving the officer at Airport/Railway Station, *via* the residence of the officer, to drop the family of the officer in case the family had gone to the Airport/Railway Station to see him off.

(*b*) Picking up the family of the officer from his residence *en route* to the Airport/Railway Station to receive him on his return from tour.

It is clarified for the information of the Ministry of Home Affairs, etc. that such use of the staff cars by the families of officers proceeding on tour or returning from tour is not authorised under the Staff Car Rules. In cases where a staff car is used in such circumstances, charges will be recoverable from the officer concerned under Rules 21 & 22 as for non-duty journeys."

[G. I. M. F. Memo: No. E.3 (2)-E. II (A) 64, dated the 6th June 1964]

(C. S. No. 3, dated the 30th June 1964)

No: 4

Appendix 7 *Page 59*

Rule 21 may be *substituted* by the following :—

"21. A rate of Re. 0.50 nP. per mile or Re. 0 31 nP. per-kilometer for small cars of not more than 18 horse-power by Royal Automobile Club (RAC) rating and a rate of Re. 0.70 nP. per mile or Re. 0·44 nP. per kilometer for cars of more than 18 horse-power will be charged for the use of the staff cars on non-duty journeys. Charges at this rate would be recoverable for distances covered by a staff car from the time it leaves office/garage till it returns to office/garage".

[G. I. M. F. Memo: No, F. 3(8)-EII (A)/63, dated the 12th March 1964]

(C. S. No: 4, dated the 30th June 1964)

No. 5

Appendix 7 *Page 61*

Insert the following as Government of India's decision No. (2) below rule 26 namely :—

"(2) It has been decided that this 50% limit laid down in decision No. (1) above should apply to the overtime allowance earned by a chauffeur on all working days in a month and on only the first three of the Sunday/Holidays on which he performs overtime duty. The earnings in respect of overtime work performed on Sundays/Holidays in excess of three would not be subject to the limit of 50%.

Example :

A chauffeur performed overtime duty during February, 1964, on three Sundays *viz.*, on the 2nd, 16th and 23rd and on two holidays *viz*, the 15th and 28th. He will draw overtime allowance for the month including that earned on the 2nd, 15th and 16th restricted to 50% of his emoluments and in addition overtime ollowance earned by him on the 23rd and 28th.

2. It has also been decided in modification of Note 8 below rule 26 of the Staff Car Rules that the time spent by a staff car driver on driving duty to outstations may be reckoned for purposes of computing his entitlement to overtime allowance for the day of departure and the day of arrival. In addition, he would be entitled to daily allowance also for these days as admissible to him under the rules. The overtime allowance so earned will be taken towards the 50% limit laid down in Finance Ministry's O. M. dated the 8th August, 1962, referred to above.

Example :

A chauffeur having headquarters at Delhi is required, after putting in duty from 9 00 a.m. to 4·30 p m. (with lunch break of half an hour), to drive the staff car to Agra from 4·30 p. m. to 9 00 p. m. The overtime work performed by him on that day will work out to ½ hour from 9·00 to 9·30 a. m., plus 1½ hours from 7·30 to 9·00 p. m. *i. e.* 2 hours. He will not draw any overtime allowance for overtime duty, if any, rendered by him at Agra. For this, he will get daily allowanoe only.

These orders take effect from the date of issue.

[G. I. M. F. Memo No. F. 3(17)-E. II(A)/ dated the 7th April 1964].

(C. S. No. 5, dated the 30th Jnne 1964)

No. 6

Appendix 10 *Page 69*

Add the mark '‡' in the begining of Appendix 10 and insert the following as third footnote on page 69 namely :—

"‡ The allowance in this chapter is exempt from attachment by the order of a Court *vide* G. I. M. H. Affairs Notification No. 54/1/69-Ests. (A), dated the 16th July 1963."

(C. S. No. 6, dated the 30th June 1964)

No. 7

Appendix 10 *Page 74*

For the words 'except as explained in footnote on page 72 Leave' appearing in footnote on page 74 *substitute* the words 'except as explained in footnote on page 72 have'.

(C. S. No. 7, dated the 30th June 1964)

No. 8

Appendix 10A. *Page 74(i)*

Insert the following as Appendix 10A.

Appendix No. 10A.

RE-IMBURSEMENT OF TUITION FEES IN RESPECT OF CHILDREN OF CENTRAL GOVERNMENT EMPLOYEES.

The President has been pleased to decide that tuition fees payable and actually paid on behalf of their children for education in India in recognised Middle and High Schools or Higher Secondary Schools should, subject to the terms and conditions mentioned in paragraph 2 below, be re-imbursed to Government employees at rates not exceeding those approved by the Government of the area for Government and aided schools.

2. (*A*) *Eligibility.*

(*i*) **All Government servants, whether permanent, *quasi*-permanent or temporary, whose pay is debitable to Civil Estimates and whose pay is defined in F. R. 9(21)(*a*) does not exceed Rs. 600 p. m. will be eligible for claiming re-imbursement of tuition fees paid. In the case of an officer who draws pay at a rate exceeding Rs: 600 for part of a month, re-imbursement will be allowed for that month only if he draws pay at a rate not exceeding Rs. 600 p. m. for at least 15 days in that month.**

(*ii*) **Industrial employees directly working under Government will also be eligible for the concession. State Government servants on deputation to the Central Governmeut will also be eligible for the concession for the duration of their deputation. For the month in which they join Central Government service and that in which they leave it, the concession will be admissible only if the service under the Central Government is not less than 15 days.**

(*iii*) **Central Government servants deputed to State Governments or to foreign service in India will be eligible to claim re-imbursement from the State Governments/foreign employer and necessary provision to this effect should be made in the terms of deputation.**

In the case of persons already so deputed also it is intended that the benefit of the concession should be given. In such cases the existing terms of deputation should be suitably revised by mutual agreement between the borrowing and lending authorities.

(*iv*) **Where both husband and wife are in Central Government service, the allowance will be admissible in respect of one of**

74 (ii) *App. 10A*

them only, provided that it will not be admissible if the pay of either of them exceeds Rs. 600 p. m.

If a Government servant's wife or husband is employed outside the Central Government and is entitled to the facility of re-imbursement of fees in respect of her/his children from that employer, the concession to the Government servant will correspondingly be reduced.

(v) The concession will be admissible to a Government servant who is on duty, under suspension or on leave including leave preparatory to retirement. It will not be admissible in respect of children of deceased, retired or discharged Government servants. If any Government servant dies, or ceases to be in Government employment in the middle of an academic year, the allowance will be admissible only till the end of the month in which the event takes place

Note The pay with reference to which the concession will be given while the Government servant is under suspension or on leave will be the pay admissible to him at the time he was placed under suspension or proceeded on leave.

(vi) The concession will be limited to education in the middle, High and Higher Secondary Schools and corresponding classes in Technical and other Vocational schools.

(B) *Conditions of re-imbursement.*

(i) The concession will be admissible only if the child is enrolled in a school which is recognised by the educational authorities of the Government of the area in which the school is situated.

(ii) The concession will be admissible only in respect of a Government servant's legitimate children including step-children and adopted children (where adoption is recognised under the personal law of the Government servant), who are wholly dependent on the Government servant.

(iii) Reimbursement in terms of these orders will not be admissible to India-based staff serving in Missions abroad who receive educational assistance under the Indian Foreign Service Rules:

(iv) No reimbursement will be admissible in respect of a child for more than two academic years in the same class.

(v) Where a child is in receipt of any Government or non-Government scholarship and is required to pay tuition fees to the school, no reimbursement will be made in cases where the scholarship amount is in excess of the tuition fees paid. In cases where the scholarship amount is less than the tuition fees the difference, to the extent admissible, may be allowed to the employee. For this purpose, a purely merit scholarship or a scholarship earmarked for a specific purpose other than tuition fee, will not be taken into account.

In cases where partial free-ship is awarded to the student, only the tuition fee actually paid will be the basis for reimbursement.

(vi) Reimbursement will be restricted to tuition fees only and will not cover special fees like library fee, games fee, extra-curricular activity fee etc. which will have to be borne by the Government servant himself.

(vii) The reimbursement under these orders will not be admissible in respect of children for whom Children's Educational Allowance is claimed under appendix 10 as amended from time to time.

3. The expenditure on account of reimbursement of tuition fees in terms of these orders will be debitable to the same head of account to which the Goverment servant's pay and allowances are debited and will be booked under the detailed head "Children's Educational Allowance" already opened. The procedure to be followed for claiming reimbursement under these orders is contained in the annexure to this Appendix. Arrangements will be made by the Ministry of Education to collect from the State Governments and Union Territories and supply to Ministries/Departments of the Government of India the rates of approved tuition fees in force in each area for Government aided schools. They will also communicate from time to time modifications to those rates. The Ministries/Departments will have to keep their Attached and Subordinate Offices informed, Pending the circulation of the approved rates initially, the Administrative Ministries/authorities may deal with the claims after such verification, locally or otherwise, as may be feasible.

4. These orders take effect from the 1st May, 1964. Fees payable and paid for the month of May, 1964, onwards may be reimbursed.

5. Sanction of the President is also accorded in relaxation of Rule 20 of the Central Treasury Rules, to reimbursement of tuition fees being claimed by Gazetted officers without an authority from the audit officer.

[G.I.M.F. Memo. No: 17 (1)-E-II (B) 64, dated the 3rd June 1964].

ANNEXURE

Procedure to be followed for claiming re-imbnrsement of tuition fees

1. When reimbursement of tuition fees is claimed, the Government servant concerned shall submit information and certificates as in the annexed form.
2. The reimbursement of fees will be claimed not oftener than once in a quarter.

Note. These claims shall be preferred in separate pay-bill forms, and not along with the monthly salary and allowances of Government employees.

3. At the time of preferring the initial claim and subsequently at the beginning of each academic year, he shall also submit a certificate from the Head Master of the school that the school is a recognised one.
4. The drawing officer and, in the case of gazetted officers, the head of office, will verify that the reimbursement claimed is in accordance with the prescribed conditions and in particular he shall verify it with reference to the rate of tuition fees approved by the Government of the area.
5. The drawing officers, and in the case of gazetted officers, the head of office, shall also certify in the bills that the particulars and receipts mentioned in 1 and 2 above have been received and that the claim has been verified.

   Where the head of office is himself the claiment, he shall have his claim scrutinised and countersigned by his next superior officer.
6. The drawing officer, head of the office, or the next superior officer should maintain a suitable record of the claims received, admitted or rejected, and reimbursed in respect of each Government servant, and make it available to the local audit, along with the certificates, and information furnished by the Government employee, the receipts of education authorities in support of the claims preferred by them and other documents, if any. The record to be maintained will be in the form enclosed (Annexure II).

ANNEXURE I
FORM

1. Date of last claim ....
2. Period for which re-imbursement was claimed.....
3. Period to which present claim pertains ....

Nome of Class	School in which studying and location of the school (state also whether it is a Government or a Government aided school	Class in which studying	Monthly tuition fees paid actually (Receipts to be attached)	Amount of Government scholarship, if any	Amount of scholarship received from other sources. (N. B. Merit scholarships and scholarships specifically earmarked for items other than tuition fees need not be mentioned).	Amount of reimbursement claimed (To be restricted to fees approved by educational authorities).
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.						
2.						
3.						

(1) Certified that my child/childrnn mentioned above, in respect of whom reimbursement of tuition fees is claimed is/are studying in the school (1) mentioned in column (2) which is/are recognised schools and that the tuition fees indicated against each have actually been paid by me.

*(2) Certified that—
my wife/husband is not in Government service.
my wife/husband is in Government service and that no reimbursement would be claimed by her/him and also the pay drawn by her/him does not exceed Rs. 600 p.m.
my wife/husband is not employed outside the Central Government.
my wife/husband is employed with @..... She/he is not entitled to reimbursement of tuition fees in respect of our children. She/he is entitled to reimbursement of tuition fees in respect of our children as follows :—

(3) Certified that none of the children mentioned above has been studying in the same class for more than two years.

(4) Certified that I have not claimed and will not claim the Children's Educational Allowance under the Ministry of Finance O. M. No. F.10(1)-Est(Spl)/60 dated 30-1-62 in respect of the children mentioned above. (Strike out if not applicable)

Dated..... Signature and designation of the Government servant.

ANNEXURE II

Register of claims towards reimbursement of tuition fees of children

S. No.	Name	Designation	Period to which the claim pertains	Amount claimed	Amount admitted	Dated initials of drawing officer/head of office/immediate superior	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

N.B. A separate register to be maintained for each office.

(C. S. No. 8, dated the 30th June 1964)

*Strike off what is not applicable.

@Employer other than Central Government to be mentioned.

No. 9

Appecedix 12 *Page 80*

Insert the following as Government of India's decision below para 8 in appendix 12 namely :–

"Government of India's decisions (1) Paragraph 8 of this appendix gives an option to Government servants in pensionable service on that date to elect the Family Pension Scheme for Central Government employees, 1964, or to retain the family pension benefit under the Liberalised Pension Rules. In accordance with this paragraph the option is required to be exercised upto 30th Juhe 1964. It has been brought to the notice of Finance Ministry that there are certain cases in which the Government servant had retired after the lst January 1964 and the payment of the amount of death-cum-retirement gratuity has been authorised in his case, but as he has not yet exercised the option no deduction from his gratuity can be made at this stage as required by the provisions of the Family Pension Scheme for Central Government employees, 1964. The full payment of gratuity to him may later on make the recovery difficult if he opts to be governed by the new Family Pension Scheme. It has, therefore, been decided that in all such cases an amount equal to two months' emoluments may be withheld till such time as he exercises the necessary option. In case he opts out of the scheme the balance of the gratuity withheld should be paid to him. In the other case the amount withheld should be resumed by Government".

[G, I. M. F. Memo: No F.9 (14)-EV(A) 64, dated the 14th May 1964]

(C. S. No: 9, dated the 30th June 1964)

No. 10

Appendix 12 *Page 81*

Insert the following as Government of India's decision below para 15 namely :—

"Government of India's decision. (1) The following clarifications are issued in regard to the Family pension Scheme for Central Government employees 1964 contained in this appendix :—

(*i*) *Effect of commutation of pension on the quantum of family pension.* The commutation of pension has no effect on the quantum of family pension as the rate of family pension is based on the pay which the Government servant was drawing immediately before his retirement and not on the pension sanctioned to him.

(*ii*) *Recovery of two months' pay/emoluments from the gratuity from widow/widower having no beneficiary.* In the case of Government servants retiring without a wife/husband or miner children including adopted children, the deduction of two months' pay/emoluments from the gratuity will not be made, as in the case of bachelors.

(*iii*) *Payment of family pension in cases where both husband and wife are Government employees, and in the event of their death, to their minor children.* The Scheme does not debar a Government servant pensioner from drawing family pension in addition to his/her pay or pension. In the event of death of the father and the mother, who were both Government employees, the minor children will be eligible to draw two family pensions, subject to a total of Rs. 150 per mensem, provided both the employees were governed by the Family Pension Scheme, 1964.

(*iv*) *Applicability of the Family Pension Scheme, 1964 to Government servants who were in service on 31st December 1963, but retired with effect from 1st January, 1964.* The Government servants wfio were in service on the 31st December 1963 and retired with effect from 1st January, 1964 are eligible to exercise the option in terms of paragraph 8 of the Scheme, and hence the benefits of the Scheme will accrue to them, provided they opt for this Scheme.

(v) *Broken periods of service for determining the eligibility for family pension.* The term 'one year of service' used in paragraph 6(*i*) of the Scheme does not include broken periods of service. The service for the purpose should be continuous''.

[G.I.M.F. Memo : No. F- 9(24)-EV(A)/64, dated the 1st July 1964]
(C.S. No. 10 dated the 1st July 1964)

No. 11

Appendix 14 *Page 107*

Insert the following as Government of India's decision No: (6) below rule namely :—

(6) "President is pleased to decide that when 'leave not due' is granted to a Government servant under Rule 11 (*d*) of the Revised Leave Rules, 1933 and he applies for permission to retire voluntarily or resigns of his own volition at any time after returning to duty the question of refund of the leave salary in respect of the leave not due already availed of before return to duty shall, to the extent it has not been subsequently wiped off, be treated in the same way as laid down in paragraph 2 of Government of India's decision No: (5) above.

[G. Ii M. F. Memo: N0 F. 7(68)E-IV(A) 61, dated the 24th March 1964]
(C. S. No: 11, dated the 30th June 1964)

No. 12

Appendix 16

1. In rule 15,

(*i*) in line 6 of sub rule (2), after the words "by the Disciplinary Authority", the following shall be *inserted*, namely:—

"(a) to such Authority, or

(b) where a Board of Inqiiry or Inquiring Officer has been appointed under sub-rule (2a). to that Board or Officer,";

(*ii*) after sub rule (2), the following sub-rule shall be *inserted*, namely:—

"(2a) The Disciplinary Authority may inquire into the charges itself or, if it considers it necessary so to do, it may, either at the time of communicating the charges to the Government servant under sub-rule (2) or at any time thereafter, appoint a Board of Inquiry or Inquiring Officer for the purpose.";

(*iii*) for sub-rule (4), the following sub-rule shall be substituted, namely :—

"(4) On receipt of the written statement of defence, or if no such statement is received within the time specified the Disciplinary Authority or, as the case may be, the Board of Inquiry or the Inquiring Officer may inquire into such of the charges as are not admitted";

[G. I. M. H. Affairs Notification No: F.7 45 57 Est. (A) dated the 25th August 1958 Copy received with No: 3705/64-EStt (A), dated the 30th April 1964]
(C. S. No: 12, dated the 30th June 1964)

No: 13

Appendix 16 *Page 128*

Insert the following as Government of India's order below rule 14 namely :—

"Government of India's Order. In pursuance of sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President empowers under clause (*a*) of, and specifies under clause (*b*) of, that sub-rule the Chief Commissioner, Andaman and Nicobar Islands, for the purpose of imposition of the penalties specified in clause (*i*), clause (*ii*) and

clause (*iii*) of rule—13 of the said rules on :—

(*a*) any member of a Central Civil Service Class I, other than the General Central Services;

(*b*) any person appointed to a Central Civil Post Class I, included in the General Central Service serving under the Andaman and Nicobar Islands Administration.

[G. I. M. H. Affairs Memo: No F. 7/16/64-Ests (A), dated the 30th May 1964]
(C. S. No: 13, dated the 30th June 1964)

No. 13-A

Appendix 16 *Page 134*

Insert the following as Government of India's decision No. (3) below rule 15 namely :—

"(3) Article 311(2) of the Constitution has since been amended by the Constitution (Fifteenth Amendment) Act, 1963, and its substantive part as amended reads as follows :—

"(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry."

It will be observed that the requirements of article 311(2) of the Constitution as amended are :—

(*a*) the same as were the requirements of article 311(2) of the Constitution before the amendment ; BUT

(*b*) the representation against the penalty proposed to be imposed has to be only on the basis of the evidence adduced during the inquiry.

Accordingly, the representation by a Government servant, to whom article 311 (2) of the Constitution is applicable, on the penalty proposed to be imposed on him should be based only on the evidence adduced during the inquiry. If such representation contains statements, references, requests, demands, etc. not based on the evidence adduced during the inquiry, such statements, etc. should be ignored and this fact should be brought out in the final orders passed in the case."

[G. I. M. H. Affair's Memo No. F. 7/36/63 Ests. (A), dated the 7th March 1964].
(C. S. No. 13-A, dated the 30th June 1964)

No. 14

Appendix 16 *Page 141*

In the Central Civil Services (Classification, Control and Appeal) Rules, 1957, in sub-rule (2) of rule 32,—

(*a*) in clause (*i*), the word 'and' occurring after the words 'Comptroller and Auditor-General ; shall be *omitted* ;

(*b*) after clause (*i*), the following clause shall be *inserted*, namely :—

"(*ia*) **in the case of a Government Servant in or under the Posts and Telegraphs Board by the Posts and Telegraphs Board; and ;"**

(*c*) in clause (*ii*), after the words "Indian Audit and Accounts Department", the words "or the Posts and Telegraphs Board" shall be *inserted* ;

(*d*) in the proviso, after the words "Comptroller and Auditor-General", the words "or the Posts and Telegraphs Board" shall be *inserted*.

[G. I. M. H. Affairs Notification No. 7/12/64-Ests. (A), dated the 20th June 1964].
(C. S. No. 14, dated the 30th June 1964)

No. 15

Appendix 24. *Page 178*

Insert the following as order No. 2A namely:—

"(2A) The President is pleased to decide that families of civil Government servants who are permitted to join the Defence Forces or who are called up for active service during the present Emergency, may be allowed to retain the general pool accommodation already allotted to them for the periods indicated below :—

Retention of general pool accommodation by the families of Civil Govt. Servants who are permitted to join the defence forces or who are called up for active service during the present emergency.

(A) Government servants (who are not reservists) who are permitted to join the Defence Forces.

(*i*) During the entire period of training or probation, if any, and a further period of two months from the date of issue of the orders regarding posting on completion of training or probation.

(*ii*) If within the above-mentioned period of two months, a Government servant is posted to an area which is declared as a, 'concessional area' by the Ministry of Defence, where the concession of retention of accommodation at the last duty station is applicable, his family will be permitted to retain the civil accommodation or to occupy suitable alternative accommodation until he is re-posted to a family station or until he avails of the concession that may be given by the Ministry of Defence to move his family to a selected place of residence at another station subject to normal rules applicable to regular service officers/personnel.

(B) Government servants who are in the reserves of the Defence Services, including those in the Territorial Army and the Auxiliary Air Force, and who are called up for active service.

(*i*) For a period of two months from the date of reporting to the Defence authorities to take up active service in the Defence Forces.

(*ii*) The concession mentioned at A (*ii*) above, will also be admissible if within the above-mentioned period of two months, the Government servant is posted to a 'concessional' area.

2. After expiry of the above periods, the officers will become eligible for allotment of accommodation from the Defence Pool in accordance with the applicable rules.

3. The rent for accommodation in the general pool for the periods indicated in para 1 above will be recoverable from the individuals under the civil rules, that is, under F. R. 45-A. From the date an officer is granted an emergency commission or from the date a JCO/OR is taken on the married establishment his liability for rent will be determined under the Ministry regulations. The difference, if any, between the rent payable under F.R.45A. and the rent recoverable from the Government servant under Military regulations, will be met from the Defence Service Estimates.

4. Past cases will be regulated in accordance with the above orders.

5. The orders contained in this letter shall remain in force for the duration of the present national emergency only."

[G. I. M. of Works, Housing and Rehabilitation Deptt. of Works and Housing letter No. 2/65/62-Ace I, dated the 20th December 1963]

(C. S. No : 15, dated the 30 June 1964]

No. 16

Appendix 24 *Page 186*

Insert the following as paragraph 16 to appendix 24 namely :—

"16. The question whether Central Government Servants should be per-

Grant of permission to Civilian Government servants to join the Army Regular Reserve of Officers.

mitted to join the Army Regular Reserve of Officers has been under consideration for some time. It has now been decided that while the categories of civil Government servants who cannot be released for military service during an emergency in terms of para 8 of this appendix and those who are already enrolled in the Territorial Army and other Auxiliary Forces should not be permitted to join the Army Regular Reserve of Officers, no impediments should ordinarily be placed in the way of other Civil Government servants wishing to join the Reserve. Ministries of Finance etc. are, therefore, requested that applications for the grant of a commission in the Army Regular Reserve of Officers from such Government servants employed under their administrative control, should not be withheld.

2. The occasions on which officers of the Army Regular Reserve of Officers can be called up for service are as follows :—

(*a*) for training ;

(*b*) for service in the Army during the period of an emergency or general mobilisation.

3. So far as training is concerned, it will be for the undermentioned periods :—

(*a*) Officers of the Army Regular Reserve of Officers of Class 'A', will do three months attachment to the respective Regimental Centre/School of Instruction.

(*b*) Thereafter, one months training every alternate year.

4. The Government servants granted commission in the Army Regular Reserve of Officers will be governed by the provisions laid down in para 12 of this appendix in regard to the admissibility of pay and allowances and by office Memorandum No. 47/19/62-Ests(A) dated 5th March, 1963 for protection of lien on their Civil appointments and extension of benefits under the 'next below rule'.

5. The periods of absence from duty of civilian Government servants occasioned by their interview/medical examination etc. in connection with their joining the above Reserve should be treated as special casual leave. This concession would, however, be admissible only in those cases where it may not be possible for the Government servants concerned to attend to their civilian duties after the interview/medical examination, etc. If a Government servant withdraws his candidature at the interview, he would not be entitled to any special casual leave.

6. Detailed instructions for submission of applications for the grant of a commission in the Army Regular Reserve of Officers, are notified in the Press, as and when these are required by the Army authorities."

[G.I.M.H. Affairs Memo : No. F. 36/9/63-Estt.(B), dated the 19th May 1964]
(C.S. No. 16, dated the 30th June 1964)

No. 17

Appendix 30 *Page 188*

Substitute the following as Government of India's Instruction below rule 2 namely :—

"**Government of India's Instructions** :—The need to avoid any violation of the statutory obligation for consultation with the Union Public Service Commission in cases of appointments and promotions made by the various Ministries/Departments of the Government of India has been emphasised in the past, but it has been observed that cases of delayed references regarding temporary appointments and appointments which are irregular *ab initio* continue to occur. As the Ministry of Finance etc. are aware these irregularities are brought out by the Comimssion in their Annual Reports and are adversely commented upon in both Houses of Parliament during the course of discussion on the Reports.

Ministry of Finance etc. are therefore requested to take effective and

adequate steps to ensure that temporary appointments are reported to the Commission promptly as envisaged in the late Home Department O.M. No. 12/9/46-Ests of the 24th July, 1946. They are also requested to ensure that appointments/promotions made by them are covered by the Union Public Service Commission (Exemption from Consultation) Regulations, 1958 and other instructions issued from time to time. In cases where doubts arise whether the appointments/promotions are so covered or not, Ministry of Finance etc. may refer such cases to Home Ministry for advice.

It has been decided that in future all such irregularities should be properly investigated and responsibility for the lapses determined so that action can be taken against persons responsible for disregarding these statutory requirements."

[G. I. M. H. Affair's Memo No. F. 23/24/63-Ests (B), dated the 10th April 1964]
(C. S. No. 17, dated the 30th June 1964)

No. 18

Appendix 30 *Page 190*

2. In the Schedule to the Union Public Service Commission (Exemption from Consultation) Regulation, 1958, item (15) shall be *renumbered* as item (16) and the following shall be *inserted as* item (15), namely :—

"(15) Posts of Consultants in the Planning Commission."

[G. I. M. H. Affairs Notification No: F 18/13/63 Est-(B) dated the 24th April 1964]
(C. S. No. 18, dated the 30th June 1964)

No. 19

Appendix 31 *Page 199*

The following clause regarding "Provident Fund benefits" may be *added* after clause 7 of the Annexure on page 199 namely :—

"(7-A). *Provident Fund benefits* : During the period of deputation he will continue to subscribe to the Provident Fund of his parent Government to which he may be subscribing when he is placed on deputation, in accordance with the rules of such Fund.

In the case of deputation of a Government servant who is governed by the *Contributory Provident Fund* Rules, Government contribution is payable by the Government to whom he is deputed, for the period of his deputation".

[G. I. M. F. Memo No. F. 1(6)-IV (A)/62-E. III, dated the 7th April 1964]
(C. S No. 19, dated the 30th June)

No. 20

Appendix 32 *Page 205-208*

2. In the Study Leave Rules, 1962—

(1) *for* sub-rule (1) of rule 17, the following sub-rule shall be *substituted*, namely:—

"17(1) **Every Government servant in permanent employ who has been granted study leave or extension of such leave shall be required to execute a bond as given in Appendix A or Appendix A-1, as the case may be, annexed to these rules before the study leave or extension of such leave granted to him commences. If study leave or extension of such leave is granted to a Government servant not in permanent employ, the bond shall be executed as given in Annexure B or Annexure B-1, as the case may be, annexed to these rules.**"

[G.I.M.F. Notification No. F. 3 (15)-Est-IV (A)/63 (III), dated the 18th April 1964]

(2) after Annexure A and Annexure B annexed to these rules, Annexure A-1 and Annexure B-1, as annexed, shall be inserted respectively.

ANNEXURE 'A-1'

(*See Rule 17*)

BOND FOR PERMANENT GOVERNMENT SERVANTS GRANTED EXTENSION OF STUDY LEAVE

KNOW ALL MEN BY THESE PRESENTS THAT I———— resident of————————in the District of————————at present employed as————————in the Ministry/Office of————————do hereby bind myself and my heirs, executors and administrators to the President of India (here-in-after called "the Government") on demand the sum of Rs.———— Rupees————) together with interest thereon from the date of demand at Government rates for the time being in force on Government loans or, if payment is made in a country other than India, the equivalent of the said amount in the currency of that country converted at the official rate of exchange between that country and India AND TOGETHER with all costs between attorney and all charges and expenses that shall or may have been incurred by the Government.

Signed and dated this————day of———— one thousand nine hundred and————.

WHEREAS I————was granted study leave by Government for the period from————to————in consideration of which I executed a bond dated————for Rs.————(Rupees ————) in favour of the President of India.

AND WHEREAS the extension of study leave has been granted to me at my request until————.

AND WHEREAS for the better protection of the Government I have agreed to execute this bond with such condition as hereunder is written:

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT in the event of my resigning or retiring from service without returning to duty after the expiry or termination of the period of study leave so extended or any time within a period of three years after my return to duty I shall forth-with pay to the Government or as may be directed by the Government on demand the said sum of Rs.————(Rupees————) together with interest thereon from the date of demand at Government rates for the time being in force on Government loans.

AND upon my making such payment the above written obligation shall be void and of no effect otherwise it shall be and remain in full force and virtue.

The Government of India have agreed to bear the stamp duty payable on this bond.

Signed and delivered by.
————in the presence of
Witness (1) (2)

ACCEPTED

for and on behalf of the President of India.

ANNEXURE 'B-1'

(*See Rule 17*)

BOND FOR TEMPORARY GOVERNMENT SERVANTS GRANTED EXTENSIONS OF STUDY LEAVE

KNOW ALL MEN BY THESE PRESENTS THAT WE———— resident of————in the District of————at present employed as————in the Ministry/Office of———— (here-in-after called "the obligor") and Shri————son of———— of————and Shri————son of———— (here-in-after called the sureties) do hereby jointly and severally bind ourselves and our respective heirs, executors and administrators to pay the President of India (here-in-after called "the Government") on demand the sum of Rs.————(Rupees———— ————) together with interest thereon from the date of demand at Government rates for the time being in force on Government loans or, if payment is made in a country other than India, the equivalent of the said amount in the currency of that country converted at the official rate of exchange between that country and India AND TOGETHER with all costs between attorney and client and all charges and expenses that shall or may have been incurred by the Government.

Signed and dated this————day of————one thousand nine hundred and————.

WHEREAS the obligor was granted study leave by the Government for the period from————to———— in consideration of which he executed a bond dated————for Rs.————(Rupees ————) in favour of the President of India.

AND WHEREAS the extension of study leave has been granted to the obligor at his request until————:

AND WHEREAS for the better protection of the Government the obligor has agreed to execute this bond with such condition as hereunder is written.

AND WHEREAS the said sureties have agreed to execute this bond as sureties on behalf of the above bounden————————resigning from service without returning to duty after the expiry or termination of the period of study leave so extended or at any time within a period of three years after his return to duty the obligor and the sureties shall forthwith pay to the Government or as may be directed by the Government on demand the said sum of Rs.————————————(Rupees ————————) together with interest thereon from the date of demand at Government rates for the time being in force on Government loans.

And upon the obligor Shri————————and, or Shri———————— and, or Shri————————the sureties aforesaid making such payment the above written obligation shall be void and of no effect otherwise it shall be and remain in full force and virtue.

PROVIDED ALWAYS that the liability of the sureties here-under shall not be impaired or discharged by reason of time being granted or by any forebearance act or omission of the Government or any person authorised by them (whether with or without the consent or knowledge of the sureties) nor shall it be necessay for the Government to sue the obligor before suing the sureties Shri———————— and Shri————————or any of them for amounts due here-under.

The Government of India have agreed to bear the stamp duty payable on this bond.

IN WITNESS WHEREOF.....the Gevernment servant above named has signed these presents the day month and year first above written.

Signed sealed and delivered by.....in the presence of :

1.
2.

Accepted for and on behalf of the President of India by.....

(C. S. No. 20, dated the 30th June 1964)

No. 21

Appendix 34 *Page 209*

In the last line of the footnote as page 209 *substitute* the figure '1964' for '1965'

(C. S. No. 21, dated the 30th June 1964)

No. 22

Appendix 38 *Page 248*

Insert the following as Government of India's decision No. (3) below rule 7 namely :—

"(3) In accordance with the Regulations governing the procedure for the commutation of pension, the Chief Administrative Medical Authority of the State concerned arranges for the medical examination of the applicant by the medical authority prescribed in Regulation 7 *(ii) ibid.* This Medical authority is known as the Ultimate Medical authority and its report is considered as final. This authority, after examining the applicants completes the necessary forms and forwards them to the Accounts Officer concerned.

It is observed that according to the procedure followed by some of the State Governments in certain cases the prescribed medical authority forwards the completed documents to the Accounts Officer concerned through its next higher authority. The Rgulations cited above do not provide for this procedure. The difficulty arises when the opinion of the next higher authority is at variance with that of the ultimate medical authority. Besides, the trouble also arises as to the date of effect of the commutation, which according to rules is the date on which the applicant is medically examined by the ultimate medical authority.

In the circumstances, I am request that steps may kindly be taken to apprise the Medical Authorities concerned in the State as to the requirements of the Rules, under which the ultimate medical authority is required to forward the medical report together with other documents *direct* to the Accounts Officer concerned."

[G. I. M. of Health Memo No. F. 5-48/63 MA, dated the 12th February 1964 copy received with G. I. M. H. Affair's No. 38/1/64-Ests (A), dated the 3rd March 1964]

(C. S. No. 22, dated the 30th June 1964)

No. 23

Appendix 38 A *Page 261*

Number the existing Government of India's decision below rule 13 as No. (1) and *insert* the following as No. (2) namely :—

"(2) Although the civilian employees paid from Defence Services Estimates are not governed by the provisions of the Fundamental Rules yet it is considered that the provisions of Government of India's decision No. 2 below F.R. 29A in the Chaudri's Compilation of Fundametal and Supplementary Rules may advantageously be applied in their cases also as they describe with some precision the procedure for regularisation of pay and leave salary in cases where an order of penalty of withholding of increments, reduction to a lower post, or to a lower time-scale or to a lower stage in a time-scale is set aside or modified by the competent appellate or reviewing authority under the provisions of the CDS (CC & A) Rules, 1952."

[G. I. M. of Defence Memo No. 15 (8) 63/10261 D (Lab.) dated the 26th November 1963]

(C. S. No. 23 dated the 30th June 1964)

No. 24

Appendix 39 *Page 281*

Number the existing Government of India's decision below rule 22 as No. (1) and *Insert* the following No. (2) namely:—

"(2) According to the second proviso to Explanation I below Rule 22 the limit of three years referred to therein will include all periods of leave during which a Government servant in permanent or *quasi*-permanent employ would have officiated in the post but for proceeding on such leave and all periods of officiating service rendered in an equivalent or still higher post but for appointment to which he would have officiated in that post. In order to allow the benefit of treating the pay drawn in the post in which he was officiating before proceeding on leave or which he would have so officiated but for his officiating appointment in an equivalent or still higher post as substantive pay, for the purpose of rule 22 it will be necessary to obtain suitable certificate from the competent authority concerned that during all the periods of leave or officiating service in an equivalent or still higher post, the Government servant concerned would have continued to officiate in the post concerned but for proceeding on leave or officiating service in an equivalent or still higher post.

The President is pleased to decide that in all cases in which it is proposed to allow the benefit of the above mentioned second proviso to the explanation 1 below Rule 22 the authority which is competent to fill the specified post in respect of which the benefit is proposed to be granted, should furnish a certificate in the form as per Annexure to this decision, to enable audit to admit the claim. This certificate will not, however, be necessary when :—

(*a*) A Government servant has continuously officiated in a Gazetted post for more than three years and has not availed of any leave;

(*b*) A Gazetted Government servant has availed of earned leave in respect of which a certificate that the Officer would have continued to officiate in the relevant post but for the leave has been furnished to the Accounts Officer and he has been allowed increment in respect of such leave without its being postponed;

(*c*) A Gazetted Government servant has officiated in a higher post for which certificate of continued officiation in the lower post but for appointment to the higher post has been furnished to the Audit Office and the Officer has been allowed to count the period for increment in the lower post."

[G. I. M. of Defence Memo No. 89312/2/Org: 4 (C. IV) (D)/13478/D(Civ. II) dated the 22nd January 1964]

ANNEXURE

Certified that on*.....Shri/Shrimati/Kumari..... has been continuously officating in the post†.....for more than three years inclusive of the following periods during which he she would have officiated in that post but for the following events :——

(1) Periods of officiating in the specified post from.....to.....
(2) Periods of officiating in equivalent or higher posts in the same department.
(3) Periods of deputation.
(4) Foreign service.
(5) Periods of leave.

Signature.....
Designation.....

*The date preceding the date of commencement of leave to be specified."
†Designation of the post to be specfied here.

(C. S. No. 24, dated the 30th June 1964)

No. 25

Appendix 39 A *Page 289*

Insert the following as Government of India's decision below para 6 namely :—

"**Government of India's decision** In partial modification of para 6 it has been decided, as a temporary measure, that industrial employees of the Defence establishments, who are governed by the Factories. Act, 1948 will be granted earned leave at the rates and under the conditions laid down in the Factories Act and rules made thereunder, except that those employees who have served for 20 years or over, may continue to be granted leave on full pay for 20 days in a calendar year."

[G. I. M. of Defence letter No. 10 (53)/57/13844 D (Civ. II), dated the 28th November 1963 and Civilian Personnel Routine Order No. 30, dated 1st March 1964 which has effect from 1st January 1963]

(C. S. No. 25, dated the 30th June 1964)

No. 26

Appendix 39 A *Page 192*

Insrt the following as Government of India's decision below rule 16 namely :—

"**Government of India's decision.** The question of counting of various types of leave admissible to industrial employees for increments has been under consideration for some time past. The President is pleased to decide that all leave except extraordinary leave taken otherwise than on Medical Certificate, as admissible to an industrial employee, permanent or temporary, shall count for increments, in the post in which he was working at the time of proceeding on such leave provided it is certified that he would have continued to hold that post but for going on leave."

[G. I. M. of Defence Memo No. 81138/4/Org 4 (Civ.)(D)/10615/D/Civ I) dated the 24th October 1963]

(C. S. No. 26, dated the 30th June 1964)

No. 27

Appendix 41 *Page 316*

Insert the following as Government of India's decision No. (11) below para 3 namely :—

"(4) A question has arisen as to whether death certificates of the deceased officers should be submitted by the Administrative authorities to Audit in connection with the grant of family pension and death-cum-retirement gratuity. After careful consideration, it has been decided in consultation with the Comptroller and Auditor General that as a general rule the verification of the death of a Government officer may be left to the Administrative authority concerned who may notify Audit about it. Audit need not call for death certificates in all cases. However, it will be open to them to ask for it in cases where they consider necessary."

[G. I. M. F. Memo No. F. 9 (3)-EV (A)/64, dated the 13th April 1964]

(C. S. No. 27, dated the 30th June 1964)

No. 28

Appendix 41 *Page 324*

Insert-the following as decision No. (13) below para 4 of this appendix namely :—

"(3) Paragraph 4 (8) *inter alia* provides that immediately on receipt of a nomination from a non-gazetted officer the head of the office shall countersign it indicating the date of receipt. It has been reported from certain quarters that the heads of the offices experience difficulties in countersigning nomination forms submitted by considerably large number of non-gazetted Staff working under them. In the circumstances, after carefull consideration the Government of India have decided that the Administrative Ministries and the Comptroller and Auditor General may authorise the heads of the offices under them to delegate their powers to countersign nomination forms etc. under para 4 (8) *ibid* to their subordinate gazetted officer(s)."

[G.I. M. F. Memo No. 8 (9)-EV (A)/63, dated the 13th April 1964]

(C. S. No. 28, dated the 30th June 1964)

No. 29

Appendix 41 *Page 341*

Insert the following as Government of India's decision No. (9) below para 9 in the appendix 41 namely :—

"(9) The President has been pleased to decide that Government employees who have retained the Contributory Provident Fund benefits in terms of Rule 38 (1) (*a*) of the contributory Provident Fund Rules (India), 1962, or in terms of any other orders issued in this behalf, may be allowed another opportunity to opt for the Liberalised Pension Rules including the benefit of the new Family Pension Scheme for Central Government employees (1964) within a period of six months from the date of issue of these orders. The option now exercised will be final. They will, however, have no option to elect the Liberalised Pension Rules without the benefits of the new Family Pension Scheme.

2. Option should be communicated (in the form annexed) by the officer concerned to the Head of office if he is a non-gazetted officer and to the Accounts officer concerned if he is a gazetted officer.

The option when received from a non-gazetted officer, should be countersigned by the Head of Office and pasted in the Service Book of the officer concerned.

It will be the responsibility of the officer concerned to ensure that he receives acknowledgment of his option from the Accounts Officer or his Head of Office, as the case may be, and that it has been duly recorded.

3. An officer who does not exercise an option within the prescribed period or quits service or dies wihout exercising an option or whose option is incomplete or conditional or ambiguous shall be deemed to have opted to remain under the existing Contributory Provident Fund benefits.

4. In the case of an officer who elects to be governed by the Liberalised Pension Rules, the 'Government contribution' with interest thereon standing to his credit in the Contributory Provident Fund shall be credited to the Central Revenues (Civil). The Government servant's subscriptions together with interest theron in that Fund shall be transferred to his General Provident Fund account which he shall be asked to open and to which he shall subscribe under the rules of the Fund.

The past service rendered by such an officer shall be deemed to have been rendered *ab initio* in a pensionable establishment and shall count as service qualifying for pension in the manner and to the extent provided for in the relevant pension rules in force time to time, provided that no inflated rates of pay in lieu of retirement benefits were drawn for the period during which he did not subscribe to the Contributory Provident Fund.

5. Individuals who were given the option to elect the Pension Rules in terms of Government of India's decision No. 2 below para 9 in this appendix and

who have retained the provisions of the Contributory (Transferred Railway Personnel) Provident Fund, Gratuity and Sterling Accounts Rules may also be given another option to elect the Liberalised Pension Rules under these orders, subject to other relevant conditions specified in the orders of the 28th May, 1959, referred to above.

6. Administrative authorities are requested to take urgent steps to bring the contents of this decision to the notice of all officers and staff employed under their adminstrative control including those on leave or on foreign service.

It would be desirable to obtain an acknowledgment from each individual so that ignorance of these orders is not pleaded at a later stage.

[G. I. M. F. Memo No. F.2 (14)-EV (B)/63, dated the 15th January 1964]

ANNEXURE

OPTION

Having understood the comparative advantages and disadvantages of pensionary and Provident Fund benefits as applicable in my case.

(*i*) I opt for the Liberalised Pension Rules including the benefit of the Family Pension Scheme for Central Government employees, 1964, introduced *vide* the Ministry of Finance O. M. No. F.9(16)/63 dated the 31st December, 1963, on the terms and conditions laid down in that Ministry's O. M No. F.2(14)-EV(B)/63 dated the 14th January, 1964.

(*ii*) I opt to continue under the existing Contributory Provident Fund benefits.

Note. Strike out (*i*) or (*ii*), as per option.

Witness:— Signature.....

Signature.....Date.....

Name in full..... Name in full.....

(In Block letters) (In Block letters)

Designatien.....Designation.....

Office. .....Office.....

CERTIFICATE

(Applicable only in the case of Class IV and illiterate employees and to be signed by a responsible officer of the Administration Branch of the Ministry/ Office concerned).

The rules were explaind to Shri ..... in my presence.

Signature.....

Name.....

(In Block letters)

Designation.....

ACKNOWLEDGMENT

Received from Shri.....Designation.....

Office....., an option dated.....

(*i*) For the pensionary benefits.

(*ii*) For existing Contributory Provident Fund benefits.

Note :—Strike out (*i*) or (*ii*) as per option.

Signature.....

Designation.....

Office.....

(C. S. No. 29, dated 30th June 1964)

No. 30

Appendix 41 *Page 354*

Insert the following as note to Government of India's decision No. (9) below para 13 namely :—

"*Note.* A question has arisen whether the temporary service rendered by a non-industrial employee in an industrial establishment prior to his confirmation in a non-industrial/regular establishment should count for pension. The Government of India after careful consideration have decided that such an employee retiring from service on or after 18-11-1960 and who on confirmation in a non-industrial/regular establishment has opted for or is governed by the Liberalised Pension Rules will count such service for pension, without regard to the fact that he was not contributing to W. C. P. F. for certain periods."

[G. I. M. F. Memo No. 3(15)-EV(A)/64, dated the 29th May 1964]

(C. S. No. 30, dated 30th June 1964).

No. 31

Appendix 47 *Page 395*

Substitute the following for Form I appearing in the footnote on page 395 namely :—

"FORM I

Form of report/application for permission to the prescribed authority for the building of or addition to a house.

Sir,

This is to report to you that I propose to build a house/to make an addition to my
This is to request that permission may be granted to me for the building of a house..
house/the addition to the house. The estimated cost of the land and materials for the construction/extension is given below :

LAND

(1) Location (Survey numbers, village, district, State).
(2) Area.
(3) Cost.

BUILDING MATERIALS ETC.

(1) Bricks (Rate/quantity/cost).
(2) Cement (Rate/quantity/cost).
(3) Iron and Steel (Rate/quantity/cost).
(4) Timber (Rate/quantity/cost).
(5) Sanitary Fittings (Cost).
(6) Electrical Fittings (Cost).
(7) Any other special fittings (Cost).
(8) Labour Charges.
(9) Other charges if any.

TOTAL COST OF LAND AND BUILDING.

*The construction will be supervised by myself. The construction will be done by..... .....@

I do not have any official dealings with the contractor, nor did I have any official
I have/had official dealings with the contractor and the nature of my dealings with him in the past.
with him is/was as under.

Yours faithfully,

*Strike out portions not applicable.

@Enter the name and place of business of the contractor.

[G. I. M. H. Affair's No. F.25/2/64-Ests (A), dated the 31st January 1964].

(C. S. No. 31, dated the 30th June 1964)

No. 32

Appendix 53 *Page 458*

In the General Provident Fund (Central Services) Rules, 1960, in clause (*a*) of sub-rule (1) of rule 12. for the word 'illness', the words "illness, confinement" shall be *substituted*.

[G. I. M. F. No. 27 (4) EV(B)/64, GPF, dated the 9th April 1964]

(C. S. No. 32, dated the 30th June 1964)

Lakhinder
Dist. Hoshiarpur
the 30th June 1964

LAKHI SINGH CHAUDRI.

Ist list of Additions and Corrections to the 5th Edition of Chaudri's Compilation of Civil Service Regulations, Volume I.

No: 1

Artice 176 *Page 97.*

For the existing last three lines of clause (*i*) (*b*) of article 176, the following shall be *substituted* :—

"By motor car plying for public hire..... 150 kilometres
By mail cart or other public stage conveyance drawn by horses.....150 kilometres
In any other way..... ..25 kilometres."

[G. I. M. F. Notification No: F. 6 (2)—E. IV (B)/64, dated the 2nd March 1964]
(C. S No: 1, dated the 30th June 1964)

No. 2

Article 351 A *Page 186*

Insert-the following as government of India's decision No: (8) below Article 351 A namly :—

"(8) According to proviso (*a*) article 351-A, CSRs, departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall after the final retirement of the officer, be deemed to be proceedings under the said article and shall be continued and conclulded by the authority by which it was commenced in the same manner as if the officer continued in service. A question has been raised whether in the case of an officer whose case falls within the purview of the aforesaid proviso and proceedings against whom were instituted by an authority subordinate to the President, order for with-drawal/withholding of pension can be passed by the subordinate authority on the conclusion of the proceeding, or that authority should refer to the case to the President for final orders. The question has been examined in consultation with the Ministries of Home Affairs and Law and the Ministry of Finance clarified that the function of the departmental enquiry officer is only to reach a finding on the charges, and then, submit his report recording his findings to the Government. It is then for the Government to consider the findings and take a final decision whether the pension should be withheld or withdrawn. In case Government decide, in consultation with the Union Public Service Commission, to withhold or withdraw pension or a part thereof, necessary order will be issued in the name of the President.

[G. I. M. F. Memo : No: F. 17 (2)-EV(B)/64, dated the 2nd April 1964]
(C. S. No: 2 dated the 30th June 1964)

No: 3

Article 357 D *Page 206*

Insert-the following as note to Government of India's decision No. (6) namely :—

"*Note* :—The service rendered in any of the Central Government Offices Departments etc. mentioned in the Home Ministry's Press Communique, dated the 14th November 1944, shall be treated as war service' for the purpose of this decision."

[G I. M. F. Memo: No: F. 3 (18)-EV(A)/64, dated the 24th June 1964]
(C. S. No: 3 dated the 30th June 1964)

No. 4

Article 459 *Page 281*

Insert the following as Government of India's decision No. (10J) below Article 459 namely :—

"(10J) At present, all cases of extension of service/re-employment of

members of the All India Services, the Central Secretariat Service, the Central Secretariat Stenographers Service and the Central Secretariat Clerical Service beyond the age of compulsory retirement, require a prior reference to the Ministry of Home Affairs in accordance with Home Ministry's Office Memorandum No. 23/66/58-CS(C)/EOI dated the 10th August, 1959, read with item (9) of the Annexure I to this Ministry' Office Memorandum No. 60/61-CS(A) dated the 28th September, 1962. Besides, this decision No. 10H, provides that all cases of employment, whether it is a case of first employment in Government service, re-employment or extension of service, of persons after they have attained the age of 60 years to Class I and Class II posts are to be disposed of in consultation with Home Ministry. It has been found that in many cases the proposals are referred to Home Ministry for piecemeal extensions/re-employment.

If the proposals for extension of service/re-employment of officers are well-thought out initially, it should be possible to estimate the maximum period for which it will be essential to grant extension/re-employment. In view of this and the impropriety of piecemeal extensions/re-employment, it is necessary that all such proposals should be very carefully scrutinised and where extension/re-employment is found absolutely necessary, well considered recommendations for extension/re-employment made. It has, accordingly, been decided that in cases referable to the Ministry of Home Affairs :—

(*a*) the proposal should emanate from a sufficiently high level ;

(*b*) the longest period for which extension/re-employment is considered necessary should be indicated ;

(*c*) wherever possible the steps taken or intended to be taken for replacement of the officer should also be indicated".

[G.I.M.H. Affairs Memo. No. 33/7/64-Ests (A), dated the 20th March 1964].

(C. S. No. 4, dated the 30th June 1964)

No. 5

Article 459 *Page 278*

Insert the following Government of India's decision No. (1B) below Article 459 namely :—

"(1-B) Paragraph 3 of Government of India's decision No. (IAA) provides that scientific and technical personnel may be given extension of service beyond the age of 58 years subject to their fitness and suitability for the work.

In accordance with sub-paragraph (2) of paragraph 2 of Home Ministry's O. M. No. 33/2/58-Ests (A) dated the 20th September, 1958, no officer will be retained in service beyond the date of compulsory retirement or offered re-employment after that date except when it is clearly in the public interest and where it is evident that other officers in service are either not ripe enough to take up the appointment or that the retiring officer is of such outstanding merit that Government consider it desirable to retain him in service further. A doubt has, therefore, been expressed whether the system of grant of extension or re-employment to non-scientific and non-technical personnel after they have attained the age of 58 years, should still continue.

The matter has been carefully examined and it has been decided that the system of grant of extension or re-employment beyond the age of compulsory retirement in fit cases would continue. However, now that the age of compulsory retirement has been raised to 58 years the test of public interest for the purpose of grant of extension or re-employment in the case of non-scientific and non-technical personnel should be more rigorously applied than hitherto and this should be permitted only in exceptional circumstances.

[G.I.M.H. Affairs Memo. No. 33/18/62-Ests (A), dated the 14th February 1964].

(C. S No. 5, dated the 30 June 1964)

No. 6

Article 468 *Page 294*

Substitute the following for Government of India's decision No. (1) and the note their under :—

"**Government of India's decisions.** (1) In cases where the amount of a

pension works out to a certain number of rupees and multiples of five naye paise plus 2·5 naye paise, the amount of 2·5 naye paise should be rounded off to next 5 naye paise. Past cases, otherwise decided, need not be reopened".

[G.I.M.F. Memo. No. F-7(B)-EV/57, dated the 23rd March 1964].

(C. S. No. 6, dated the 30th June 1964)

No. 7

Article 474 *Page 306*

Insert the following as Government of India's decisions Nos. (12) and (13) below article 474 namely :—

"(12) Doubts have been raised in regard to the admissibilty of the rates of temporary increase sanctioned in decision No. (1) as ammended by Note (2) there under in respect of pensioners whose pensionary liability is divisible between the Government of India and a foreign Government (including the Government of Pakistan) and in whose case initial liability for payment of pension devolves on the Government of India.

It has been decided that in cases where the pensionary liability is divisible between the Government of India and foreign Government other than the Government of Pakistan the rate of temporary increase at enhanced rate should be determined with reference to the total amount of pension payable but the amount of temporary increase at enhanced rate should be restricted in proportion to the share of the pension debitable to the Government of India. In cases, however, where pension is divisible between the Government of India and the Government of Pakistan, temporary increase at enhanced rates should be allowed on the entire pension including the share of pension debitable to the Government of Pakistan provided the pensioners concerned migrated to India by the 30th June, 1955. The extra liability consequent on the payment of temporary increase at enhanced rates on the share of pension debitable to the Government of Pakistan would entirely be borne by the Government of India.

The above orders will take effect from 1-6-1963.

[G. I. M. F. Memo No. F. 15(4) EIV(A)/64, dated the 12th June 1964].

(13) A question has been raised whether *ad-hoc* increase in pension sanctioned in decision No. (1AA) above is admissible to employed or re-employed pensioners who are in receipt of family pension under the Liberalised Pension Rules and if so, how its admissibility and rate in a particular case should be determined. It has been decided in consultation with the Comptroller and Auditor General of India that as temporary increase in pension is admissible to employed or re-employed pensioners who are in receipt of family pension under the extraordinary pension rules, the *ad-hoc* increase in pension should also be admissible to similiar pensioners who are in receipt of family pension under the Liberalised Pension Rules. It has further been decided that the principles enunciated in decision No. (2) above for determining temporary increase in pension in case of employed or re-employed pensioners who are in receipt of family pension under the extraordinary pension rules will also be applicable in such cases. In other words. the admissibility of *ad-hoc* increase in pension should be determined with reference to the sum total of pay on employment or re-employment plus pension but for the purpose of determining the rate of *ad-hoc* increase in any particular case the pay should be ignored *i. e.* the rate should be determined with reference to pension alone.

[G. I. M. F. Memo No. F. 15(5)-EV (A)/64, dated the 25th June 1964].

(C. S. No. 7, dated the 30th June 1964)

No. 8

Article 509A *Page 54*

Insert the following as Government of India's decision No. (25) and (26) below Article 509A.

"(25) A re-employed pensioner may either continue to officiate in the re-employed post or may, in certain circumstances, be confirmed therein. In the

case of re-employed pensioners who are officiating in re-employed post, the President is pleased to decide that their transfer or promotion to another post should be treated as a fresh re-employment and that the pay should be fixed under the orders subsisting on the date of such transfer or promotion.

2. Cases of re-employed pensioners who have been confirmed in a re-employed post may be of two types, *i. e.*,

(*a*) cases in which re-employment pay was regulated under the provisions of Government of India decision No. (IA) above *and*

(*b*) cases in which re-employment pay was regulated under the orders in force prior to 25-11-1958.

3. In cases mentioned at (*a*) of the preceding paragraph, pay on promotion, transfer, etc. subsequent to confirmation shall be governed by the F. Rs. subject to the ceiling prescribed in para 1(*g*) of decision No. (1A) above. In cases mentioned at (*b*) of the preceding pargraph where initial pay had been fixed keeping the pension in abeyance, the pay on promotion, transfer etc. subsequent to confirmation should be refixed under the Fundamental Rules with reference to the pay that would have been drawn in the post in which the Government servant was confirmed had the pension not been held in abeyance. After pay has been so re-fixed, pension will be allowed to be drawn separately. Where the pension was being drawn separately, the pay will be refixed directly under the F. Rs., pension continuing to be drawn separately as before.

4. If a re-employed pensioner on confirmation in a re-employed post becomes eligible to a fresh pension in terms of Article 514(*b*) or Article 526 of the CSRs, and if he had previously been allowed the benefit of the C. P. F. on re-employment, the amount of his own subscription together with the interest thereon will be transferred to the G. P. F. account to be opened for him. The amount of Government's contribution with interest thereon will be resumed by the Government.

5. In the case of a person confirmed in a re-employed post, the balance of refused leave, if any, will not automatically be granted to him on the termination of his re-employment. The leave earned during the period of re-employment and the balance of the refused leave, if any, will, on the other hand, be carried forward on confirmation and the grant of leave thereafter will be governed by the normal rules. The leave salary in respect of the deferred refused leave will continue to be regulated under para 1(*i*)(*i*) and 1(*i*)(*ii*) of decision No. (1A) above.

(26) The following items of emoluments admissible in the Defence Services will constitute the pre-retirement pay of retired military personnel of the rank of J. C. O. and below under note 2 below para 1 (*c*) of decision No : (IA) above subject to the other provisions of that note :—

Army (J. C. O., N.C.O., orO.R.)

Old Pay Code.	*New Pay Code.*
Basic pay.	Pay (including deferred pay) and
Grade/trade technical/corps pay.	rank pay.
Good Service/ Good conduct pay.	Increments of pay for length of service.
Proficiency pay/ Special proficiency pay.	Good service pay.
War Service Increments.	
Deferred pay.	
Personal Allowance (Ris/Sub Major).	
Extra Duty pay.	

Navy

Basic pay.	Pay (including deferred pay)
Non-substantive pay,	
Good Conduct pay.	Good Conduct pay.
War Service	Higher Pt. II-

Increment.
Deferred pay.

Qualification pay.

Air Force.

Basic pay.
Good Service/
Good Conduct pay.
Air Proficiency pay.
War Service
Increments.
Deferred pay.

Pay (including deferred pay)

Badge pay.

It has also been decided that for the purpose of fixation of pay of re-employed military pensioners of J. C. O. rank and below who retired before 1. 7. 59 and are re-employed after 1. 7. 59, the pre-retirement pay should be taken as emoluments mentioned in the preceding paragraph *plus* two-thirds of the dearness allowance (including dearness pay and interim relief, if any) admissible to them at the rates in force on the civil side on the 30th June, 1959. This is in partial modification of paragraph 1-II(B) of Finance Ministry's O. M. No. 12 (10)—Est. (Spl)/61 dated 10. 10. 61".

[G. I. M. F. Memo : No. 5 (21)-Est. III (B) 64, dated the 15th June 1964]
(C. S. No. 8, dated the 30th June 1964)

No : 9.

Article 521 *Page 421*

Insert the following as Government of India's division No : (6) below Article 521 namely.

"(6) At present civil pensions upto Rs. 10 p. m. and military pensions upto Rs. 15 p. m. are ignored in fixing pay on re-employment, *vide* Articles 521 and 526 of the Civil Service Regulations.

2. The Government have had under consideration the question of raising these limits consequent on the liberalisation of pension Rules and the general increase in pay scales on the basis of the Second Pay Commission's recommendations. The President has been pleased to decide that in the case of persons retiring before attaining the age of 55, the pension as shown below may be ignored in fixing their pay on re-employment :—

(*i*) in the case of pensions not exceeding Rs. 50 per mensem, the actual pension :

(*ii*) in other cases, the first Rs. 50 of the pension.

3. The existing limits of civil and military pensions to be ignored in fixing the pay of re-employed pensioners will cease to be applicable to cases of re-employment commencing hereafter, irrespective of the age at which the pensioner retired. Formal amendments to the relevant Articles of the Civil Service Regulations will be issued in due course.

4. Pension for the purpose of these orders includes pension equivalent of gratuity and other forms of retirement benefits.

5. These orders will take effect from the date of issue. In the case of the persons who are already on re-employment, the pay may be refixed on the basis of these orders with immediate effect provided they opt to come under these orders. If they so opt their terms would be determined afresh as if they have been re-employed for the first time from the date of these orders.

6. The option should be exercised in writing within a period of six months from the date of issue of these orders. The option, once exercised, shall be final".

[G. I. M. F. Memo : No : 7 (34)-Est. III/62, dated the 16th January 1964]
(C. S. No. 9, dated the 30th June 1964)

No. 10

Article 729 *Page 451*

Insert the following as Government of India's decision below Article 729 namely :—

"**Government of India's decision.** The question as to whether Defence Civilians are entitled to any compensation if they sustain injuries during a fire

practice or while fighting actual fire, has been under consideration of the Government for some time past.

2. The entire position in this behalf is clarified as indicated below :—

(*a*) Fire Brigade Staff are already entitled to compensation under Workmen's Compensation Act, while fighting actual fire, or during fire practice as a part of their duty.

(*b*) Defence Civilians (other than Fire Brigade Staff)who are workmen under the Workmen's Compensation Act are not entitled to any compensation if they sustain injuries or die during a fire practice or while fighting actual fire as they are not employed in the service of any fire Brigade.

(*c*) Defence Civilians other than those specified in sub-paras (*a*) & (*b*) above *ie.* who are not governed by workmen's compensation Act, will be entitled to gratuity/family pension etc. under Chapter XXXVIII CSR/CCS (Extraordinary Pension) Rules, treating this risk as a "risk of office"/"special risk of office" as the case may be.

3. In order, however, to compensate individuals mentioned in para 2(*b*) above, who do not at present get any compensation when they sustain injuries during a fire practice or while fighting actual fire, the President is pleased to state that in such cases also compensation will be paid to these individuals on the lines of Workmen's Compensation Act on "ex-gratia basis" by the authorities mentioned in AI 13/61, or orders issued subsequently in that behalf.

[G.I.M.F. Defence letter No : 39675/EIC(V)/14744/D(Civ II), dated the 31st Dec. 1963].

(C.S. No. 10, dated the 30th June 1964)

No. 11

Article 829 *Page 482*

Insert the following as Government of India's decision No. (2) below article 829 namely :—

"(2) Doubts have been expressed in regard to the necessity for production of certificate from Medical Boards for grant of leave to civilian gazetted officers *vide* Article 829 *et seq.* C.S.Rs. It is clarified that if the leave applied for on medical grounds is privilege leave/earned leave and is due to the officer concerned certificates from medical boards need not be insisted upon if the leave sanctioning authority is satisfied about the genuineness of the medical grounds. Where, however, the competent authority has any doubts, he may demand the production of a certificate from a medical board. Accordingly, the audit authorities should not insist on the production of a certificate from a medical board at the time of rendering a report about a gazetted officer's entitlement to leave or on receipt of orders from the competent authority sanctioning privilege/earned leave. Similarly, certificate from a medical board need not be insisted upon in cases of grant of leave on half pay unless commutation of such leave is asked for.

[G.I.M. Defence No : II (32)60/12338/D(Civ-II), dated the 15th October 1963]

(C.S. No. 11, dated the 30th June 1964)

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this decision both of which may be treated as cancelled.

Cases already decided in the light of those provisions need not, however, be re-opened.

Also see Government of India's decision No : (30) below article 487.]

[G. I. M. F. Memo : No. 33 (7)-EV/59, dated the 26th May, 1959.]

Note (3) A question has been raised as to how the rates of temporary increase in small pensions sanctioned in this decision should be regulated in the case of pensioners who exercised the option povided under para 2 (c) of Government of India's decision No. (2) below para 9 in appendix 41 to Chaudri's Compilation C. S. R., Volume II. The President is pleased to decide that in such cases the eligibility for and the rates of temporary increase should be determined with reference to the pension admissible under the rules in force on the 16th April 1950 reduced by the pension equivalent of the death-cum-retirement gratuity.

[G. 1. M. F. Memo : No, 33 (11)-EV/A/59, dated the 11th July, 1959.]

Note (4)—Temporary increase in pension is determined on the pension granted originally and not on the pension after commutation.

[G. I. M. F. letter No. 793-EV (A)/59, dated 20-2-1959.]

Note (5)—A dobut has been raised whether in the case of re-employed pensioner in receipt of a pension upto Rs. 10 p. m. (up to Rs 15 p. m. in the case of a military pensioner) which is not taken into account for fixation of pay on re-employment, temporary increase should be allowed on such pensions. The position is that so long as a pensioner remains re-employed, he should not be eligible for any temporary increase on his pension.

The cases which have been decided prior to the issue of these orders need not be reopened except they may hereafter be regulated in accordance with the position now explained.

[G. I. M. F. Memo : No. 15(1) EV/A/61, dated the 18th February 1961.]

Note (6)—A doubt has arisen whether the temporary increase is admissible to re-employed pensioners in receipt of pay in the revised scales of pay prescribed since 1st July 1959. It has been decided in consultation with the Comptroller and Auditor General of India that as the dearness allowance has been merged in the revised scales of pay there is no justification for the grant of temporary increase of pension to re-employed pensioners even if while drawing pay in the revised scales they are not entitled to any dearness allowance as such.

[G. I. M. F. Memo No. F 15(4)-EV(A)/62, dated the 4th June 1962.]

(1 – A) A question has been raised regarding the basis on which temporary increase in pensions should be determined in relation to persons who are in receipt of two pensions, one from the Central Government and the other from a State Government, and the basis of allocation there of between the two Governments, in cases where the rates of temporay increase in pensions allowed by the Governments concerned are not indentical. It has been decided, in consultation with the State Governments and the Comptroller and Auditor General of India, that in cases of the type referred to, the temporary increase in pensions should be based on the total of the two pensions determined in accordance with the rates of the Government under whose rules making control the Government servant concerned was serving at the time of final retirement. The increase in pension should then be apportioned between the Central and the State Governments in the usual proportion.

[G. I M. F. Memo. No. F. 8 (9)-EV-56, dated the 11th September 1957.]

(1-AA) The question regarding the grant of some relief to retired Central Government servants whe are in reciept of small amounts of pensions has been engaging the attention of the Goverument for some time past.

The President has now been pleased to decide that *ad hoc* increase on pensions (including family pensions, extraordinary pensions and compassionate allowance) payable in India upto Rs. 200, p. m. will be sanctioned at the following rates until further orders : –

Amount of pension	*Rate of ad hoc increase in pension*
Pension upto Rs· 30. p. m.	*Rs. 5 p. m.*
Pensions above Rs. 30. but not above Rs. 75. p. m.	Rs. 7. 50 p. m.
Pensions above Rs. 75. but not above Rs. 200. p. m.	Rs. 10. p. m.
Pension above Rs. 200. p. m.	Such *ad hoc* increase as will bring the total pension to Rs. 210. p. m.

3 These will apply to all existing pensioners of the Government of India and those Government servants who will retire hereafter and will take effect

from the 1st October, 1963, *i. e.*, in respect of pensions for the month of October, 1963 payable in the month of November 1963.

4. The pensioners who are already in reciept of temporary increase in pensions in terms of decision No. (1) above as amended from time to time, will recieve the benefits mentioned in para 2 above in addition.

5. These orders will not apply to pensioners whose pension has been determined *ad hoc* without reference to the emoluments drawn by them, such as political pensions, war risk pensions etc.

6. All other orders in force in regard to temporary increases in pensions will *mutatis mutandis* apply to these *ad hoc* increases also.

[G. I. M. F. Memo No. F. 15(13) EV (A)/63, dated the 16th October 1963]

(1AAA) Consequent on the fixation of the quantam of family pension at a minimum of Rs. 25 p. m. under Family Pension Scheme for Central Government Employees, it has been felt that it would be anamolous if Government servants retiring on superannuation, retiring compensation, or invalid pension are sanctioned a pension less than the minimum fixed for the family pension. The President has accordingly been pleased to decide that in all cases of retirement occuring on or after the 1st January 1964, where the amount of pension together with the benefit of *ad hoc* increase is admissible under division No. (1AA) above Ministry of Finance Office Memorandum thereon comes to less than Rs. 25 p.m., the sams shall be raised to Rs. 25 p. m.

2. These orders will take effect from 1st January, 1964 *i. e.* in the case of those persons who retire on or after this date.

[G. I. M. F. Memo No ; F. 9 (16)-EV) (A) 1/63, dated the 31st December 1963)

(1-B) Doubts have been raised in certain quarters in regard to the exact scope of the provisions of decision No. (1) and the Note No. (1) above. In this connection it is pointed out that the temporary increase is intended to be given to pensioners whose pension is determined with reference to the emoluments drawn by them prior to retirement and not to the pensioners where the amount of pension is determined *ad-hoc* without refernce to the emoluments drawn by them, and accordingly the enhanced rates of temporary increase specified in the Office Memorandum referred to will not apply to political pensions, special pensions and war risk pensions etc. In respect of other pensions, the following decision have been taken :—

The provision of decision No. (1) referred to above, should also apply to family pensions granted under the new pension rules, extraordinary pensions and compassionate allowances.

In respect, however, of the pensions granted to displaced Government servants the temporary increase will be admissible, wherever the dearness pay has not been taken into account for determining the pension admissble, irrespective of the fact whether the retirements take place before 15th July 1952 or after.

The term 'retired' used in decision No. (1), should include cases of discharge, disablement and deaths prior to 15th July 1952.

[G. I. M. Memo No- F. 8 (5)-EV/57, dated the 4th February 1960.]

(1-C) A question has arisen whether increase at the rates prescribed in decision No. (1) should also be allowed to pensioners whose pensions are divisible between the Central and State, and also to those below Central or State share of pension has been extinguished by payment of the capitalised value.

The question mentioned in the preceding para has been considered by the Government of India and the following decisions have been taken :—

(*i*) The temporary increase should be calculated on the basis of the amount of the basic total pension (Central and State), and the rate of the temporary increase and its admissibility in any particular case should be determined under the rules and orders of the Government from whose service the Government servant finally retired and who sanctioned his pension.

(*ii*) In a case in which the amount of the temporary increase, as

admissible under the rules and orders of the State Government on one hand and of the Central Government on the other, is the same, the amount of temporary increase by whichever of the two Governments sanctioned should be divided between the Central and the State Governments in the same proportion as the pensioner's basic pension is divisible between them.

(*iii*) Where the amount of the temporary increase as admissible under tne rules and orders of the Central Government is greater than what would be admissible under the rules of the State Government who share a part of the expenditure on account of the basic pension of the pensioner, the amount of temporary increase to the extent admissible to the pensioners on his total basic pension under the rules and orders of the State Government concerned, should be divided between the Central and the State Governments in the same proportion as the basic pension and that part of the temporary increase which exceeds the amount so divided, charged wholly to the Central Government.

(*iv*) The above decisions will also apply in cases where the Central share of the basic pension has been initially extinguished by payment of capitalised value.

(*v*) In a case where a part of the basic pension is subsequently commuted and a part or whole of the share of one or more Governments is extinguished by payment of the capitalised value, the allocation of the temporary increase would remain unaffected and would be regulated in accordance with the orders contained in Finance Ministry's letter No. F.1(71)B/57, dated the 5th December, 1957.

[G. I,M·F. Memo No, F, 8(5)-57, dated the 8th February 1960.]

(1-D) Doubts have been raised in certain quarters in regard to the date from which the temporary increase may be paid at enhanced rates to the Pensioners who have become eligible for the enhanced rates in accordance with the orders (contained in decision Nos : (1-B) and (1-C) above. These two orders were issued in clarification of Finance Ministry's Office Memorandum No. F. 8(5)-EV/57. dated the 9th June 1958. Accordingly the pensioners who have become eligible for the temporary increase at enhanced rates under decisions Nos : (1-B) and (1-C) above will be paid at the enhanced rates with effect from the 1st April. 1958.

[G. I. M. F. Memo No : 8(5)-EV/57, dated the 8th February 1960.]

(2) A question was raised as to how the temporary increase in pension should be regulated in the case of a pensioner who is in receipt of a wound or injury pension, or family pension under any of the extra-ordinary pension rules and is employed or re-employed in Government service and is also eligible for dearness allowance. The Government of India have decided that the admissibility of temporary increase in pension should be determined with reference to the sum total of pay *plus* pension and that temporary increase should be allowed only if the sum of total does not exceed the limit upto which temporary increase is admissible, the dearness allowance as admissible on the pay being allowed in addition.

A person in receipt of a family pension or an injury pension should be asked to either furnish the necessary details of his emoluments in order to enable the disbursing officer to determine the admissibility of the temporary increase in pension, or sign the non-employment certificate under rule 354 (1) of the Central Treasury Rules, Volume I.

[G.I.MF. Memo No 8 (5) Est V/55, dated the 5th May, 1955.]

Note. In connection with this decision a question has been raised whether the total pay drawn by one or more dependents of the Government servant who are employed in Government service should be taken into account to determine whether or not temporary increase in the pension is admissible, It is clarified that in such cases the temporary increase in pension should be calculated in two stages. Firstly, under the orders contained in G. I. M. F. Memoranum No. F. 2 (36) W/44 dated the 24th November, 1944, the total

family pension given to various dependents will be taken togther and the amount of increase determined on that total and the amount divisible among the dependents in the proper proportion computed. Then so far as each dependent is concerned, if he is separately in receipt of pay, the sum total of such pay and his portion of the pension will be taken into account before allowing his proportionate share of the temporary increase as determined above.

[G.I.M.F. Memo No 8(5)-EV/55, dated the 21st November, 1955.]

(3) The decision No. (1) above applies also to Civilian Pensioners paid from Defence Services Estimates subject to the following instructions or any other instructions that may be issued on the subject :—

(*i*) The temporary increase will be admissible to pensioners who were granted pensions under Article 924 (*b*) C.S.R. before 28th May, 1942, but this increase will be inadmissible in the case of pensioners who have been granted pension under that Article on or after that date.

(*ii*) The temporary increase will also be applicable to compassionate allowances sanctioned under Article 353 of the C. S. R.

(*iii*) The temporary increase will also apply to wound or injury pensions and family pensions sanctioned under Chapter XXXVIII C. S. R. or Army Instruction (1) No. 258 of 1940. Where these pensions have been sanctioned to more than one dependent of a deceased Government servant the admissibility of the temporary increase in pension will be determined with reference to the total value of these pensions (including children's allowances, and the amount of the increase divided among them in the proper proportion.

(*iv*) The increase will not be granted to re-employed service pensioners who are in receipt of either dearness allowance, or free rations and clothing, or any other concession in consideration of the increased cost of living, during the period of re-employment. The term "re-employment" will cover all appointments paid from Defence Service Estimates, in Civil departments (Central and Provincial), in Railways, under local authorities like Municipal/District Boards, and in Indian States.

(*v*) Pensioners who are in receipt of increase in pension sanctioned in A. I (I) No. 93 of 1936 are also eligible for the temporary increase sanctioned under this Army Instruction.

(*vi*) The temporary increase will also be admissibie in respect of pensions, other than those mentioned in (*i*) above which have been sanctioned on or after 25th November, 1943.

(*vii*) The temporary increase will also be admissible in case of inferior pensions paid from the Defence Service Estimates.

(*viii*) The temporary increase will also be admissible to personnel who are granted *ex-gratia* awards of extraordinary injury family pensions. If any past cases of such *ex-gratia* awards in which no temporary increase has been sanctioned, hereafter come to notice, they will be reviewed for the grant of the temporary increase in accordance with the above amendment. No general review of all the past cases will, however, be undertaken.

[Army Instructions Nos. 100 and 405 of 1952.]

(4) In connection with the grant of compassionate pensions/gratuities, in accordance with the rules or practices of the Hyderabad State, to the dependents of the employees of the former Hydrabad State, who were taken over by the Government of India as a result of the federal financial integration and who died before the 1st April 1951 or who retained their preabsorption terms and conditions of service and died after that date, the following questions have arisen :—

(*i*) whether the Hyderabad practice may continue to be followed by the Government of India and may be treated on the same footing as a right given by rules ; and

(*ii*) who would be the competent authority under the Central Government to sanction such pension/gratuities.

After careful consideration. the President has been pleased to decide as follows :—

(*i*) As regards (*i*) the normal procedure should be to respect the State Government's practice in the administration of rules ; but where the amount of a compassionate pension is proposed to be fixed on the basis of State practice and not on specific rules or orders, the final decision should be taken with the approval of President ; and

(*b*) as regards (*ii*) the sanction may be accorded by the authority, who would have sanctioned ordinary pension to the deceased employee had he retired in the normal course, in consultation with the Accountant General, Hpderabad.

In their application to the staff pertaining to the Indian Audit and Accounts Department, these orders have been issued in consultation with the Comptroller and Auditor General

[G.I.M.F, Memo No. 16 (I4) E, III/52 dated the 6th February, 1953.]

(5) See Government of India's decision No. (10) below Article 481.

(6) See Government of India's decision No. (7) below Article 520.

(7) Maysore Government revised the rates of dearness allowance to their pensioners *vide* their order No : F. L(R)-14034-14133-Bud. 119-56-3, dated the 25th January, 1957 as under :—

"11. **Dearness Allowance of Pensioners**:—Government agree with the Committee that in view of the increased scales of pay, there is no need to merge any portion of the Dearnss Allowance with pay for purposes of Pension. But as the pensioners in the former State of Mysore have been allowed to draw Dearness Allowance only up to the pension limit of Rs. 40 per mensem Government are pleased to direct, that Dearness Allowances at the following rates may be sanctioned with effect from Ist January 1957 to pensioners drawing pensions upto Rs. 100.

Pension per mensem	Dearness Allowance per mensem
Rs. 20 and below	Rs. 4
More than Rs. 20 but not more than Rs. 40	Rs. 5
More than Rs. 40 but not more than Rs. 100	Rs. 6

Note.—(1) Pensioners drawing pension in excees of Rs. 100 but not in excess of Rs. 106 will be allowed to draw such rates of Dearness Allowance that the total of Pension and Dearness Allowance does not exceed Rs. 106.

Note.—(2) Such of the pensioners as are now drawing higher rates of Dearness allowance than those noted above will, however, continue to draw the higher rates."

These orders shall be made applicable to the staff who were taken over by the Government of India from Mysore State as a result of the Federal Integration and who retire (or have retired) from service on the preabsorption terms and conditions of service.

The revised rates of dearness allowance sanctioned by the Mysore State Government in their order referred to in para 1 above would be admissible to the pensioners with effect from Ist January 1957. Such of the pensioners as are now drawing higher rates of dearness allowance under the old orders would, however, continue to draw the higher rates.

In so far as the personnel of the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller & Auditor General of India.

[G. I. M.F. Memo : No. F. 9(2)-Est. III/58, dated the 14th March, 1958].

(8) It has been decided that with effect from 1st April. 1955 temporary increase in small pensions paid outside India may be paid at the same rates as those applicable in India, [*See decision No. (1) above*] if it is admissible under the orders in force for the time being, to the following categories of pensioners.

(*i*) Officers retiring on or after the Ist April, 1955 other than Eurppean Officers who before the 15th August, 1947 belonged to the Secretary of State's Civil Services.

(*ii*) Officers or their dependants in respect of whom extra-ordinary pensions are granted from or after the 1st April, 1955 other than European Officers who before the 15th August, 1947 beloged to the Secretary of State's Civil Sesvices.

(*iii*) Any non-European pensioners residing in any of the countries specified in Article 118 of the Account Code, Volume IV.

[G I.M.F. Memo : No. 8(7)-EV/54, dated the 22nd February 1960.]

(9) In accordance with rule 2 (6) of the Workmen's Contributory Provident Fund Rules, if a subscriber has rendered service of five years or more on emoluments of Rs. 10 a month or above before the introduction of the Fund he shall, on retirement or discharge on account of reduction of establishment, get in respect of that service, a gratuity equal to half a month's emoluments for each completed year of service, subject to a maximum of nine month's emoluments.

A doubt has been raised about the scope of the term "retirement" and whether the gratuity is payable in case a subscriber resigns, voluntarily retires or retires on medical grounds. It is clarified that the term "retirement" used in the above rules is to be construed to include not only retirement after attaining the age of superannuation but also retirement before the age of superannuation, on grounds of ill-health or on abolition of the post or when an officer after completing 30 years of service may voluntarily retire or is made to retire by Government. The gratuity in question being a retirement benefit like pension. is intended to be paid in cases of all the above kinds of retirements for which pension is generally allowed. It shall not however, be payble on resignation by the subscriber or when the invalidment is. in the opinion of the medical authorities, caused due to intemperate or irregular habits of the subscriber.

[G I.M.F. Memo : No. F. 58 (3) E.V. (B)/60, dated the 27th April 1960].

(10) The Government of India had agreed in principle that Ex-State officials who were absorbed under the Central Government, as a result of federal financial integration of States but had elected to remain under the pre-absorption terms and conditions of service, would be eligible for temporary increase in pension at the rates sanctioned by the Successor State Government from time to time in respect of ex-State employees absorbed in the service of the successor State Government but who retained the ex-State conditions of service. All such cases are at persent required to be reported to the Government of India for the issue of necessary sanction in the matter in accordance with the instructions issued to all the Accountants General etc, in the Comptroller and Auditor General's letter No. 1569-A/159-52/PV dated 18th December. 1954. The position has been reviewed and the President has now been pleased to decide that temporary increase at the rates sanctioned by the Successor State Governments from time to time will be admissible to the staff taken over from the various States by the Government of India as a result of the federal financial integration and who retire (or have retired) from service on the preabsorption terms and conditions of service in accordance with the orders issued in para 3 of order No. 7 in appendix 52 to this Compilation.

[G.I.M.F Memo No : F 15 (23) EV/60. dated the 17th November 1960].

(11) The President has been pleased to decide that the displaced pensioners of the Central Government and the undivided Provincial Governments of Pakistan whose pensionary liability is that of the Government of Pakistan and who are residing now in India may be allowed temporary increase in pension at enhanced rates as sanctioned in G.I.M.F. Memorandum No. F. 8 (5)-EV/57, dated the 9th June, 1958, provided the pensioners concerned have migrated to India by the 30th June, 1955, and are in receipt of pension in India on behalf of the Government of Pakistan

2. The extra liability consequent on the payment of this temporary increase at the enhanced rates on the basis of the orders of 9th June, 1958. will be entirely borne by the Governments of India is to be drawn on a separate bill. No debit is to be raised against the Government of Pakistan for this extra liability.

3. These orders will take effect from the 1st June 1963.

[G.I.M.F. Memo No, F 15 (11)—EV (A)/62. dated the 28th December 1963]

474A. (1) For officers mentioned in Article 349A the amount of

pension is regulated as follows :—

(*i*) **Officers of the Imperial Services of the Forests, Geological Survey, Public Works, Railway and Telegraph Departments and any others covered by Article 635 who entered service before the 6th day of Decembar, 1932.**

(*a*) **For invalid, superannuation and compensation pension—Up to 24 years of completed service,—as in Article 474 ; thereafter :—**

Years of Completed Service.	Scale of pension.	Maximum limit of pension.	
		Rs.	Rs.
25	30 sixtieths of average emoluments	5,000 a year, or	416⅔ a month,
26	,, ,, ,,	5,200 ,,	433⅓ ,,
27	,, ,, ,,	5,400 ,,	450 ,,
28	,, ,, ,,	5,600 ,,	466⅔ ,,
29	,, ,, ,,	5,800 ,,	482½ ,,
30 as above	,, ,, ,,	6,000 ,,	500 ,,

(*b*) **For retiring pension :—**

Up to 19 years of completed service,—as in Article 474 ; thereafter :—

Years of Completed service.	Scale of pension.	Maximum limit of pension.	
20—24	30 sixtieths of average emoluments	4,000 a year, or	333⅓ a month,
25	30 ,, ,, ,,	5,000 ,,	416⅔ ,,
26	30 ,, ,, ,,	5,200 ,,	433⅓ ,,
27	30 ,, ,, ,,	5,400 ,,	450 ,,
28	30 ,, ,, ,,	5,600 ,,	466⅔ ,,
29	30 ,, ,, ,,	5,800 ,,	483⅓ ,,
30 & above	30 ,, ,, ,,	6,000 ,,	500 ,,

Note :—In the case of an officer with 20—24 years of completed service who enters service before the 22nd April, 1939, the amount of superannuation or compensation, pension will be 30/60ths of average emoluments, subject to a maximum limit of Rs. 4,000 a year if this rate is more advantageous than that admissible under sub-clause (*a*).

(*ii*) **Other Officers :—**

(*a*) **For retiring pensions—**

Up to 24 years of completed service,—as in Article 474 ; thereafter :—

Years of completed service	Scale of pension.	Maximum limit of pension.	
		Rs	Rs.
25	25 sixtieths of average emoluments	5,000 a year of	416⅔ month.
26	26 ,, ,, ,,	5,200 ,,	433⅓ ,,
27	27 ,, ,, ,,	5,400 ,,	450 ,,
28	28 ,, ,, ,,	5,600 ,,	466⅔ ,,
29	29 ,, ,, ,,	5,800 ,,	483⅓ ,,
30 & above	30 ,, ,, ,,	6,000 ,,	500 ,,

(*b*) **For other pensions—**

Up to 25 years' completed service,—as in Article 474 ; thereafter :—

Years of completed service.	Scale of pension.	Maximum limit of pension.	
		Rs.	Rs.
26	30 sixtieths of average emoluments	5,200 a year or	433⅓ month.
27	30 ,, ,, ,,	5,400 ,,	450 ,,
28	30 ,, ,, ,,	5,600 ,,	466⅔ ,,
29	30 ,, ,, ,,	5,800 ,,	483⅓ ,,
30 & above	30 ,, ,, ,,	6,000 ,,	500 ,,

(2) Notwithstanding any thing contained in clause (1), in respect of officers mentioned in Article 349A, retiring from service on or after the 22nd April, 1960, the amount of pension shall be regulated as follows :—

(*i*) **Officers of the Imperial Services of the Forests, Geological**

Survey, Public Works, Railway and Telegraph Departments and any others covered by article 635 who entered service before the 6th day of December, 1932.

(*a*) **For invalid, superannuation, and compensation pensions—Upto 49 completed six-monthly periods of qualifying service—as in article 474 (2) thereafter :—**

Completed six monthly periods of qualifying service.	Scale of pension.			Maximum limit of pension,			
				Rs.		Rs.	
50	30	sixtieths	of average emoluments	5,000	a year or	416⅔	a month,
51	30	,,	,, ,,	5,100	,,	425	,,
52	30	,,	,, ,,	5,200	,,	433⅓	,,
53	30	,,	,, ,,	5,300	,,	441⅔	,,
54	30	,,	,, ,,	5,400	,,	450	,,
55	30	,,	,, ,,	5,500	,,	458⅓	,,
56	30	,,	,, ,,	5,600	,,	466⅔	,,
57	30	,,	,, ,,	5,700	,,	475	,,
58	30	,,	,, ,,	5,800	,,	483⅓	,,
59	30	,,	,, ,,	5,900	,,	491⅔	,,
60 & above	30	,,	,, ,,	6,000	,,	500	,,

(*b*) **For retiring pensions—Upto 39 completed six monthly periods of qualifying service—as in article 474 (2) ; thereafter :—**

Completed six monthly periods of qualifying service.	Scale of pension.			Maximum limit of pension.			
				Rs.		Rs.	
40-48	30	sixtieths	of average emoluments	4,000	a year or	333⅓	a month.
49	30	,,	,, ,,	4,500	,,	375	,,
50	30	,,	,, ,,	5,000	,,	416⅔	,,
51	30	,,	,, ,,	5,100	,,	425	,,
52	30	,,	,, ,,	5,200	,,	433⅓	,,
53	30	,,	,, ,,	5,300	,,	441⅔	,,
54	30	,,	,, ,,	5,400	,,	450	,,
55	30	,,	,, ,,	5,500	,,	458⅓	,,
56	30	,,	,, ,,	5,600	,,	466⅔	,,
57	30	,,	,, ,,	5,700	,,	475	,,
58	30	,,	,, ,,	5,800	,,	483⅓	,,
59	30	,,	,, ,,	5,900	,,	491⅔	,,
60 and above	30	,,	,, ,,	6,000	,,	500	,,

Note :—In the case of officers with 40-48 completed six monthly periods of service who entered service before the 22nd April, 1939, the amount of superannuation or compensation pension will be 30/60ths of average emoluments subject to a maximum limit of 4,000 a year if this rate is more advantageous than that admissible under sub-clause (*a*).

(*ii*) **Other Officers :—**

(*a*) **For retiring pensions—Upto 49 completed six monthly periods of qualifying service—as in article 474 (2) ; thereafter :—**

Completed six monthly periods of qualifying service,	Scale of pension.			Maximum limit of pension.			
				Rs.		Rs.	
50	25	sixtieths	of average emoluments	5,000	a year or	416⅔	a month.
51	25½	,,	,, ,,	5,100	,,	425	,,
52	26	,,	,, ,,	5,200	,,	433⅓	,,
53	26½	,,	,, ,,	5,300	,,	441⅔	,,
54	27	,,	,, ,,	5,400	,,	450	,,
55	27½	,,	,, ,,	5,500	,,	458⅓	,,
56	28	,,	,, ,,	5,600	,,	466⅔	,,
57	28½	,,	,, ,,	5,700	,,	475	,,
58	29	,,	,, ,,	5,800	,,	483⅓	,,
59	29½	,,	,, ,,	5,900	,,	491⅔	,,
60 and above	30	,,	,, ,,	6,000	,,	500	,,

(*b*) **For other pensions-Upto 50 completed six monthly periods of**

qualifying service-as in article 474 (2) : thereafter :—

Completed Six monthly periods of qualifying service.	Scale of pension,	Maximum limit of pension.
		Rs. Rs.
51	30 sixtieths of average emoluments	5,100 a year or 425 a month
52	30 ,, ,, ,,	5,200 ,, 433⅓ ,,
53	30 ,, ,, ,,	5,300 ,, 441⅔ ,,
54	30 ,, ,, ,,	5,400 ,, 450 ,,
55	30 ,, ,, ,,	5,500 ,, 458⅓ ,,
56	30 ,, ,, ,,	5,600 ,, 466⅔ ,,
57	30 ,, ,, ,,	5,700 ,, 475 ,,
58	30 ,, ,, ,,	5,800 ,, 483⅓ ,,
59	30 ,, ,, ,,	5,900 ,, 491⅔ ,,
60 & above	30 ,, ,, ,,	6,000 ,, 500 ,,

Secretary of State's orders :—The relevant extract relating to pension, gratuity etc. of the officers who are governed by Superior Civil Services (Revision of Pay, Passage and Pension) Rules are reproduced below :—

"13 (1) (*a*) In the case of members of the services and holders of the posts specified in *Schedule V whose pensions are regulated under the Civil Rules and who retire on or after the 1st April, 1924, the maximum limits for retiring and superannuations pensions, excluding amounts earned for special additional pensions shall be as follows :—

	Rs.
After 25 years' qualifying service	6,000
,, 26 ,, ,, ,,	6,200
,, 27 ,, ,, ,,	6,400
,, 28 ,, ,, ,,	6,600
,, 29 ,, ,, ,,	6,800
,, 30 ,, ,, ,,	7,000

Note :—The provisions of this rule do not apply to officers referred to in Article 349AA of the Civil Service Regulations.

(*b*) For members of the Indian Education Service (Woman's Branch) who retire on or after 1st April, 1924. the maximum limit for retiring and superannuation pensions shall be as follows :—

	Rs.
After 20 years quallfying service	4,750
,, 21 ,, ,, ,, ...	4,950
,, 22 ,, ,, ,, ...	5,150
,, 23 ,, ,, ,, ...	5,350
,, 24 ,, ,, ,, ...	5,550
,, 25 ,, ,, ,, ...	5,750

(2) (*a*) Not withstanding anything contained in sub rule (1), in the case of members of the services and holders of the posts specified in Schedule V whose pensions are regulated under the Civil Rules and who retire on or after the 22nd April, 1960, the maximum limits for retiring and superannuation pensions excluding amounts earned for special additional pensions shall as follows :—

	Rs.
After 25 year's qualifying service	6,000
After 25½ ,, ,, ,,	6,100
After 26 ,, ,, ,,	6,200
After 26½ ,, ,, ,,	6,300
After 27 ,, ,, ,,	6,400
After 27½ ,, ,, ,,	6,500
After 28 ,, ,, ,,	6,600
After 28½ ,, ,, ,,	6,700
After 29 ,, ,, ,,	6,800
After 29½ ,, ,, ,,	6,900
After 30 ,, ,, ,,	7,000

(*b*) For members of the Indian Education Service (Women's Branch) who retire on or after the 22nd April, 1960, the maximum limits for retiring and superannuation pensions shall be as follows :—

	Rs.
After 20 years qualifying service	4,750
After 20½ ,, ,, ,,	4,850

*Reproduced as annexure to this order on pages 311 to 314 of this Compilation.

	Rs.
After 21 years qualifying service	4,950
After 21½ ,, ,, ,,	5,050
After 22 ,, ,, ,,	5,150
After 22½ ,, ,, ,,	5,250
After 23 ,, ,, ,,	5,350
After 23½ ,, ,, ,,	5,450
After 24 ,, ,, ,,	5,550
After 24½ ,, ,, ,,	5,650
After 25 ,, ,, ,,	5,750

14. (1) The rates of compensation and invalid gratuity and of invalid compensation pension admissible to officers to whom Rule 13(1) applies shall be as follows :—

Completed years of qualifying service.	Rate of gratuity and pension.	Subject to a maximum in respect of office to whom. Rule 13 (1) (*a*) refers of Rs.	Rule 13 (1) (*b*) refers of Rs.
1 to 6	Gratuity of one month's pay for each completed years service.		
7 ,,	Pension of 7-sixtieths of average emoluments	2,000	1,750
8 ,,	,, 8 ,, ,, ,,	2,350	2,100
9 ,,	,, 9 ,, ,, ,,	2,700	2,450
10 ,,	,, 10 ,, ,, ,,	3,000	2,750
11 ,,	,, 11 ,, ,, ,,	3,200	2,950
12 ,,	,, 12 ,, ,, ,,	3,400	3,150
13 ,,	,, 13 ,, ,, ,,	3,600	3,350
14 ,,	,, 14 ,, ,, ,,	3,800	3,550
15 ,,	,, 15 ,, ,, ,,	4,000	3,750
16 ,,	,, 16 ,, ,, ,,	4,200	3,950
17 ,,	,, 17 ,, ,, ,,	4,400	4,150
18 ,,	,, 18 ,, ,, ,,	4,600	4,350
19 ,,	,, 19 ,, ,, ,,	4,800	4,550
20 ,,	,, 20 ,, ,, ,,	5,000	4,750
21 ,,	,, 21 ,, ,, ,,	5,200	4,950
22 ,,	,, 22 ,, ,, ,,	5,400	5,150
23 ,,	,, 23 ,, ,, ,,	5,600	5,350
24 ,,	,, 24 ,, ,, ,,	5,800	5,550
25 ,,	Pension of 30-sixtieths of average emoluments	6,000	5,750
26 ,,		6,200	
27 ,,		6,400	
28 ,,		6,600	
29 ,,		6,800	
30 & over		7,000	

Note.— The provisions of this rule do not apply to officers referred to in Article 349AA of the Civil Service Regulations.

(2) Notwithstanding anything contained in sub-rule (1), the rates of compensation and invalid gratuity and of invalid or compensation pension admissible to officers to whom Rule 13 (2) applies, shall be as follows :—

Completed six monthly period of qualifying service.	Rate of gratuity or pension.	Subject to a maximum in respect of officers to whom 13 (2) (*a*) refers of Rs	13 (2) (*b*) refers of Rs
1 to 13	Gratuity of ½ month's pay for each completed six monthly period of qualifying service.		
14	Pension of 7 —sixtieths of average emoluments	2,000	1,750
15	Pension of 7½—sixtieths of average emoluments	2,175	1,925
16	Pension of 8 —sixtieths of average emoluments	2,350	2,100
17	Pension of 8½—sixtieths of average emoluments	2,525	2,275
18	Pension of 9 —sixtieths of average emoluments	2,700	2,450
19	Pension of 9½—sixtieths of average emoluments	2,850	2,600

		Rs.	Rs.
20	Pension of 10—sixtieths of average emoluments	3,000	2,750
21	Pension of 10½—sixtieths of average emoluments	3,100	2,850
22	Pension of 11—sixtieths of average emoluments	3,200	2,950
23	Pension of 11½—sixtieths of average emoluments	3,300	3,050
24	Pension of 12 -sixtieths of average emoluments	3,400	3,150
25	Pension of 12½—sixtieths of average emoluments	3,500	3,250
26	Pension of 13—sixtieths of average emoluments	3,600	3,350
27	Pension of 13½—sixtieths of average emoluments	3,700	3,450
28	Pension of 14—sixtieths of average emoluments	3,800	3,550
29	Pension of 14½—sixtieths of average emoluments	3,900	3,650
30	Pension of 15—sixtieths of average emoluments	4,000	3,750
31	Pension of 15½ —sixtieths of average emoluments	4,100	3,850
32	Pension of 16—sixtieths of average emoluments	4,200	3,950
33	Pension of 16½-sixtieths of average emoluments	4,300	4,050
34	Pension of 17—sixtieths of average emoluments	4,400	4,150
35	Pension of 17½ sixtieths of average emoluments	4,500	4,250
36	Pension of 18—sixtieths of average emoluments	4,600	4,350
37	Pension of 18½-sixtieths of average emoluments	4,700	4,450
38	Pension of 19 sixtieths of average emoluments	4,800	4,550
39	Pension of 19½-sixtieths of average emoluments	4,900	4,650
40	Pension of 20—sixtieths of average emoluments	5,000	4,750
41	Pension of 20½-sixtieths of average emoluments	5,100	4,850
42	Pension of 21—sixtieths of average emoluments	5,200	4,950
43	Pension of 21½-sixtieths of average emoluments	5,300	5,050
44	Pension of 22 - sixtieths of average emoluments	5,400	5,150
45	Pension of 22½-sixtieths of average emoluments	5,500	5,250
46	Pension of 23—sixtieths of average emoluments	5,600	5,350
47	Pension of 23½ sixtieths of average emoluments	5,700	5,450
48	Pension of 24 - sixtieths of average emoluments	5,800	5,550
49	Pension of 24½-sixtieths of average emoluments	5,900	5,650
50		6,000	
51		6,100	
52		6,200	
53		6,300	
54		6,400	
55		6,500	
56	Pension of 60—sixtieths of average emolument.	6,600	5750
57		6,700	
58		6,800	
59		6900	
60 and above		7000	

ANNEXURE REFERRED TO IN THF FOOTNOTE ON PAGE 309

SCHEDULE V (*See Rule 13*)

All India Services—

Indian Police.
Indian Educational Service.
Indian Agricultural Service.
Indian Forest Service.
Indian Forest Engineering Service.
Indian Service of Engineers.
Indian Veterinary Service.

Central Services –

Indian Audit and Accounts.
Central Secretariate Service—Selection Grade.
Central Secretariate Service, Grade I.
Military Accounts.
Mint and Assay Department.
Customs Service.
Superior Telegraph Engineering and Wireless Branch.
Geological Survay.
Meteorological Service.

Mines Department.
Indian Railway Service of Engineers.
Archaeological Department.
Zoological Survey.
Class I Survey of India.
Political Department (other than officers of the Indian Civil Service).
Officers who, though not members of one the services mentioned above hold posts borne on the cadres of any of those services or of the Indian Civil Services.
Central Engineering Service (Class I)

Indian Posts and Telegraph Department. the following :—

Director-General.
Deputy Director-General.
Postmaster-General.
Deputy Postmaster General.
Assistant Postmaster General.
Presidency Postmasters.
Postmaster Rangoon.
Telegraph Traffic Service Class I,
Controller Telegraph Stores.
Assistant Controller of, Telegraph Stores.
Superintendent Telegraph Workshop.
Assistant Superintendent, Telegraph Workshops.

Civil Aviation Directorate.

Director General.
Deputy Directors General.
Directors.

Income-Tax Department, the following :—

Commissioners.
Assistant Commissioners.

Printing and Stationery Department, the following—:

Controller of Printing, Stationery and Stamps (now known as Controller of Printing and Stationery, India.
Deputy Controller of Printing Stationery and Stamps (now known as Deputy Controller Stationery.)
Deputy Controller of Printing, Central Printing Office (now know as Deputy Controller Printing.)
Deputy Controller of Printing, Stationery and Stamps (now known Deputy Controller, Forms.)
Superintendent, Government Printing India, (nown know as Manager, Government of India Press, Calcutta.)
Manager, Government of India Press, Delhi.
Manager, Government of India Press, Simla.
Superintendent Postal Press and Workshop, Aligarh (now known as Manager, Government of India Press, Aligarh).

Northern India Salt Revenue Department. the following :—

Assistant Commissioner (Selection Grade) (While held by Mr. C. S. Haygarth).

Central Excise Department (including Narcotics Department.)

Assistant Collectors, Class I (Senior Scale).
Collectors, (including Narcotics Commissioner).
Deputy Collectors (including Deputy Narcotics Commissioner).

Military Engineer Service :—

All officers appointed to post in the Senior cale of Class I of this Service and above.
Director, Engineer Research Station.
Chief Architect and Junior Architect.

Ministry of Industry and Supply :
Salt Controllers.
Deputy Salt Controllers.
General Manager, Rajputana Salt Sources,
Miscellaneous Posts (Central) :—
Under Secretaries to the Government of India.
Under Secretary, Office of the Military Secretary to the President.
Registrar of Joint Stock Companies, Calcutta.
Registrar Joint Stock Companies, Bombay.
Director General Commercial Intelligence and Statistics (when not held by a member of the Indian Civil Service).
Two Deputy Directors of Commercial Intelligence and Statistics (when not held by member of the Indian Civil Service).
Imperial Dairy Expert.
Curator, Industrial Section, Indian Museum,
Superintendent, Watch and Ward, East Indian Railway
Superintendent Watch and Ward, Eastern Bengal Railway. } (When held by an officer declared pensionable.)

* * * * * *

Superintendent, Viceregal Estates.
Deputy Commissioner of Salt Revenue, Madras.
Deputy Collector of Salt Revenue, Bombay.

* * * * * *

Collector of Salt Revenue, Burma,
Secretery, Central Board of Revenue.
Chief Inspector of Explosives.
Deputy Director Inspection. Directorate General of Supplies and Disposals, Ministry of Works, Housing and Supply.
Deputy Director General of Shipping (Junior) Ministry of Transport and Communication.
Government Examiner of Questioned Documents, Home Department, Government of India.
Assistant Government Examiner of Questioned Documents, Home Department, Government of India.
Assistant Director, Intelligence Bureau at the headquarters of the Government of India.
Assistant Secretaries to the Government of India (including Assistant Financial Advisers, Military Finance) and the Secretary, Imperial Council of Agricultural Research.
Establishment Officer, Army Department, Government of India.
Master, Security Printing India.
Deputy Master, Security Printing, India.
Deputy Controller of Stamps. } (When not held by military officers on the active list of the Regular Army.)
Controller of Insurance.
Assistant Controllers of Insurance.
Burma Frontier Service.
Controller of Patents and Designs.
Keeper of the Records of the Government of India.
Director-General of Health Services.
Deputy Director General of Health Services.
Additional Deputy Director General of Health Services.
Deputy Assistant Directors (Pay and Pension), General Headquarters.

* * * *

Printing and Stationery Departments :—

* * * * *

Factory and Boiler Inspection Departments :

* * * * *

Public Works Departments :—

Principal, Bihar College of Engineering (while held by Mr. F. Walford).

Salt and Exercise Departments : –

* * * * *

Specialist officers who were before the 1st April, 1924, admitted to the scale of pay appended to the Government of India's Public Works Department, Circular No. I.P.W., dated 29th March. 1921, and granted pensionary privileges.

* * * * *

Judges of High Courts [if not pensionable under the High Court Judges (India) Rules, 1922. or under Article 549 of the Civil Service Regulations]

Railway Department—

Indian Railway Accounts Service—

Pensionable member of this service.

Government of India's decisions —(1) The posts of Joint Secretary and Under Secretary in the General and Communications Divisions (except those in the Establishment Division and in the Economy Unit.), Commerece, Industry and Steel Division and Delhi State Division of the Department of Expendi. ture, Ministry of Finance, have been redesignated as Financial Adviser and *ex-officio* Joint Secretary to Government of India, Deputy Financial Adviser and *ex-officio* Deputy Secretary to Government of India and Assistant Financial Adviser and *ex-efficio* Under Secretary to Government of India respectively. There will, however, be no change in the emoluments of these officers and they will continue to draw pay as Joint Secretary, Deputy Secretary and Under Secretary, respectively. They will also be eligible to the pension, including additional pension, to which they would otherwise have become eligible but for the change in their designations.

The special pay of Rs. 50 p. m. admissible to a pre—1931 Secretartiat Officer who has not elected the prescribed scale, on appointment as Under Secretary and the special pay of Rs. 200 p m, granted to such an officer on appointment as Deputy Secretary will continue to be counted as "duty allowance" for the purpose of pension (*c. f.* Art, 486 C.S.Rs.) in respect of the Assistant Financial Advisers and Deputy Financial Adisers respectively.

[G. I. M F. letter No. F 1 (101) E, 1/56, dated the 10th October 1956.]

(2) The maximum for pension in respect of the Emergency Cadre Officers of the I. A. & A. S. and other similar services has not been raised from Rs. 6,000 to Rs 7.000 per annum for the reason that such Emergency Cadre Officers were already treated somewhat liberally (See G, I. decision No. 30 below Article 486 C.S.R.] by counting in full the difference between their substantive pay and in Emergency Cadre for pension.

[G. I. M. F. File No. 7. (14)-EV/55]

474AA —For Officers referred to in Article 349AA the amount of gratuity and pension is regulated as follows :—

(*a*) **After a service of less then ten years a gratuity, not exceeding one month's emoluments of each completed year of service. If the emoluments of the officer have been reduced during the last three years of his service otherwise than as a penalty, average emoluments may, at the discretion of the authority which has power to sanction the gratuity, be substituted for emoluments.**

(*b*) **After a service of not less than ten years a pension not exeeeding the following amounts :—**

(*i*) **For superannuation, invalid and compensation pension** : –

Years of completed Service.		Scale of pension.	Maximum limit of pension — Table A, Central Service Class I.		Table B, Other Officers.	
			Rs.	Rs.	Rs.	Rs.
10	10	sixtieths of average emoluments	2,000 a year	166⅔ a month	2,000 a year or	166⅔ a month
11	11	,,	22,00 a year or	183⅓ a month	2,150 a year or	179 1/6 a month
12	12	,,	2,400 a year or	200 a month	2,300 a year or	191⅔ a month
13	13	,,	2,600 a year or	216⅔ a month	2,450 a year or	204⅙ a month
14	14	,,	2,800 a year or	233⅓ a month	2,600 a year or	216⅔ a month
15	15	,,	3,000 a year or	250 a month	2,750 a year or	229⅙ a month
16	16	,,	3,200 a year or	266⅔ a month	2,900 a year or	241⅔ a month
17	17	,,	3.400 a year or	283⅓ a month	3,050 a year or	254⅙ a month
18	18	,,	3,600 a year or	300 a month	3,200 a year or	266⅔ a month
19	19	,,	3,800 a year or	316⅔ a month	3.350 a year or	279⅙ a month
20	20	,,	4,000 a year or	333⅓ a month	3,500 a year or	291⅔ a month
21	21	,,	4,200 a year or	350 a month	3 650 a year or	304⅙ a month
22	22	,,	4.400 a year or	366⅔ a month	3,800 a year or	316⅔ a month
23	23	,,	4.600 a year or	383⅓ a month	3,950 a year or	329⅙ a month
24	24	,,	4,800 a year or	400 a month	4,100 a year or	341⅔ a month
25	30	,,	5,000 a year or	416⅔ a month	4,250 a year or	354⅙ a month
26	30	,,	5,200 a year or	433⅓ a month	4,400 a year or	366⅔ a month
27	30	,,	5,400 a year or	450 a mohth	4 550 a year or	379⅙ a month
28	30	,,	5,600 a year or	466⅔ a month	4,700 a year or	391⅔ a month
29	30	,,	5,800 a year or	483⅓ a month	4,850 a year or	404⅙ a month
30 & above		30	6,000 a year or	500 a month	5,000 a year or	416⅔ a month

(*ii*) **For retiring pension.**

Year of completed service	Scale of pension.	Maximum limit of pension — Table I. Central Service Class	Table B. Other Officers.	
		Rs.	Rs.	Rs.
25	25 sixtieths of average emoluments	5,000 a year or	416⅔ a month	4,250 a year or	354⅙ a month
26	26 ,,	5,200 a year or	433⅓ a month	4,400 a year or	366⅔ a month
27	27 ,,	5,400 a year or	450 a month	4,550 a year or	379⅙ a month
28	28 ,,	5,600 a year or	466⅔ a month	4,850 a year or	391⅔ a month
29	29 ,,	5,800 a year or	483⅓ a month	5,000 a year or	404⅙ a month
30 & above	30	6,000 a year or	500 a month	5,000 a year or	416⅔ a month

475. Officers holding any of the appointments enumerated below and belonging to what was formerly termed the Uncovenanted Service, may be allowed by the Local Government an additional pension of Rs. 1,000 a year, provided that they have rendered not less than three years of effective service (that is, service of the same nature as that which under the provisions of Article 644, counts for the special pensions admissible under Article 642) in such appointment, and provided also that in each case during such service the officer has shown such special energy and efficiency as may be considered deserving of the concession. In the case of officers entering Government service after the 31st December, 1909, the grant of the additional pension is subject to the further condition that they must, in the event of voluntary retirement, have completed twenty-eight years of qualifying service. The same rule applies to officers of the Forest Department who entered Government service on or before the 31st December, 1909, (including those who were appointed on probation on or before that date), with the exception of those who have at the time of their retirement, rendered three yaer's active service or not less than the maximum pay of a Conservator.

Voluntary retirement for the purpose of this rule should be taken as retirement under Article 465.

REGISTRATION DEPARTMENT—Inspectors General under Local Government but not under Chief Commissionerships.

POLICE DEPARTMENT—Inspectors-General and Deputy Inspectors-General under Local Government and Administrations, and the Commissioners of Police, Calcutta, Madras, Rangoon and Bombay.

JAIL DEPARTMENT—Inspectors-General under Local Governments, but not under Chief Commissionerships

EDUCATION DEPARTMENT—Director of Public Instruction under Local Governments and Administrations.

ACCOUNTS DEPARTMENT (Civil).

(*a*) Auditor General and Accountants General.

(*b*) (*i*) In the case of officers of the late Enrolled List now employed in the Indian Finance Department who have not elected the scale of pay sanctioned in the Secretary of State's Despatch No. 51-Financial dated the 11th May, 1906 Deputy Comptroller General Deputy Auditors General ; Comptroller, India Treasuries; and †Comptroller, General Provinces.

(*ii*) In the case of other officers of the Indian Finance Department-Appointments in class I of the Department (including those in class I of the late Enrolled List and in class I of the late Superior Accounts Branch of the Public Works Department).

Mr. T. Ryan is subject to the special rule in Article 642 of these Regulations.

ACCOUNTS DEPARTMENT (MILITARY)—Military Accountant General and Controllers of Military Accounts.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT—Posts included in the Schedule of appointments carrying additional pensions below Article 475A.

AGRICULTURAL DEPARTMENT—Agricultural Adviser to the Government of India.

FOREST DEPARTMENT—Inspector-General of Forests, and Conservators.

ARCHAEOLOGICAL DEPARTMENT—Director-General.

GEOLOGICAL SURVEY DEPARTMENT—Director.

SURVEY DEPARTMENT—Surveyor General and Superintendents of Circles.

METEOROLOGICAL DEPARTMENT—Director-General of Observatories.

POLIPICAL DEPARIMENT—Officers of the rank of Resident in the graded list of the Department.

GENERAL ADMINISTRATION—Commissioners of Divisions.

JUDICIAL DEPARTMENT—Divisional Judges of the first grade in Burma.

CRIMINAL INTELLIGENCE DEPARTMENT—Deputy Director of Criminal Intelligence.

LAND REVENUE DEPARTMENT—Settlement Commissioner and Director of Land Records in Burma.

IMPERIAL CUSTOMS DEPARTMMNT—Collectors.

PRINTING STATIONERY AND STAMPS DEPARTMFNT—Controllers ‡

NOTE 1—[*See* special addition to the form of certificate in Form No. 26 (pension)].

NOTE 2—[The provision of this Article apply to Telegraph officers appointed on or after 1st April 1914.]

NOTE 3—Cancelled. [With effect from the 11th March, 1951].

Government of India's decisions :—(1) The expression "holding any of the appointments" in line 1 of Article 475, Civil Service Regulations, should be interpreted to mean "holding any of the appointments at the time of retirement" and not at any time during service.

[Para 267, India Supplement to C.S R. (5th Edition)].

(2) An officer holding one of the special appointments referred to in Article 475, Civil Service Regulations, but temporarily placed on Military duty, can with the sanction of the Government of India, reckon towards additional pension the period of his service in the Military Department, provided that Government is satisfied that if the officers had not temporarily left the Civil Department, he would have rendered in a qualifying appointment service of such a character as to render him eligible for the special additional pension.

[G. I. F.D. 15, C. S. R. dated 12-1-1919.]

(3) The acting service in privilige leave vacancies shall qualify for the special additional pension admissible under Article 475, Civil Service Regulations.

[S. of S. No. 13-Finl., dated 27th February, 1919].

(4) *Omitted.*

•Now styled Accountant-General Central Revenues

‡Now styled Accountant General, Madhya Pradesh.

‡Now styled Controller, Printing and Stationery.

(5) The provision of such special energy and efficiency as may be considered deserving of the concession in Article 475, 475A and 643, C. S. R., shall be interpreted to mean that an officer who has rendered approved service in one of the posts to which the Articles apply shall be eligible for the additional pension.

[G. I. F. D. No. F. 3 C. S, R-25, dated 7-1-1925].

Note—As regard the meaning of the term "approved service" referred to above, the Government oi India concur in the formula suggested by the Government of United Provinces in their letter No. 16590, dated 5-5-1928 extracts from which are reproduced below, and recommended for adoption by all Governments.—

"The selection posts which carry additional pension under Articles 475, 475A and 643 of the Civil Service Regulations have specially heavy responsibilities and only officers with special capabilities can fill them. A high standard of efficiency is demanded of such officers and unless they attain that standard, their service cannot be regarded as worthy of approval. In other words such an officer becomes eligible for the additional pension he has rendered service which is up to the standard demanded in that post. and which is therefore, worthy of approval in that post.

To hold that "approved service" means service which has not been so unsatisfactory as to justify the removal or reversion of the officer, is really to substitute for the word "approved" for the words "not disapproved", To suggest on the other hand that the term "special energy and efficiency" means special' even amongst the incumbents of a post that requires a high standard of energy and efficiency, is going too far in the other direction. It would mean that only the most exceptionally efficient officers would draw the additional pension which would then go not as (as was obviously intended) to an officer who can work up to the standard required of him, but only to such as can exceed that standard.

It may be argued that if the term 'approved service' is thus defined, then most officers who held these selection posts will get the additional pension. That however, is not necessarily the case. For instance, as has already been pointed out, officers of specially high qualifications are required for such posts. But in practice only the best man available, may not be quite up to the standard which the post demands Again an officer apparently well qualified may disappoint expectations ; or he may start well and end badly. In all these cases, the officers concerned would not have rendered 'approved service' in the sense suggested and consequently would not be entitled to additional pension.

The Governor in Council considers, therefore, that the question whether service is approved or not can only be decided on the merits of each individual case. But the worth of the service must be measured against the standard required in the posts. On the one hand, it must not be assumed that every incumbent of such a post is up to that standard as a matter of course : nor, on the other hand, must it be held that to earn the pension he must exceed that standard. His Excellency the Governor in Council is not convinced that it is necessary to reinterpret the term "approved service", since any such reinterpretation would probably restrict the discretion of the sanctioning authority. But if it is to be interpreted he considers that it should be along the lines indicated."

(6) For the procedure to be adopted for according sanction to the grant of special additional pension. *see Government of India's decision No. (9) below Article 475A.*

475A. The grant of special additional pensions to officers specified in Article 349A is regulated as follows :—

(1) The special additional pension admissible under this Article is not to be given as a matter of course but only where the service rendered ie approved as satisfying the standard of work and conduct required in special conditions of the post or duty hereinafter mentioned.

(2) Officers who have held posts listed in the Schedule to this Article may be granted an additional pension (*a*) at the rate of Rs. 300 for each completed year of effective service in any post included in the lower grade, and (*b*) at the rate of Rs. 500 for each completed year of effective service in any post included in the upper grade, up to a maximum of Rs. 1,500 per annum for service in lower grade appointments and Rs. 2,500 per annum for service in lower and upper grade appointments combined or in upper grade appointments alone ; Provided that in the case of an officer who has earned an additional pension by service in appointment in both the upper and lower grades, service for any broken period of a year in the upper grade may count as service

in the lower grade if his pension would be thereby increased.

(3) An officer who has held a temporary post which has been declared by the authority competent to create the post as carrying similar duties and responsibilities, and which carries the same rate of pay as a post listed in the Schedule, may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in clause (2) of this Article.

(4) For the purpose of clauses (2) and (3) of this Article "Effective service" includes, besides periods of duty in a post mentioned in the said clauses—

(*i*) duty performed—

(*a*) in a post of corresponding rank and responsibility in foreign service, or

(*b*) on deputation on special duty, or

(*c*) in a temporary post, or

(*d*) in a permanent post in an officiating capacity, to which an officer is transferred or appointed whilst holding the post mentioned in clause (2) or (3), if, in the case of an officer who held a post mentioned in clause (2) in an officiating capacity or of an officer who held a post mentioned in clause (3), Government certifies that he would, if he had not been so transferred or appointed, have continued to officiate in or hold the post concerned.

(*ii*) Privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension taken by the officer during his service in a post mentioned in clause (2) and (3) or during the period of duty covered by sub clause (*i*) of this clause, if in the case of an officer who has held a post mentioned in clause (3) Government certifies that he would, if he had not proceeded on leave, have continued to officiate in the post mentioned in clause (2) or have held a post mentioned in clause (3).

For the purpose of this sub-clause privilege leave or leave under the Fundamental Rules corresponding to privilege leave, taken by an officer immidiately on vacating any of the posts mentioned in sub-rules (2) and (3) of Fundamental Rule 97 during which is left without a lien on any permanent post, shall be regarded as leave taken during his service in such a post.

(5) An officer of pensionable status who has held a post in foreign service with a State-owned Railway worked by a Company, which is certified by Government to correspond in rank and responsibility with a State Railway post listed in the Schedule may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in clause (2) of this Article, provided that, for the purpose of this clause "effective service" means duty (including privilege leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension) in a foreign service post.

(6) An officer who has received under the second provise to Fundamental Rule 30 (1) or under Fundamental Rule 113, officiating promotion to one of the posts listed in the Schedule, or in whose case Government certifies that he would have received such promotion had he not been on special duty or held a temporary post, may be granted an additional pension at the rates and subject to the conditions prescribed

in clause (2), as though he had during the period for which he officiated or would have officiated, a post listed in the Schedule.

For the purpose of this clause the period of officiating promotion includes any privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension taken during the period, if Government certifies that, had the officer not been on leave, he would have continued in the same capacity.

(7) In the case of officers entering Government service after the 31st December, 1909, other than officers of the Indian Forest Service who were appointed on probation on or before that date the grant of the additional pension is subject to the condition that they must in the event of voluntary retirement have completed 28 years of qualifying service. Valuntary retirement for the purpose of this rule should be taken as retirement under Article 464 ahd 465 A (*i*).

SCHEDULE OF APPOINTMENTS CARRYING ADDITIONAL PENSIONS

A—Upper Grade

*Director of Public Instruction in Madras, Bombay, Bengal, United Provinces, Punjab, Bihar, Burma, Central Provinces and Assam; Director of Public Instruction in Orissa, if a member of the Indian Educational Service.

Vice-Chancellors of Universities (if in pensionable service.)

Director-General, Archaeology.

Director-General of Observatories.

Secretaries to the Government of India.

Additional Secretaries to the Government of India.

Joint Secretaries to the Government of India.

Director General of Health Services.

Financial Commissioner, Railways—if a member of the Indian Audit and Accounts Service.

State Railway Members of the Railway Board.
Agent of State Railways.
} If in pensionable service.

Secretary, Railway Board (upto 30th May, 1940).

Chief Engineers, Railways

Chief Government Inspector of Railways, Government Inspector of Railways, Circle No. 1 Calcutta, and 5, Bombay (formerly designated as Senior Government Inspectors of Railways, Circles No. 1, Calcutta and 5, Bombay respectively).

Director of Civil Engineering, Director of Mechanical Engineeeing, Director of Traffic and Establishment.

Director of Finance, Railway Board.

Chief Operating Superintendent.

Controller of Stores, State Railways.

Director of Accounts' Railway Board, (formerly designated Controller of Railway Accounts).
Director Railway Clearing Accounts Office (upto 31st May, 1938
Finanical Adviser and Chief Accounts Officer, State Railways (formerly designated Chief Accounts Officer).
} If in pensionable service.

Chief Controller, Standardisation, if in pensionable service.

All officers (other than Military Officers and member of the Indian Civil Services) holding Indian Civil Service posts of the rank of, or higher in rank than that of a Commissioner of a Division or a District and Sessions Judge in the selection grade.

An officer of the Burma Frontier Service holding the appointment of Commissioner, Frontier Division.

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* The Director of Public Instruction, Assam, gets the benefit of additional pension under A-Grade from the 3rd June 1955 previous to which the post was included in B-Grade,

Inspectors General to Police (except Inspector General, Railway Police Rajputana).
Director, Central Intelligence Department.
Commandant Central Police Training College, when held by an officer of the Indian Police.
Commissioners of Police, Calcutta and Bombay.
Inspeetors General of Prisons, Bengal, Madras, Bombay, United Provinces Burma, Punjab, Bihar and Central Provinces.
Surveyor-General.
Director, Imperial Institute of Agricultural Research, Pusa, when the post is held by an officer in pensionable service.
Director of Agriculture, Bengal, Madras, Bombay, the United Provinces, the Punjab and Burma, when the posts are held by members of the Indian Agricultural Service.
*Director of Animal Husbandry in the United Provinces when held by a member of the Indian Veterinary Service.
Principal Administrative Officer of the Imperial Council of Agricultnral Research, when the post is held by an officer in pensionable service.
Agricultural Commissioner with the Government of India (formerly designated Agricultural Expert of the Imperial Council of Agricultural Research) when the post is held by an officer in pensionable service.
Animal Husbandary Commissioner with the Government of India (formerly designated Veterinary Expert or Animal Husbandry Expert of the Imperial Council of Agricultural Research) when the Post is held by an officer in pensionable service.
Inspector General of Forests.
Chief Conservators of Forests.
Settlement Commissioner, Burma.
Chief Engineers, Public Works Department.
Chairman, Central Water and Power Commission.
Members, Central Water and Power Commission.
Director-General of Posts and Telegraphs.
§Senior and other Deputy Directors-General in the Indian Posts and Telegraphs Department.
§Postmaster-General.
†Finance Officer, Posts and Telegraphs.
Financial Adviser, (Communications while held by Mr. Ghulam Mohammad).
Director, Geological Survey.
Auditor General.
Controller of the Currency.
Deputy Controller of the Currency, Bombay.
‡Appointments in the Indian Audit and Accounts Services of Accountant General's grade.
Mint Masters.
Military Accountant General.
††Command Controllers of Military Accounts.
Secretary to the Government of India, Department of Education. Health and Lands.
High Court and Chief Court Judges, Judicial Commissioners, and Additional Judicial Commissioners, who may take a pension under the

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*Takes effects from the 24th May, 1944.
§Takes effect from 1st March, 1930 previous to which date there was an entry 'Post masters General and Deputy Director General of Post Offices' in the Lower Grade.
†Takes effects from the 1st July 1936.
‡Takes effect from the 23rd October 1933.
††Takes effect from the 14th February 1947.

rules in this part of the Regulations.

Officers of the Provincial Civil Services holding the post of Resident of the 1st class or of the 2nd class in Political Department of the Government of India.

Members, Central Board of Revenue.

‡‡Commissioner of Income-tax, Grade 1.

§Collectors, of Customs (if pay is not less than Rs. 2000)

§Collectors of Central Excise. (if pay is not less than Rs. 2000).

Director of Commercial Audit.

²Chief Inspector of Mines in India.

Director-General of Civil Aviation in India.

Officers of the Indian Political Service recruited from the Indian Police, on reaching a basic pay of Rs. 2, 250 in the Indian Political Service.

B.—Lower Grade

Officers of the Indian Educational Service holding appointments, the minimum substantive pay of which is not less than Rs. 1,250 a month exclusive of overseas pay.

Principal recruited by the Secretary of State for Service at the Prince of Wales' Royal Indian Military College, Dehra Dun.

Officer's of the Indian Agricultural Service, the Indian Meteorological Service and the Civil Veterinary Department holding appointments the minimum substantive pay of which is not less than Rs. 1,250 a month exclusive of overseas pay.

Director, Zoological Survey.

*Deputy Director General of Health Services.

**Additional Deputy Director General of Health Services.

Directors of Public Instruction, North-West Frontier Province (unless he is a member of the Indian Educational Service) and Orissa‡.

Deputy Chief Engineers Indian Railway Service of Engineers.

Government Inspectors of Railways, Circles Nos. 2, Calcutta and 3 Bangalore, (formerly designated as Senior Government Inspectors of Railway, Circles No. 2, Calcutta and 3, Banglore respectively.)

Deputy Agents of State Railways.

Deputy Director of Finance, Railway Board, (up to 2nd June, 1941).

Deputy Controllers of Stores, State Railways.

Deputy Chief Accounts Officers, Railways.

Principal, Railway School of Transporation, Chandausi.

Indian Railways, (upto 13th June, 1941).

Chief Commercial Managers, State Railways.

Deputy Chief Commercial Managers, State Railways.

Deputy Chief Operating Superintendents State Railways.

Divisional Superintendents—Junior and Senior, Railways.

Deputy Director, Civil Engineering.

Deputy Chief Controller, Mechanical Engineering.

Dep ıty Chief Controller, Civil Engineering.

Assistant Chief Controller, Equipment.

Inspector-General, Railway Police, Rajputana.

Deputy Inspectors-General of Police.

Commissioners of Police Madras and Rangoon.

Superintendents of Police in the selection grade.

All officers (other than Military Officers and members of the Indian Civil

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‡‡Takes effect from the 1st May 1946.

§Takes effect from the 1st September 1960.

2, Takes effect from the 1st October 1932, previous to which date the post was included in B grade.

*Takes effect from 14-2-47.

**Takes effect from the 15th August 1947.

Service) holding superior Indian Civil Service post lower in rank than that of a Commissioner of a Division or a District and Sessions Judge in the selection grade.

An officer of the Burma Frontier Service holding one of the superior posts in the service.

Deputy Director, Intelligence Bureau.

Deputy Director, Intelligence Government of India, Peshawar.

Inspectors-General of Registration.

‡‡Directors, Survey of India.

Directors of Agriculture ; Bihar and Orissa, Central Provinces and Assam.

Conservators of Forests.

Advisor Chemist Medical Store Depot, Madras.

Superintending Engineers, Public Works Department.

Director, Central Water and Power Commission.

Chief Public Works Officers, Federated Shan States, when the post in held by an officer of Indian Service of Engineers [*Cancelled* with effect from 3rd April, 1935].

[1]Principal, Thomason Civil Engineering College, Roorkee, if the appointment is held by a person appointed by the Secretary of State in Council.

Deputy Secretary to the Government of India.

Secretaries to the Central Board of Revenue and *ex-officio* Deputy Secretaries to the Government of India, Ministry of Finance (Revenue Division).

[2]Deputy Director-General, Finance, Indian Posts and Telegraphs Department.

Director of Telegraph Engineering.

*Director of Postal Services.

Deputy Director General of Shipping (Junior), Ministry of Transport and Communications.

Director of Wireless.

Controller of Telegraph Stores. (If appointed to this post before 5th February, 1932.)

[3]Electrical Engineer-in-Chief in the Indian Posts and Telegraphs Department.

Superintendents, Geological Survey.

Deputy Commissioner, Geological Survey.

Controller, Printing and Stationery.

Appointments in Class I of the Indian Audit and Accounts Service.

Budget Officer in the Government of India, Finance Department.

[4]Financial Adviser, Communications.

‡Deputy Secretary (Budget) to the Government of India, Finance Department.

§Collectors of Cumtoms (if pay is less than Rs. 2000).

§Collectors of Central Excise (if pay is less than Rs 2,000)

[5]Civilian Assay Masters.

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‡The Director of Public Instructions, Orissa, gets additional pension under B Grade from the 20th April 1938.

‡‡Takes effect from the 1st January 1926.

†Takes effect from the 15th July, 1948.

‡Made by the Governor-General in Council and takes effect from 17-8-1942.

1. Takes effect from the 14th July, 1938.
2. Takes effect from the 2nd January, 1934.

*Takes effect from the 15th July, 1958.

3. Takes effect from the 11th November, 1929.
4. With effect from the 1st June, 1940. Prior to this stood in the form of "Financial Officer, Communications" between the dates 13th April, 1939 and 31st May, 1940.
5. Now styled Assay Master.

§Takes effect from 1st September 1960.

Opium Agent, Ghazipur.

Appointments in Class I of the Superior Staff of the Military Accounts Department.

Senior Deputy Military Accountant-General.

Heads of Section at the Agricultural Research Institute and College, Pusa, Dairy Husbandry Officer, Indian Dairy Research Institute Bangalore and the Physiological Chemists, Bangalore, provided they have completed 15 years' total service.

Deputy Financial Advisors, Defence Finance.

Controller of Accounts, Royal Air Force and Deputy Financial Advisor Royal Air Force.

Deputy Chief Engineer, Telegraphs.

Director of the Agricultural Research Institute and Principal of the Agricultural College, Pusa.

Chief Judge of Small Cause Court in a Presidency town or in Rangoon when the appointment is held by an officer to whom the provisions of Chapter XXIV of these Regulations do not apply.

Chief Presidency Magistrate, Calcutta, when the post is held by a barrister.

Officers of the Provincial Civil Services holding superior posts in the cadre of the Political Department of the Government of India, lower in rank than that of Resident, 2nd Class.

Director, Indo-European Telegraph Department, Persian Section and Director, Indo-European Telegraph Department, Persian Gulf Section.

*Commissioners of Income-Tax, Grade II.

Chief Chemist, Central Revenues.

Director of Survey in the Madras Survey Deparment.

Deputy Superintendent and Remembrancer of Legal Affairs, Bengal.

Bombay High Court Original Side :—

Prothonotary, Testamentary and Admiralty Registrar. Master and Registrar in Equity and Commissioner for taking Accounts and local investigations and taxing officer.

Calcutta High Court Original Sides :—

Registrar.

Master and Official Referee.

Registrar in Insolvency.

Director, Regulations and Forms, Army Department.

Government Examiner of Questioned Documents, in respect of service after the date on which he passed the efficiency bar at Rs. 1,620.

Second Solicitor to the Government of India, in respect of service after the date on which he passed the efficiency bar at Rs. 1,600.

Officers of the Indian Political Service recruited from the Indian Police on reaching the pay of the 14th years in Indian Political Service time-scale, provided the service is rendered in superior posts in the cadre of the Indian Political Service.

Secretary, Railway Board, from 31st May, 1940.

Director Railway Clearing Accounts Office from 1st June, 1938.

Deputy Director Accounts, Railway Board, formerly designated as Deputy Controller of Railway Accounts.

Deputy Director Railway Clearing Accounts Office upto 31st May, 1938.

Any pensionable appointment in a Department other than those to which the appointments included in this Schedule appertain, the minimum pay of which, excluding overseas pay is not less than Rs. 1,250 a month, or, if no overseas pay is attached to it Rs. 1,500 a month. An officer holding an appointment carrying overseas pay who is not himself entitled to overseas pay is, neverthelss, qualified under this entry.

Note :—The Government of India may include in Schedule B any pensionable

*Takes effect from 1st May, 1946.

appointment which fulfills the conditions regarding minimum substantive pay contained in the last entry.

Government of India's decisions :—(1) An officer holding one of the appointments referred to in Article 475 and 642 of the C.S.R. but temporarily placed on military duty reckons towards additional pension the period of his service in the Military Department. The period of military duty should, however be allowed to qualify in case in which the Government of India are satisfied that if the officer had not temporarily left the Civil Department, he would have rendered in a qualifying appointment, service of such a character as to render him eligible under the regulations for the special additional pension.

[G.I.F.D. No. 15-C.S.R. dated 12-1-1919.]

(1-A) Special additional pension under Article 475A is not admissible to I.C.S. officers. The present Chief Commissioner and the Chief Secretary who are I.A S. Officers are governed by the New Pension Rules and are not entitled to the special additional pension under the aforesaid article of the C. S. R. since such benefit is admissible only to officers who are governd by the old pension rules. The position regarding the District Magistrate and Collector and the Principal Engineering Officers is not clear but since the New Pension Rules have been in force for more than seven years now and they have been further liberalised, the concession of special additional pension which is not available to the persons governed by the new pension rules is now a dying concession. The inclusion of a post which satisfies the criteria laid down, in the list below under Article 475-A. C. S. R. would be justified only when some persons actually holding a post is likely to be affected. Even in such cases the concession of special additional pension could be given by the issue of executive orders rather than by an amendment of the rules which is a long process. Accordingly it has been decided that the question of allowing the benefit of the special additional pension in the posts referred to above should be considered as and when a person governed by the old pension rules or para 2 (c) of Government of India decision No. (2) below rule 9 of appendix 41 to this Volume actually come to hold the post.

[G. I. M. H. Affairs Memo : No. 14/20/58-M.T., dated 14th July 1958]

(2) The Government of India are pleased to declare under Article 475A, Civil Service Regulations, that the appointment of Chief Auditor, Bombay Baroda and Central India Railway, corresponds in rank and responsibility to the Chief Auditor of a State Railway.

[G.I.F.D. endorsement. No. D/5926 R. II. dated 5-12 1928].

(9) No pension shall attach to the office of Member of the Federal Public Service Commission as such, but in the case of a Member who at the date of his appointment was in the service of the Crown in India, service as Member shall count for pension under the Rules applicable to the service to which such Member belonged and shall, unless the Member be a member of the Indian Civil Service or entitled to a pension under Army Regulations. also count for the higher additional pensions under Article 475A, Civil Service Regulations.

[Rule 9 of the Federal Public Service Commission (Conditions of Service) Regulations]

(4) *Omitted.*

(5) An officer of the Indian Forest Service who is superseded by a junior officer in any other province would, for the period he would have been appointed as a Conservator or Chief Conservator under the system of interprovincial promotions, counts service qualifying for additional pension under Article 475A, C. S. R. in the lower or in the upper grade as the case may be, even through he is not actually so appointed.

The compensation so granted shall be a charge on the Provincial Government whose decision to appoint junior officer to the higher post gave rise to the claim for compensation.

The Government so charged will bear the liability only for the period by which his approved service as Conservator or Chief Conservator falls short of the time required to earn full pension subject to a maximum of the period for

which it had to pay compensation.

[Governments of India letter Fo. 219, F/42 F. and L. dated the 14th August, 1942 to the India Office and India Office letter No. S and G. 1434/42, dated 7th October, 1942 to Government of India and India Office letter No. S. and G. 85/40, dated the 2nd March, 1940.]

(6) The accepted financial principle governing the grant of special additional pension is that in every case where such pension is granted there shall be two factors co-existent namely (*i*) the post qualifying for such pension must be specially important and responsible and (*i*) the officer qualifying must have rendered specially efficient and valuable service in it. In cases where the above two factors are both present, the individual treatment should not be necessary. The post would be of such intrinsic importance as to justify its inclusion in the schedule under Article 475A.

[Government of India, Department of Labour letter No. E-13, dated the 29th October, 1940 and Auditor General's No. T. 196/149/40, dated the 13th July, 1940.]

(6-A) Under Article 475A of the Civil Service Regulations, the special additional pension is normally admissible only to those officers who hold posts specifically mentioned in the Schedule below the said article. In these cases the criteria observed are that posts carrying emoluments (Rs.3000 if on old rates and Rs. 2250 if on revised rates of pay), responsibilities and status equivalent or corresponding to those of Joint Secretary, Government of India are classified as carrying higher grade special additional pension while those corresponding in these respects, to the post of a Deputy Secretary, Government India carrying lower grades special additional pension. Each case is, however, decided on merits and when it arises, and special executive orders allowing the special additional pension higher or lower as the case may be, issued whenever necessary.

[Ministry of Finance U. O. No. 674-EV (A) 58 in File No. 1 (1)-EV/58.]

(7) Question has been raised whether permanent civil officers who being officers of the Army in India Reserve of Officers have been called up for Military service, and permanent civil officers who have been granted Emergency Commissions, will for the period spent in the Defence Service, be eligible for special additional pension in respect of any higher posts in which they would have officiated on the civil side but for their absence on such duty and if so under what circumstances. The position is explained below :—

The orders of the Governor-General in Council contained in Finance Department letters Nos. F. 15 (18) Ex. 1/42, dated the 7th November, 1942 and the 28th July, 1943, constitute a *general* 'specification' or declaration by that authority of the posts in the Defence Services as posts 'outside the ordinary line of a service' for the purpose of the second proviso to F. R. 30 (1). Subject to the fulfilment of the 'next below rule' conditions and the extent (period) to which they are so fulfilled, both the categories of officers mentioned above are under general orders eligible to receive,while in Army service, the officiating pay in the higher (civil) posts in their ordinary line if this is greater than their military pay of rank etc., or to get a *pro forma* officiating promotion to such higher posts, the *pro forma* officiating service counting for increments in the higher posts and they will therefore *automatically* be governed by clause (6) of Article 475A, Civil Service Regulations, for purpose of special additional pension during the period they are actually allowed the pay of the higher civil posts or they receive *pro forma* officiating promotion to the higher civil post, service in which will qualify for special additional pension. Those who were actually allowed to draw, while in Army service, the higher officiating pay (instead of their military pay of rank etc.) are covered by the first part of the clause *ibid*, and those who were given only the *pro forma* promotion should be deemed as covered by the latter part of the clause, the *pro forma* promotion itself constituting the certificate of Government laid down in that clause.

[G. I. F. D. Memo No. F. 1 (3)-Est. V/46, dated 2-2-1946].

(8) The Governer-General in Council is pleased to declare, under clause(3) of Article 475A, Civil Service Regulations, that all temporary posts in Class I of

the Indian Audit and Accounts Service and in the Accountants General grade created during World War II, and which may be created hereafter, carry similar duties and responsibilities and the same rate of pay as corresponding permanent posts in the cadre of the Indian Audit and Account Service listed in the Schedule appended to the above quoted Article. The incumbents of these temporary posts will be eligible to count their service rendered in the posts for special additional pension at the rate and subject to the condition prescribed in clause (2) of the Article referred to.

[G I. F. D. letter No F. I (9)-E. V/47, dated 13-6-1947.]

(9) The Finance Department have examined the existing procedure for according sanction to the grant of ordinary and special additional pensions and have come to the conclusion that it requires modification and elucidation. The decisions taken in the matter are set forth below: —

"2. *Ordinary Pensions.*—In the case of gazetted officers such pensions are, at present, sanctioned under Article 919 of the Civil Service Regulations by the local Government Departments of the Government of India exercising the powers of a local Government under Article 919. The note below that Article provides that a local Government may delegate its powers to Heads of Departments and other subordinate officers who are authorised to fill the appointment vacated by the retiring officer. It is not proposed to make any change in the list of authorities competent to sanction such pensions. Attention is invited to Article 470 of the Civil Service Regulations which lays down, *inter alia*, that the full pension admissible under the rules is not to be given as a matter of course or unless the service rendered has been really approved. The provisions of that rule should be borne in mind at the time of sanctioning pensions.

3. *Special additional pensions.*—Article 475 of the Civil Service Regulations lays down that a special additional pension of Rs. 1,000 *per annum* may be allowed by the local Government to officers holding appointments enumerated below that Article. This Article applies only in the case of officers not admitted to Article 349A of the Civil Service Regulations. Departments of the Government of India exercise full powers of a local Government under Article 475 (*vide* item 30 of Appendix I to the Civil Service Regulations).

The special additional pensions of officers admitted to Article 349A are regulated under Article 475A,

In view of * * * the revised Article 475A of the Civil Service Regulations. * * the following procedure will be adopted in future

(1) *Cases where the Head of the Department is subordinate to a Department of the Government of India* :—

(*i*) *Annual Review.* (*a*) The Head of the Department will make a note in the annual confidential report as to whether, in his opinion, the service rendered by the officer and his conduct (during the year) have been upto the required standard.

(*b*) This report should be sent to the Department of the Government of India concerned with a recommendation as to whether the service rendered during that year should count for special additional pension.

(*c*) The Head of the Department of the Government of India should, after taking into consideration all the known facts regarding the officer, record a note as to whether the service has been approved.

(*d*) If such authority records that the service has been approved, no further action will be necessary and the officer, will receive no intimation to this effect. He will, therefore, be entitled to presume that his service has been approved for that year.

(*e*) If the Head of the Department of the Government of India is not satisfied that the service and conduct have been up to the required standard, he should submit the case for the orders of the Governor-General. If the Governor-General decides that the work of the officer did not come up to the required standard, a warning should be issued to him that his work in the previous year had not been considered satisfactory and that though the final

award to the additional pension will depend on the service rendered by the officer in the post as a whole, his additional pension for that year, and for future years will be liable to reduction or refusal unless certain defect(s), which should be speciffed is/are remedied.

(*ii*) *Final Reviews* (*a*) Where all the annual reports under sub-para, (1) (*i*) (*c*) above have been satisfactory, the Department of the Government of India will undertake the final review, and if it considers that the maximum additional pension may be granted the Department of the Government of India will pass final orders sanctioning such pensions.

(*b*) Where a case has already been sent once to the Governor-General, under sub-para (1) (*i*) (*e*) above or where the Department of the Government of India consider that on a final review, the maximum special additional pension admissible should not be sanctioned, the case should be referred, in the first instance to the Federal (*now* Union) Public Service Commission. Except where the final decision of Government will be in accordance with the recommendation of the Commission, the case should be submitted for the orders of the Governor-General.

Note :—The annual and final reviews in respect of the officers of the Indian Audit and Accounts Service will be conducted by the Comptroller and Auditor General of India and orders sanctioning special additional pension will be issued by him. All cases in which he considers that the maximum special additional pension should not be sanctioned will be referred by him to the Finance Department for action under sub para (1) (*ii*) (*b*) above.

(2) *Case where the Head of the Department and the Head of the Department of the Government of India are the same authority.*

(*i*) *Annual Review* : -(*a*) The Head of the Department of the Government of India should after taking into consideration all the known facts regarding the officer, record a note as to whether the service and conduct of the officer during the year have been approved. For this purpose departments should keep a note of observations on the work of officers that come to light from time to time from official sources, both inside and outside the Department, so that the Head of the Department of the Government of India concerned may have as full knowledge of the officer as possible.

(*b*) If the Head of the Department of the Government of India recommends that the service be not approved, that the case will be submitted for the orders of the Governor-General. If the Governor-General decides that the work of the officer did not come up to the required standard, a warning should be issued to him that his work in the previous year had not been considered satisfactory and that though the final award of additional pension will depend on the service rendered by the officer in the post as a whole, his additional pension, for that years and for future years, will be liable to reduction or refusal unless certain defect(s), which should he specified, is/are remedied.

(*ii*) *Final Review*.—The same procedure as indicated at sub-paras. (*i*) (*a*) and (*b*) above, *mutatis mutandis*, should be adopted at the time of final review. If it is decided that the maximum special additional pension admissible should be sanctioned, Department of the Government of India will accord sanction ; otherwise the case should be referred, in the first instance, to the Federal (*now* Union) Public Service Commission. Except where the final decision of Government will be in accordance with the recommendation of the Commission, the case should be submitted for the orders of the Governor-General.

Note 1—The words annual confidential reports," 'annual report' and 'reports' above have reference to the usual annual confidential reports on the work of officers. The decision as a result of annual review for purposes of special additional pension may be recorded in the same reports but except in cases in which the time for the writing of the the confidential annual reports coincides with the date on which the officer concerned completes a year's service in a post qualifying for special additional pension, the report regarding special additional pension should be recorded separately in the confidential report file after the latter date. In other words it is necessary that the review for purposes for special additional pension should be conducted only on the expiry of a completed year's service in a qualifying post.

If an officer has rendered broken periods of service under different administrative

authorities in more than one post service in which qualifies for special additional pension, a review shall be made annually when the officers' confidential report is being prepared and when it is found at this annual review that the officer has in the mean time completed one year of such service, action shall be taken as in sub paras (1) and (2) above.

Note 2—The words Governor-General wherever they are used above mean 'the Governor-General acting in his individual judgment'. It has been held, however, that, in view of the provisions of section 313 (4) of the Government of India Act 1935, until Federation is established those words would in effect mean the Governor General in Council.

(4) (*a*) These orders apply only to officers under the rule making control of the Governor-General in Council and to the Secretary of State's officers belonging to General Services, including such officers whose services are lent to Provincial Governments or who are on foreign service. The Department in which exists the post on which the officer holds a lien active or suspended, shall ensure that the report, when due, is obtained from the Provincial Government or the foreign employer, as the case may be.

(*b*) These orders do not apply to the Secretary of State's officers of the All India Services who belong to Provincial cadres nor to such officers belonging to Provincial Services The procedure in respect of such officers, including those who for the time being are serving in the Central field, will be governed by such orders as may be issued by the Provincial Governments, who are being asked to consider the desirability of issuing parallel orders for the Secretary of State's officers with whom they are concerned.

[G. I. F. D. Memo. No. F 1 (2) R. 11/39, dated 16-12-1944.]

Note :—1. Under Article 475A, C. S R. entire service rendered in a post to which special additional pension is attached counts, and it is not necessary that such service should be continuous. The above Memo : deals with the procedure for according sanctions to the grant of ordinary and special additional pensions and what periods of service count for special additional pension is laid down in the Rules themselves, in which, as stated above, there is nothing to prevent broken periods for less than a year from counting towards total service for such pension.

The reference in the first sub para of Note 1 at the end of para 3 of the Memorandum cited above it is to the reviews referred in sub-paras (1) and (2) of para 3 of that Memo : in so far as broken periods of service are concerned the procedure for reviews is indicated in the second sub-para of Note 1 referred to above.

[G. I. F. D. letter No. F. I. (8) Est V/46, dated 8-5-1946]

Note 2—It is not necessary to maintain a separate annual report for the purpose of recording remarks in respect of an officer's eligibility for special additional pension and the intention is that in addition to annual review (which is on the basis of annual confidential reports), a final review of an officer's service as a whole should be made at the time of his retirement

[G. I. F. D. letter No. D-7357-E. V/47, dated 2-12-1947 to the Chief Secretary to Government of Bombay]

Note 3--The Secretaries of the various Ministries of Goverement of India should furnish a report to the Establishment Officer in the following form :—

"I hereby certify that .....has rendered service in the post/posts of..... which is/are included in the upper/lower grade in the schedule of Article 475A, Civil Service Regulations for the period/periods from.....to.....I consider that the service rendered by the said officer in the special post/posts specified the standard of work and conduct required in the special conditions of that/those post/posts and that such service should be recorded as qualifying for the award of special additional pension in the upper/lower grade."

The Establishment Officer has taken it upon himself to collect all such reports and remind the defaulters where necessary.

[G. I. M. F. File No. F I(4)—EV/53].

(10) A question has arisen as to whether or not the Provincial Civil Service officers arpointed to Indian Administrative Service post, which correspond in status to listed posts, the holders of which are eligible for additional pensions of the upper and lower grades, as the case may be, should on retirement be allowed to draw additional pensions of such grades Although new pension rules for the Indian Adminstrative Service have not yet been finalised, [*Since finalised and incorporated as appendix 51 in Volume II*] it is not contemplated, as a result of the recommendations of the Central Pay Commission, to provide in those rules for the grant of additional pensions to holders of certain posts. It has accordingly been decided that no special additional pensions should be granted to such officers, but until

the new pension rules are framed, such officers may be granted provisionally only the maximum ordinary pension which would have been admissible to them under rules 13 and 14 of the Superior Civil Services Rules if they had been appointed to 'listed posts' in the I. C. S. Such pensions would be subject to adjustment later on in the light of the new pension rules that may eventually be prescribed for the Indian Administrative Service.

These orders apply *mutat s mutandis* to Provincial Police Service officers promoted to the Indian Police Service, who may retire before the new pension rules for Indian Police Service are promulgated.

[Ministry of Home Affairs letter No : 20/3/48-G S dated 9-3-1949 circulated with the Ministry of Finance endorsement No D. 1615-Est V/49 dated 28-3-1949.]

Note :—Pension of all officers belonging to these services is for the time being, governed by the above mentioned orders irrespective of the date of their retirement. Such pension, will, be subject to adjustment later on in the light of new pension rules under consideration at present when they are finalised. No special additional pension is admissible under the provisonal orders to officers in respect of their service either in listed posts or in the Indian Administrative Services or Indian Police Service posts for periods prior to the 15th August, 1947 or to the 9th March 1949 the date of issue of the orders.

[Government. of India, Ministry of Home Affairs letter No. 20/3/48-I. G. dated the 31st August 1949]

(11) A question has been raised whether the 28 years' qualifying rule contained in Article 475 (7) of the C. S. R. regarding additional pension would operate in the case of officer of the Secretary of State's Service who retire on transfer of power. The Secretary of State has decided that as the termination of the service of such officer on transfer of power cannot properly be regarded as voluntary retirement within the meaning of above Article, the 28 years' rule contained therein shall not operate in cases referred to above.

[G. I M. H. Affairs letter No. 27/4/47-Est dated 4-9-1947.]

(12) See Government of India's order No. (5) below Article 475.

(13) The provision of clause (8) [*now clause* (7)] is similar to the latter portion of Article 475 which was introduced in 1909 with the object of counteracting any tendency on the part of officers to retire while capable of rendering valuable service.

[G.I.F.D. letter No 1 (6)-R 11/44 dated 3-11-1944.]

(14) A Provincial Service officer promoted to a listed post is not entitled to special additional pension under Article 475A in addition to the basic pension under Rule 13 (1)(*a*) of the Superior Civil Service Rules [incorporated as Secretary of State's order below Article 474A] when he failed to elect in writing the new pension rules within the prescribed period.

[G. I. F. D. No· F. I. (12)-R-11/45, dated 2-9-1945.]

(15) A permanent Government servant will count service as Registrar, Federal Court for India, for special additional pension in the lower grade. For this purpose, the provisions of Article 475A or 475AA of the C.S.R. as the case may be, shall apply, *mutatis mutandis.*

[G. I. F. D. letter No. F. I,(8)-E. V/48·dated 21-10-1948]

(16) Secretary of State's officers who were officiating in posts carrying special additional pension immediately before they proceeded on leave preparatory to retirement on transfer of power should be allowed the benefit of counting the first four months of leave on average pay preparatory to retirement for the purpose of special additional pension subject to a certificate being issued that they would have continued to officiate in posts carrying special additional pension but for their proceeding on leave prepartory to retirement.

[G. I. M. H. Affairs letter No. 1/1/49 dated 12-4-1949.]

(17) A case has come to notice in which special additional pension had to be granted to a Government servant, inspite of an adverse recommendation by the Governor of the Province, owing to the failure on the part of the Provincial Government concerned to comply with the procedure laid down in sub-paragraphs (2) and (3) of paragraph 5 of the letter No. F-I (2)-RII/39., dated 13-11-1940 [incorporated as footnote on page 330]

During the course of their examination of the *case, the Federal Public Service Commission, who were consulted, have pointed out that their recommendation for the grant of the full additional pension to the officer concerned was based mainly on the fact that the directions on the subject were not properly followed and that this neglect on the part of Provincial Government has resulted in loss to the State. They have therefore suggested that the Provincial Governments should be reminded of their duty in respect of the grant of special additional pension to officers serving under them. Government of India have therefore desired that suitable steps may kindly be taken to ensure that prescribed procedure relating to the conditions for the award of special pension is strictly followed in order that in no case the Government are faced with the situation of granting special additional pension in un-deserving cases at the expense of the tax payer.

[G. I. M. F. No. F. I(3)-E. V/48, dated 9-4-1948.]

(18) The State Government have full powers to regulate the terms and conditions of service of persons under their rule making control. They are therefore competent to allow special additional pension to members of superior judicial service if they so desire.

[G. I. M. H. Affairs letter No. 11(34)/52-A.I S.I., dated 3-1-53 to the address of the Government of Orissa.]

Auditor General decisions :—(1) It has been decided that premature retirement on proportionate pension cannot be held to be voluntary retirement within the meaning of Article 475A, C. S. R. and that 28 years, limit in clause (4) under Article 475A, C. S. R., does not affect the question whether the additional pension was earned for the purposes of the Government of India, Home Department, letter No. D.4172-Ests., dated 12th April 1922, and therefore does not take away the right to additional pension for premature retirement on proportionate pension. (Also see G. I decision No: (11) on page 329.)

[Auditor General's letter No. 1194/411-23 of 3-12 1923.]

2. *Omitted.*

(3) The Auditor General has with the concurrence of the Government of India decided that the first four months of leave on average pay enjoyed by an officer who is officiating in a post carrying the grant of Special Additional Pension under Article 475A of the Civil Service Regulations will qualify for such pension only if it is in evidence that—had the officer not been on leave he would have been officiating or holding the temporary post

[C. C. A. letter No. 35-1-321-28-dated the 6th February, 1929.]

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*"Extract from G.I.F.D. letter No. F. 1 (2)-R II/39, dated 13-11-1940.

"5. The Government of India recommend that the following procedure should be prescribed for an annual review of service rendered in posts qualifying for special additional pension :—

(1) A confidential character roll should be maintained for each officer serving in a post qualifying for such pension. It should be left to the Government of India and the Provincial Government concerned to prescribe the authority who would write the annual confidential reports on the work and conduct of such an officer.

(2) The Governor-General or the Governor, as the case may be, acting in the exercise of his individual judgment should review annually the service rendered by each officer in the previous year in a post qualifying for additional pension and come to a decision whether the officer's service is to be regarded as qualifying for such pension. Use may be made for this purpose of the annual confidential reports on the officer's work or of special reports obtained *ad hoc* (vide paragraph 3 (*b*) of Home Department's letter No. 141/38-Ests, dated the 2nd May 1940 to the India Office).

(3) If the Governor-General or the Governor (as the case may be) decides that the work of an officer was such as to justify his reversion or compulsory retirement action should be taken to revert him or to order his retirement. In other cases where the officer's work does not come upto the required standard, warning should be issued to him that his work in the previous year has not been considered satisfactory and that though the final award of additional pension will depend on the service rendered by the officer in the post as a whole, his additional pension for that year and for future year will be liable to reduction or refusal unless certain defects, which should be specified, is/are remedied. As a corollary, the officer against whom action has not been taken on the lines indicated above should be deemed to be entitled to the special additional pension for the previous year's service.

(4) The Note below schedule B to Article, 475A Civil Service Regulations, is not intended to be used for purpose of making temporary or officiating service in post not included in the Schedule count for additional pension. The Schedule is intended for permanent posts—not for temporary ones specially if there is to be a further qualification—while held by.....

As to the question whether under the Note below schedule B to Article 475A Civil Service Regulations, or under any other rule, the Government of India have power to say that since in any particular kind, equivalent it may be to service in a post included in the Schedule, shall count for additional pension, the Auditor General has decided that they have not that power, certainly not in the case of officers under the rule-making control of the Secretary of State.

[Auditor General's U. O. No. 406A/247-36 dated the 20th November, 1936.]

(5) Under clause (3) of Article 475A, Civil Service Regulations, service in a temporary post which has been declared by the authority competent to create the post to carry similar duties and responsibilities and the same rate of pay as a post listed in the Schedule of that Article may be allowed by a "Local Government" to count towards additional pension. Recently, a question arose whether the words "a post listed in the schedule" occurring in clause (3) of Article 475A have reference to the corresponding permanent post listed in the schedule to that Article or to any post mentioned therein. It has been decided, with the concurrence of the Government of India, that if in respect of both the conditions prescribed in that clause a temporary post can be held to be comparable with any permanent post listed in the appropriate part of the Schedule and the "Local Government" gives the necessary declaration, the benefit of that Article may be given to an officer irrespective of whether the comparable post is a corresponding permanent post or not.

[Auditor General's letter No. 71A/108-43 dated 8-2-1944.]

Audit Instructions:—(1) When a Government servant officiating in a post qualifying for special additional pension is transferred to another such post in an officiating capacity, the period of joining time spent in proceeding from one post to the other counts as service in a post qualifying for special additional, pension only if the competent authority certifies that had the officer not been on joining time he would have held either the new or the old qualifying post.

[Para 24, Section III of the Manual of Audit Indstructions (Reprint).]

(2) Owing to the provisions of Section 247 of the Government of India Act, 1935, it is no longer with in the power of a Provincial Government to with hold or reduce special additional pension in the case of Secretary of State's officers and even in cases where the service of such officers in posts carrying additional pension has been definitely unsatisfactory, the consent of the *Secretary of State to the withholding or reduction of additional pension is required.

[Para 4, Section IV-A of the Manusl of Audit Instructions (Reprint).]

(3) When a Government servant already in pensionable service is appointed to hold the post of a Vice-Chancellor of University, even though it be non-Government post, and his service continues to qualify for pension, his service in such post qualifies for the higher grade additional pension.

[Para 24-B Section III of the Manual of Audit Instructions (Reprint).]

(4) If in respect of both the conditions prescribed in clause (3) of this Article a temporary post can be held to be comparable with *any* permanent post listed in the appropriate part of the Schedule to the Article and the 'Local Government' gives the necessary declaration, the benefit of the Article may be given to an officer irrespective of whether the comparable post is a corresponding permanent post or not.

[Para 24-C Section III of the Manual of Audit Instructions (Reprint).]

475AA. For officers referred to in Article 349AA the rule for the

*Now President. The conditions of service as respects remuneration, leave and pension continue *vide* Article 314 of the Constitution of India.

grant of special additional pensions is as follows :—

(1) The special additional pension admissible under this Article is not to be given as a matter of course but only where the service rendered is approved as satisfying the standard of work and conduct required in the special condition of the post or duty hereinafter mentioned.

(2) Officers who have held posts listed in the Schedule to this Article may be granted an additional pension (*a*) at the rate of Rs. 250 for each completed year of effective service in any post included in the lower grade, and (*b*) at the rate of Rs. 400 for each completed year of effective service in any post included in the upper grade, up to a maximum of Rs. 1,250 per annum for service in the lower grade appointments and Rs. 2,000 per annum for service in lower and upper grade appointments combined or in upper grade appointments alone. Provided that in the case of an officer who has earned an additional pension by service in appointments in both the upper and lower grades service for any broken period of a year in the upper grade may count as service in the lower grade if his pension would be thereby increased.

(3) An officer who has held a temporary post which has been declared by the authority competent to create the post as carrying similar duties and responsibilities and which carries the same rate of pay as a post listed in the Schedule, may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in the clause (2) of this Article.

(4) For the purpose of clause (2) and (3) of this Article "effective service" includes, besides periods of duty in a post mentioned in the said clauses :—

(*i*) duty performed—

(*a*) in a post of corresponding rank, and responsibility in foreign service, or

(*b*) on deputation on special duty, or

(*c*) in a temporary post, or

(*d*) in a permanent post in an officiating capacity, to which an officer is transferred or appointed whilst holding the post mentioned in clause (2) or (3), if, in the case of an officer who held a post mentioned in clause (2) in an officiating capacity, or of an officer who held a post mentioned in clause (3), Government certifies that he would, if he had not been so transferred, or appointed, have continued to officiate in or hold the post concerned.

(*ii*) Earned leave for the purpose of calculating service for pension taken by the officer during his service in a post mentioned in clauses (2) and (3) or during the period of duty covered by sub-clause (*i*) of this clause, if in the case of an officer who has held a post mentioned in clause (2) in an officiating capacity, or who has held a post mentioned in clause (3), Government certifies that if he had not proceeded on leave, have continued to officiate in the post mentioned in clause (2), or have held a post mentioned in clause (3).

For the purpose of this sub-clause earned leave, taken by an officer immediately on vacating any of the posts mentioned in sub-rules (2) and (3) of Fundamental Rule 97 during which he is left without a lien on any permanent post, shall be regarded as leave taken during his service in such a post.

(5) An officer of pensionable status who has held a post in foreign service with a State-owned Railway worked by a Company, which is certified by Government to correspond in rank and responsibility with a State Railway post to which special additional pension is attached

may be granted an additional pension in respect of that post at the rates and subject to the conditions, prescribed in clause (2) of this Article, provided that, for the purposes of this clause "effective service" means duty (including earned leave for the purpose of calculating service for pension) in a foreign service post.

(6) An Officer who has received under the second proviso to Fundamental Rule 30(1) or under Fundamental Rule 113, officiating promotion to one of the posts listed in the Schedule, or in whose case Government certifies that he would have received such promotion had he not been on special duty or held a temporary post, may be granted an additional pension at the rates and subject to the conditions prescribed in clause (2), as though he had held during the period for which he officiated or would have officiated, a post listed in the Schedule.

For the purpose of this clause the period of officiating promotion includes any earned leave for the purpose of calculating service for pension taken during the period, if Government certifies that, had the officer not been on leave he would have continued in the same capacity.

(7) The grant of additional pension to officers is subject to condition that they must in the event of voluntary retirement have completed 28 years of qualifying service. Voluntary retirement for the purpose of this rule should be taken as retirement under Article 464.

SCHEDULE OF APPOINTMENTS CARRYING ADDITIONAL PENSIONS.

A.—Upper Grade.

Director General of Posts and Telegraphs.
Chief Engineer, Posts and Telegraphs.
Senior Deputy Director General, Posts and Telegraphs.
Postmasters General (If pay is not less than Rs. 2,000).
Surveyor General.
Vice-Chairman, Imperial Council of Agricultural Research.
Inspector General of Forests.
Chief Engineer, Central Public Works Department.
Secretary, Commerce Department.
Joint Secretary, Commerce Department.
Indian Trade Commissioner, London,
Deputy Auditor General of India.
Accountants Generalships and other major charges in the Indian Audit Department (If pay is not less than Rs. 2,000).
Mint Masters.
Master, Security Printing, India.
Members, Central Board of Revenue.
Commissioners of Income-tax, Bombay and Bengal.
Collectors of Customs (If pay is not less than Rs 2,000).
Collectors of Central Excise (If pay is not less than Rs. 2,000).
Secretary, Finance Department.
Joint Secretary, Finance Department.
Financial Adviser, Military Finance
*Military Accountant General.
Command Controllers of Military Accounts.

B.—Lower Grade.

Director General of Observatories.
Deputy Directors General, Posts and Telegraphs.
Deputy Chief Engineer, Posts and Telegraphs
Directors of Telegraphs.
Postmasters General (If pay is not less than Rs. 1,600).
Director, Imperial Agricultural Research Institute, New Delhi.
Director General of Archaeology.
Director, Imperial Veterinary Research Institute.
Director, Zoological Survey.
Director, Survey of India.
Chief Inspector of Mines.
Director, Geological Survey.
Suprintending Engineers, Public Works Department.
Controller, Printing and Stationery.

*Now designated as Controller General of Defence Accounts.

Deputy Secretary, Commerce Department.
Deputy Economic Adviser to the Government of India.
Deputy Indian Trade Commissioner, London.
Financial Adviser, Communications.
Deputy Secretary (Budget), Finance Department.
Accountant Generalships and other major charges in the Indian Audit Department (If pay is less than Rs 2,000).
Deputy Financial Advisers, Military Finance.
Appointments in Class I of the Superior Service of Military Accounts Department.
Collectors of Custom (If pay is less than Rs. 2,000).
Collectors of Central Excise (If pay is less than Rs. 2,000).
Chief Chemist, Central Revenues (If pay is less than Rs. 1,600).
Commissioners of Income tax, Madras (Central), Bombay, Punjab, Bihar, and Orissa and the Commissioner of Income Tax for the United and Central Provinces.
First and Second Secretaries to the Central Board of Revenue.

Government of India's decisions :—(1) See Government of India's decision No. (15) below Article 475A.

(2) Government of India's decision Nos : (3) and (4) below Article 4.

475AAA. (1) This article shall apply to those members of the Central Services (hereinafter referred to as Pool Officers) who, having been in permanent pensionable service on the 30th September, 1938, are appointed to the Finance and Commerce Cadre.

(2) Pool Officers shall not be entitled to additional pension otherwise than is accordance with this Article.

(3) No Pool Officer shall be allowed an additional pension exceeding Rs. 2,500 a year.

(4) A Pool Officer who, for any period :—

(*i*) has held any of the posts listed in the Schedule below, or

(*ii*) has held any of the appointments listed in Part A of the Schedule to Article 475A, but not included in the Finance and Commerce cadre, or

(*iii*) has held any other appointment declared by the authority competent to create that appointment to be equivalent for purposes of this Article to the appointments listed in Part A of the Schedule to Article 475A, or

(*iv*) but for his appointment as a Pool Officer would have held any of the appointments listed in Part A of the Schedule to Article 475 A,

may be allowed in respect of any such period an additional pension at the rate of Rs. 500 a year for each completed year of effective service [effective service in the post *actually held* during such period being taken in cases falling under sub-clause (*iv*).

Provided that no additional pension shall be allowed in respect of any period under sub-clause (*iv*) for which additional pension is allowed under sub-clause (*i*), (*ii*) or (*iii*) of this clause.

(5) A Pool Officer who, for any period :—

(*i*) has held any of the appointments listed in Part B of the Schedule to Article 475A, but included in the Finance and Commerce Cadre, or

(*ii*) has held any other appointment declared by the authority competent to create that appointment to be equivalent for purposes of this Article to the appointments listed in part B of the Schedule to Article 475A, or

(*iii*) but for his appointment as a Pool Officer would have held any of the appointments listed in Part B of the Schedule to Article 475A,

may be allowed in respect of any such period, an additional pension at the rate of Rs. 300 a year for each completed year of effective service [effective service in the post *actually held* during such period being taken n cases falling under sub-clause (*iii*)

Provided that no additional pension shall be allowed in respect of any period under sub-clause (*iii*) for which additional pension is allowed under sub-clause (*i*) or (*ii*) of this clause ;

Provided further that no Pool Officer shall be allowed under this clause an additional pension exceeding Rs. 1,500 a year.

(6) The general provision contained in Article 475A shall *apply mutatis mutandis* for the purpose of allowing additional pension under this Article.

Note. The Governor-General is pleased to direct that this Article shall apply also to officers of the Superior Service of the Military Accounts Department, other than those appointed by the Secretary of State for India in Council or the Secretary of State on behalf of the Governor-General in Council.

SCHEDULE

Secretary, Finance Department.
Secretary, Commerce Department.
Members, Central Board of Revenue.
Deputy Auditor General.
Financial Adviser, Military Finance.
Joint Secretary, Finance Department.
Joint Secretary, Commerce Department.
Indian Trade Commissioner, London.

Government of India's decision :—Clause 4(*iv*) and 5(*iii*) of this Article provide that an officer who, for any period, but for his appointment as a Pool Officer, would have held any of the appointmets listed in Posts A and B of the Schedule to Article 475A, C.S.R. may be allowed in respect of any such period special additional pension subject to certain conditions. In order to give effect to this decision the Government of India have laid down the following procedural instructions :—

(*i*) The administrative head of the service concerned should in respect of each of the Pool Officers, issue an annual certificate in the following form :—

"Certified that had, "A" not been appointed to the Finance and Commerce Department cadre, he would have held a post/posts qualifying for lower and/or higher additional pension under Article 475, C.S.R. during the following periods in the years.....19"

(*a*) Lower additional pension—
From To
From To
(*b*) Higher additional pension—
From To
From To
Date—

(*ii*) The certificate should be granted purely on the basis of seniority.

(*iii*) The certificate should be addressed to the Audit Officer concerned who should, after such audit scrutiny as is necessary, make suitable entry in the History of Service.

[G I F. D. No F 43(2)—R. II/39, dated 11-11-1939].

475B. Special additional pensions may be granted by a Local Government to military officers on the supernumerary list who have rendered approved service in certain high civil posts, on the following conditions :—

(1) Additional pensions may be granted at the following rates :—

(*i*) At the rate of £36, 13*s*. 4*d*. a year, not exceeding three, of effective service in any civil post or posts carrying pay not less than Rs. 3,000 a month ;

provided that the additional pension admissible under this rule shall not exceed £200 and that the total pension of an officer in receipt of pension under this rule shall not exceed £1,000, or, if the additional pension be wholly at the lower rate, £900.

(2) **In the case of an officer serving in a qualifying post carrying progressive or time-scale pay with a maximum of Rs. 3,000 or Rs. 4,000, that portion only of his service during which he has drawn the maximum pay of the post shall qualify for additional pension at the lower or higher rate, respectively.**

(3) **Service in a post qualifying for the higher rate of additional pension may count for the lower rate, provided that no period of service shall count for both lower and higher rate of pension.**

(4) **For the purpose of clause (1) of his Article the expression 'effective service' includes besides periods of duty in a post referred to in that clause :—**

(*i*) **duty performed.**

(*a*) **in a post of corresponding rank and responsibility in foreign service, or**

(*b*) **on deputation on special duty or,**

(*c*) **in a temporary post, or**

(*d*) **in a permanent post in an officiating capacity to which an officer is transferred or appointed while holding the post mentioned in clause (1)**

if, in the case of an officer who held the post mentioned in clause (1) in an officiating capacity, the local Government certifies that he would, if he had not been so transferred or appointed, have continued to officiate in that post,

(*ii*) **privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension taken by the officer during his service in the post mentioned in clause (1) or during the period of duty covered by sub-clause (*i*) of this clause.**

if, in the case of an officer who has held the post mentioned in clause (1) in an officiating capacity, the local Government certifies that he would, if he had not proceeded on leave, have continued to officiate in that post.

(5) **An officer who has received under Fundamental Rule 113, officiating promotion to a post covered by clause (1) of this Article or in whose case the local Government certifies that he would have received such promotion had he not been on special duty or holding a temporary post, may be allowed by the local Government an additional pension at the rates and subject to the conditions prescribed in clauses (1), (2) and (3) of this Article, as though he had held, during the period for which he officiated or would have officiated, a post covered by clause (1).**

Note.—For the purpose of this clause this period of officiating promotion includes any privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension, taken during the period but no other leave if the local Government certifies that had the officer not been on leave, he would have continued in the same capacity.

Government of India's decision :—The additional pensions in this Article have from their inception. been intended solely for military officers holding civil posts, who, in consequent of their civil employment, are placed on the Supernumerary list in accordance with paragraph 68, Army Regulations, India, Volume II, and are thus debarred from attaining military rank above that of Lieutenant Colonel and a military pension in excess of that admissible to an officer of that rank. Officers of the Royal Engineers and the Indian Medical Service in civil employ, not being liable to transfer to Supernumerary list and consequently not being prevented from attaining the rank above that of Lieutenant Colonel (and also the pensions admissible to such high rank) are not eligible for the additional pensions prescribed by the rule. The note to the original article which was based on Government of India, Finance Department Resolution No. 1312-C.S.R. dated the 30th November 1922, was intended merely

to emphasise this distinction and in no way to modify the interpretation of the rule as then existing. The Secretary of State however, thought it desirable in order to remove all doubts, to amend the rule in question which has been done by him by a Resolution in Council.

The Secretary of State has also held that there is no objection to the view that in exceptional circumstances an officer may with the approval of the Military authorities be transferred to the Supernumerary list before he has completed ten years in civil employ, provided that both he and the civil department employing him are willing. Further he thought it desirable that a redraft of Regulations for the Army in India, paragraph 68 in accordance with this interpretation, should be issued.

"Each year" in sub clause (*ii*) of clause (1) of Article 475-B Civil Service Regulations, means "each completed year."

[G. I. F. D. No. D/1846 R. II, dated 17th, July, 1939]

476. The following special scale of pension is admissible to officers appointed in England to the Imperial Services of the Forest and Geological Survey Departments before the 6th December, 1932 and who did not elect the Rules mentioned in Article 349A :—

(*a*) **After a Service of less than ten years, an invalid gratuity on the scale laid down in Article 474 (*a*).**

(*b*) **After a service of not less than ten years but less than twenty -five years, an invalid pension on the scale laid down in Article 474 (*b*).**

(*c*) **After a service of not less than twenty years, a retiring pension not exceeding the following amounts : —**

Years of completed service	Scale of pension.	Maximum limit of pension.
		Rs. Rs.
20 to 24	30 sixtieths of average emoluments	4,000 a years or 333⅓ a month.
25 and above		5,000 ,, ,, 416⅔ a month

Note 1.—The rules in this Article do not apply to the following officers who have elected to remain under the rules in Article 516 and 520 of the *Second Edition* of these Regulations :—

Forest Department ;—Messrs. T. A. Hauxwell and H. S. Ker-Edie.

Geological Survey Department. :—Mr. C. S. Middlemiss]

Note 2.—The corresponding rule applicable to officers mentioned in Article 394A is contained in Article 474A.

Government of India's decisions :—(1) The ordinary pension of Rs. 5,000 and the special additional pension of Rs. 1,000 should be held to be the highest amounts to be awarded, unless under wholly exceptional conditions.

[G. I. F. D. No. 3842-P., dated I-9-1898.]

(2) The invalid pensions of the officers mentioned in Article 476 and 635 of the Civil Service Regulations, when they retire on medical certificate, before completing 25 years' service shall be calculated at the rate prescribed in Article 474 (*b*) instead of at those prescribed in Article 476 (*b*) and 641 (*b*).

The decision will take effect from the 30th April, 1921.

[G. of I. Finance Department, No. 46-C. S. R., dated 20th January, 1922].

477—480. *Cancelled.*

SECTION III,—AMOUNT OF INFERIOR PENSION.

481. *For Inferior qualifying service, pension may, subject to the conditions laid down in Articles 426 to 457, be granted as follows :-

(*a*) **Compensation and Invalid gratuity :—**

After, a service of less than five years—*Nil.*

,, ,, not less than 5 years but less than 10 years, 3 months pay.

,, ,, ,, 10 ,, ,, 15 ,, 4 ,, ,,

,, ,, ,, 15 ,, ,, 20 ,, 5 ,, ,,

,, ,, ,, 20 ,, ,, 30 ,, 6 ,, ,,

*See first footnote on page 338.

(*b*) Compensation and invalid pension : After a service of not less than 30 years. at the following rates :—

(1)	(*i*) Record sorters and Duftaries employed in Secretariates of the Government of India.	Half pay not exceeding Rs. 20 a month
	(*ii*) Sorters in the Imperial Library ...	
	(*iii*) Sorters and Duftaries in the Imperial Record Department.	
(2)	(*i*) Duftaries and record suppliers employed in the secretariates of Local Government and Administrations, whose service has not been expressly declared to be superior, and duftaries in the High Court, Calcutta ...	Half pay not exceeding Rs. 10 a month.
	(*ii*) Sarkar attached to the Public Works Departments, Bengal, who draws a fixed pay of Rs, 20 a month, ...	
	(*iii*) Duftaries employed in the branches of the Army Headquarters-	
	(*iv*) Record suppliers employed in Calcutta and Karachi Custom House and record Attenders in the Madras Custom House.	
(3)	Jemadars employed in the Government of India Secretariates and in the several branches of the Army Headquarters and in the Royal Air Force Headquarters :—	

Service as Ist Class Jemadar	*Pension*
Less than two year	Rs. 10 a month.
Two years or more but less than 4 years ...	Rs. 11 a month.
Four years or more	Rs. 12 a month.

Provided that the pension shall in no case be less than that to which a Jemadar would have been entitled had he retired as a second class Jemadar, on his total service as Jemadar ;—

Service as 2nd Class Jemadar	*Pension*
Less than one year	Rs. 8 a month,
One year or more but less than three years ...	Rs. 9 a month.
Three years or more but less than five years ...	Rs. 10 a month.
Five years or more	Rs. 11 a month.
(4) In all other cases :— Half pay not exceeding	Rs. 4 a month,

Government of India's decisions :—(1) The last pay drawn by an officer in inferior service should be taken for calculating gratuity on the inferior scale when he is on leave immediately before retirement.

If an inferior servant's pay is reduced, during his leave without pay just before retirement, his gratuity should be calculated on the reduced pay.

[Paragraph 377 of the India Supplement to C. S, R. (4th Edition)].

(2) *CENTRAL (Class IV), SERVICES (GRATUITY, PENSION AND RETIREMENTS) RULES, 1936.

1. (1) These †rules may be called the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, 193[illegible].

(2) They shall come into force on the 1st April, 1936.

2. These rules shall *apply to all members of the Central Services, Classs IV under the administrative control of the Governor-General in Council.

3 Nothing in these rules shall be deemed to derogate from any rules or orders in force not inconsistent with these rules.

4. *Classes of pensions and gartuities.* Pensions and gratuities shall be of the following classes namely :—

(*i*) Compensation pension and compensation gratuity granted on discharge from Government service on account of reduction of establishment :

(*ii*) Invalid pension and invalid gratuity, granted on retirement from

*The application of this decision (these rules) is very much restricted from the 1st April 1957 *vide* decision No. (13) below this Article.

†These rules also apply to corresponding cases of Class IV personnel paid from the Defence Service Estimates *vide* Army Instruction No. 132 of 1936 as subsequently amended by Army Instructions.

Government service on account of permanent incapacity resulting from bodily or mental infirmity.

(*iii*) Superannuation pension and superannuation gratuity, granted on attaining the age prescribed in rule 9 ; and

(*iv*) Retiring pension, granted on retirement from Government service after a qualifying service of 30 years.

5. (*a*) *Grant of gratuity.*—(*a*) Compensation gratuity or Superannuation gratuity, of an amount not exceeding invalid gratuity of one half months pay for every completed year of qualifying service, may be granted if the qualifying service on discharge or retirement is less than 20 years.

Provided that a Government servant elects under Article 398 (*b*) of the Civil Service Regulations to count the Central Services Class IV portion of his service towards gratuity and that portion of his service is not less than 23 years, gratuity not exceeding 9½ months of pay may, not withstanding the provisions of rule 6, be granted to that servant.

(*b*) For the purposes of this rule pay means the monthly substantive pay which the Government servant concerned drew or would have drawn in the permanent post held by him substantively at the time of his discharge or retirement and a special pay granted in consideration of the unhealthiness of the locality in which the duty is performed, or of increased work or responsibility for the discharge of which there is no appointment separately sanctioned.

Provided that the pay of a telegraph messenger paid on the task work system shall be deemed to be the average amount of subsistence allowance and task work earning drawn monthly by him during the last twelve months before his discharge or retirement.

Provided further that the pay of an employee in the Government Press remunerated by piece-work rates shall be deemed to be the average earnings of the last six months before his discharge or retirement.

Provided further that if the pay of the Government servant is reduced during the last three years of his service otherwise than as a penalty, his gratuity under this rule may, at the discretion of the authority which has power to sanction it, be calculated upon the average of his pay during the last three years of his service.

Audit Instructions. The Central (Class IV) Civil Service (Gratuity, Pension and Retirement) Rules, 1936, supersede all previous rules and orders on the subject which are inconsistent with these rules. The proviso to rule 5(*a*) of these rules provides for the grant of gratuity only in a case where a Government servant elects under Article 398 (*b*), C. S. R., to count his Class IV Service towards gratuity and that portion of his service is not less than 20 years, Since this provision is inconsistent with those contained in Article 471 C. S. R, the latter article, should be held to have been superseded by the former rule.

The Central (Class IV) Civil Service (Gratuity, Pension and Retirement) Rules, 1936 have been superseded only to the extent indicated in the New Pension Rules 1950, and therefore, the provisions contained in the proviso to rule 5 (*a*) of the Central (Class IV) Civil Services (Gratuity, Pension and Retirement) Rules, 1936 are still applicable to the extent they are not inconsistent with the New Pension Rules of 1950. But the amount of gratuity will be calculated in accordance with the provisions of the New Pension Rules.

Accordingly, in cases covered by proviso to Rule 5 (*a*) of the 1936 rules the amount of service gratuity will be calculated by restricting the benefit to 19 year's qualifying service as contemplated under the said proviso and service gratuity equal to 7⅛ months pay plus retirement gratuity at the rate admissible under the New Pension Rules will be allowed.

The death-cum-retirement gratuity, however, being entirely a new pensienary benefit admissible under the New Pension Rules, 1950, it is not subject to the restriction imposed on the amount of service gratuity under 5 (*a*) cited above.

[Para 5 A of Section VII of the Manual of Audit Instructions (Reprint)].

6. *Grant of pension.* (*a*) Compensation pension, invalid pension or superannuation pension of the appropriate amount set out in the Schedule to these rules, may be granted if the qualifying service on discharge or retirement is not less than 20 years.

(*b*) Retiring pension equal to 30/60ths of average pay, may be granted

if the qualifying service on retirement is not less than 30 years.

(c) For the purpose of this rule and Schedule to these rules 'average pay' means the monthly average pay which the Government servant concerned drew or would have drawn in the permanent post or posts held by him substantively during the last three years of service prior to discharge or retirement and a special pay granted in consideration of the unhealthiness of the locality in which the duty is performed, or of increased work or responsibility for the discharge of which there is no appointment separately sanctioned.

Provided further that the average pay of telegraph messenger paid on the task-work system shall be deemed to be the average amount of subsistence allowance and task-work earnings drawn monthly by him during the last three years of service before discharge or retirement.

Provided further that the average pay of an employee in the Government Press remunerated by piece-work rates shall be deemed to be the average earnings of the last seventy-two months of his service before discharge or retirement.

7. *Qualifying service limited.* For the purpose of these rules, qualifying service shall not begin until the Government servant concerned has attained the age of 16 years.

Government of India's decision. See Government of India's decision No. (12-A) below Article 487.

8. *Deleted*

8.A. *Deleted.*

9. *Age of retirement.* A Government servant shall retire when he has attained the age of 60 years.

Provided that workman who is governed by these Rules may be required to retire at any time after attaining the age of 55 years after being given a month's notice, or a month's pay in lieu thereof, on the ground of impaired health, or of being negligent or inefficient in the discharge of his duties. He also may retire at any time after attaining the age of 55 years, by giving one month's notice in writing.

For this purpose, a "workman" means a highly skilled, skilled or semi-skilled and unskilled artisan employed on a monthly rate of pay in industrial and work-charged establishment.

THE SCHEDULE

(*See Rule 6*)

Year of completed qualifying service	*Scale of pensions*
20 ...	... 20/60ths of average pay
21 ...	... 21/60ths of average pay
22 ...	... 22/60ths of average pay
23 ...	... 23/60ths of average pay
24 ...	... 24/60ths of average pay
25 ...	... 25/60ths of average pay
26 ...	... 26/60ths of average pay
27 ...	... 27/60ths of average pay
28 ...	... 28/60ths of average pay
29 ...	... 29/60ths of average pay
30 and above. ...	... 30/60ths of average pay

Government of India's decisions. (1) The Ministry of Home Affairs Office memorandum No. 1/55 CS (C), dated the 14th July 1955, provides that Ministries and Heads of Departments may dispose of finally all cases relating to the grant of extensions of service beyond the age of superannuation, *inter alia*, to Class IV employees, subject to certain conditions which are not material here. Since the provision referred to is likely to be misconstrued as a conferment of powers on Ministries of the Government of India/Heads of Departments to grant of extensions of service to Class IV employees, it is hereby clarified that the intention underlying the Ministry of Home Affairs' Office Memorandum quoted above was not to confer any additional powers in this behalf on any authorities but merely to withdraw the requirement of prior reference to the Ministry of Home Affairs which was earlier imposed, under their Office Memorandum No. 33/20/49-Ests., dated the 12th August 1949. In this connection attention is also invited to rule 9 of the Central (Class IV) Services (Gratuity, pension and retirement) Rules, 1936, under which the age of compulsory retirement of Class IV Government servants is fixed at 60 years there being

no specific provisions for the grant of extension of service to them beyond that age. The position therefore is that Ministries of the Government of India/Heads of Departments are not competent to grant extension of service to Class IV Government servants serving under their administrative control. Extensions of service to Class IV Government servants can be sanctioned by the President alone (which means the Administrative Ministry in consultation with the Ministry of Finance). in relaxation of rule 9 *ibid*. It is requested that the position stated above may kindly be noted for guidance.

[G.I.M F. Memo : No. F 11 (1)-EV/58, dated the 6th February 1958.]

(2) Class IV Government Servants governed by the leave rules in the Civil Service Regulations and the Fundamental Rules enjoy some minor concessions *vis-a-vis* other Govt. servants, in the matter of counting periods of leave towards qualifying service for pension. * * * *

[*See decision No.* (2) *below Article 481*].

In view of the fact that in all other respects pensionary terms of Class IV employees have since been brought on a par with those applicable to the other classes of Govt. servants with effect from the 1st April 1957, *vide* decision No. (13) below Article 481 continuation of the above mentioned distinction after that appears to be lacking in justification and has become largely unnecessary. This is because Class IV Govt. servants usually enter service early in the life and superannuate at the age of 60 years, with the result that, barring exceptional cases practically all of them are in a position to complete 30 years of qualifying service, required for earning full pension, before reaching the age of superannuation even if no portion of the leave enjoyed by them is taken into account in calculating the length of qualifying service. The President has accordingly been pleased to decide that in the case of all class IV Govt. servants retiring on or after the 1st April 1957, periods of leave shall be counted as service; qualifying for pension to the same extent as is permissible in the case of other classes of Government employees. In other words, with effect from the 1st April, 1957. in the case of Class IV Govt. servants also, the periods of leave will count towards qualifying service in accordance with the provisions of Articles 407 and 408 of the Civil Service Regulations.

Pension cases of such Class IV employees which may have been finalised before the issue of this decision will not, however. be re-opened.

Rule 8A of the Central (Class IV) Services (Gratuity Pension and Retirement) Rules, 1936 should be deemed to have been cancelled with effect from the 1st April 1957.

In so far as persons serving in the Indian Audit and Accounts Department are concerned. these orders have been issued after consultation with the Comptroller and Auditor General of India.

[G. I. M. F. Memo : No. F 25 (3)-EVA/59. dated the 5th February 1959]

(3) In the case of class IV servants who takes leave preparatory to retirement, the principle underlying Audit Instruction No. (2) and (3) below Article 487 should be followed in determining for the purposes of rule 6 of the Rules incoroporated as item No. (2) above, the monthly substantive pay which he would have drawn.

[G. I. F. D. No. 6 (77)-R. II/38, dated 12-1-1939.]

(4) Finance Department office Memorandum No. F. 3(5)-R II/45, dated the 10th February 1945 prescribed *inter alia* that Class IV Government servants in temporary employ could, in certain circumstances, be retained in service after the age of 60 years. At the time this decision was taken, Class IV Government Servants in permanent employ could be retained in service, in special circumstances. even upto the age of 65 years and. therefore, prescription of a higher age limit for Class IV personnel in temporary employ was not unreasonable. The position has, however, changed since and under rule 9 of the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, it is no longer permissible to retain a permanent Class IV servant in service beyond the age of 60 years. Retention of temporary Class IV servants in service beyond the age of 60 years would, therefore, be inappropriate in the present circumstances in as much as such a treatment would virtually place the Class IV

servants in temporary employ at an advantage over their confreres permanent service. It has therefore, now been decided that the age of compulsory retirement for all categories of Class IV servants (whether or not eligible for any retirement benefit) shall be treated uniformly to be 60 years.

In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued after consultation with the Comptroller and Auditor General.

[G. I. M. F. Memo No. F. 21 (1)-EV/53, dated the 28th May, 1953].

(5) Staff paid from contigencies is not entitled to any gratuity or pension.

[G. I. M. F. U. O. No. 5486 E. V./48 dated 30-8-1948.]

(6) The Central (Class IV) Service Rules 1936 [incorporated as order No. (2) above] are self contained set of rules framed in supersession of all previous rules and orders on the subject which are inconsistent with these rules stand abrogated and substituted in their application to Class IV servants. Any amendments or addition to similar other Articles in the Civil Service Regulations do not therefore apply to Class IV servants automatically and have to be extended to them,

This decision has the concurrence of the Auditor General.

[G. I. M. F. U. O No. 2873-E. V./48 dated 10-5-1948.]

(7) With reference to the proviso to clause (*c*) of rule 6 of the Central (Class IV) Service (Gratuity, Retirement, and Pension) Rules 1936, [decision No. 2 above] it has been decided in consultation with the Comptroller and Auditor General of India that in the case of a telegraph messenger paid on the task work system who officiates in a higher post during the last three years before his discharge or retirement, the average amount of subsistence allowance and task work earnings drawn by him during the period of 36 months prior to his officiating in higher post should be taken into account for the purposes of calculations of pension.

The dearness allowance if it counts towards pension under Government of India, Ministry of Finance Memorandum No. F, 13(7)-E. V./47, dated the 1st December 1947, [G. I. decision No. (13) below Article 487] should be taken into account on the basis of emoluments calculated under para 1 above.

Pensions calculated otherwise should be recalculated according to the decisions conveyed in para 1 and 2 above, but any overpayments made before the issue of these orders need not be recovered.

[G, I. M F. letter No. 4042/C. 11/50, dated 18-5-1950.]

(8) It has been decided to prescribe 60 years uniformly as the age of compulsory retirement for workmen in all Civil establishments except on the Railways, with the proviso that, after the age of 55 years, a workman may be required to retire on one month's notice or a month's pay in lieu thereof, and he may similarly retire after a month's notice. Whatever retiring benefits are admissible to workman under the existing orders will be admissible on such retirement. Government will exercise this power to require a workman to retire between the ages of 55 and 60 only in those cases where a workman's health has been impaired to such an extent as to affect his utility as a workman or where he has been negligent or inefficient in the discharge of his duties. For this purpose, the head of each office concerned should undertake an annual or other periodical review of each case after a workman has attained the age of 55, and at any time he considers the workman physically, unfit to continue in Service, have him examined by the appropriate medical authority to be decided in consultation with the Ministry of Health.

[G. I. M. F. Memo No. F. 7 (37)-E. V./49, dated the 7th August 1951].

(9) When a workman of the Government of India Mints who has elected to remain under the pensionary scheme dies while in service a gratuity on the following scale may be paid to his legal heirs :—

(*a*) *For workmen who are elegible for pension under Article 474 Civil Service Regulations.*

After service of not less than 15 years.	One third of month's emolument for each completed year of service subject to a maximum of 12 month's emoluments,

(*b*) *For workmen who are eligible for pension under Article 481 Civil Service Regulations.*

(*i*) After service of not less than 15 years, but less than 20 years.	3 month's emoluments.
(*ii*) After service of not less than 20 years but less than 30 years.	4 months' emoluments.
(*iii*) After service of 30 years.'	6 months' emoluments.

'Emoluments' for this purpose will be defined as in Article 486, Civil Service Regulations.

It has also been decided by the President that workmen holding posts carring a scale of pay which the maximum does not exceed Rs. 60 p.m. should be entitled to pensions under Article 481, Civil Service Regulations and death benefits as at (the lower rate) (*b*) of paragraph 1 above.

[G.I.M.F. Memo No. F. 3425 F. 11/53, dated the 10th June 1953.]

(10) See Government of India's decision No. (10) below Article 487-A,

(11) See Notes 3 end 4 below Government of India's decision No. (31), below Article 486.

(12) In the matter of pension and gratuity all Class IV employees are governed by the Liberalised Pension Rules in Appendix 41, as amended from time to time. Under these Rules the following disparities exist at present between the pensionary benefits admissible to Class IV employees and to others :

	Class IV employees	*Other classes of employees*
I. PENSION. Minimum length of qualifying service after which pension becomes admissible on retirement	20 years	10 years
II. GRATUITY.		
(*i*) Rate of earning for the first four years of qualifying service.	½ a month's pay for each year of qualifying service.	One month's emoluments for each year of qualifying service.
(*ii*) Rate of earning for the period subsequently to first four years of qualifying service.	3/8ths of a month's pay for each year of qualifying service (upto a period less than 20 years of such service)	3/4ths of monthly emoluments for each year of qualifying service upto a period less than 10 years of such service).

The Government of India have had under consideration for some time past the question of removing the disparities referred to above and of bringing the pensionary benefits applicable to Class IV Government servant. As a result the President has now been pleased to decide that the existing disparities in the matter of pension and gratuity between Class IV Government servants and the other classes of Government servant should be removed and that Class IV Government servants should be eligible for superannuation, invalid and compensation pension/gratuity on the same scale as applicable to officers belonging to a Central Service Class I, II or III, under the Liberalised Pension Rules. Pension and gratuity in the case of Class IV officers also will henceforth be calculated on the basis of "emoluments" and "average emoluments" instead of on the basis of "pay" and "average pay" as at present.

The special provisions applicable to Class IV employees in the matter of minimum age after which service qualifies for pension and the age of compulsory retirement, *vide* para 6 of the Liberalised Pension Rules and rule 9 of the Central (Clase IV) Services (Gratuity, Pension and Retirement) Rules, 1936, respectively, will continue to be applicable.

These orders will take effect from the 1st April 1957, and will apply also to Class IV Government servants who were on leave preparatory to retirement on that date.

[G.I.M.F. Memo No. 20 (1) EV/57 dated the 27th June 1957].

482. If the pay of an officer has been reduced during the last three years of his service otherwise than as a penalty, his gratuity or pension under this Section may, at the discretion of the authority which has

power to sanction it, be calculated upon the average of his pay during last three years of his service.

Permanent Invaliding.

483. An officer should not, without urgent necessity, be invalided when he has nearly completed thirty years' service : the Government cannot undertake to ourlook a deficiency of service resulting from an officer being prematurely invalided. The principle of this rule applies to all analogous cases.

Military Artificers.

484. A military Artificer whose qualifying service, on pay exceeding ten rupees, excluding interruptions of and absence from, duty of every kind, amounts to not less than twenty-five years, may be granted a a Compensation or Invalid pension not exceeding three-fourths of the pension to which he would be entitled if his service on pay exceeding ten rupees were reckoned as Superior.

Telegraph Messengers.

485. *Omitted.*

SECTION IV—ALLOWANCES RECKONED FOR PENSION.

Emoluments and Average Emoluments.

486. The term "Emoluments," when used in this Part of the Regulations, means the emoluments, which the officer was receiving immediately before his retirement and includes –

(*a*) Pay other than that drawn in a tenure post.

(*b*) Personal allowance, which is granted (*i*) in lieu of loss of substantive pay in respect of a permanent post other than a tenure post, or (*ii*) with the specific sanction of the Government of India, for any other personal considerations.

Note :—Personal pay granted in lieu of loss of substantive pay in respect of a permanent post other than a tenure post shall be treated as personal allowance for the purpose of this article. 'Personal pay' granted on any other personal considerations shall not be treated as personal allowance unless otherwise directed by the President.

(*b*) Personal allowance continues to reckon as part of "Emoluments' even when it is wholly or partly absorbed in acting allowance not so reckoning ;

(*c*) Fees or commission, if they are the authorised emoluments of an appointment, and are *in addition* to pay. In this case 'Emoluments" means the average earnings for the last six months of service ;

(*d*) Charge allowance to Telegraphists in the Indian Telegraph Department and to Signallers ; Inspectors and Charge Clerks in the Indo-European Telegraph Department ;

(*e*) Commission in the case of a Thugyi in Lower Burma "Emoluments" in the case, being held to mean the average of his monthly receipts in commission during the three years' actual service previous to retirement—but see example (3) under Article 489 ;

(*f*) Bullock Train allowance in the Post Office Department ;

(*g*) Allowance attached to Professorship or Lecturership in a Government Institution ;

(*h*) Acting allowance of an officer without a substantive appointment if the acting service counts under Article 371 and allowances drawn by an officer appointed provisionally under Article 89, or appointed substantively *pro tempore* under Article 90 or in an officiating capacity under the rules in Section I of Chapter VI to an office which is substantively vacant and on which no officer has a lien or to an office temporarily vacant in consequence of the absence

of the permanent incumbent on leave without allowances or on transfer to foreign service.

(*i*) **Deputation (duty) allowances.**

(*j*) **Duty allowances.**

1. In the case of Section-writers whose service has been allowed to count for pension under special orders of the Government of India, and of Press servants whose service qualifies under Article 380 "Emoluments" means the average earnings of the last six months of service. For calculating gratuity on the Superior scale, "Emoluments' means the average earnings of the last six monhts in Superior service, and for calculating pension on the inferior scale, Pay means the average earnings of the last six months in Inferior service.

2. In the case of an officer with a substantive appointment who officiates in another appointment or holds temporary appointment "Emoluments means.

(a) the emoluments which would be taken into account under this Article in respect of the appointment in which he officiates or of the tempoary appointment, as the case may be, or

(b) the emoluments which would have been taken into account under this Article had he remained in his substantive appointment, whichever is more favourable to him,

3. The Emoluments of a telegraph messenger paid on the task-work system shall be deemed to be the average amount of subsistence allowance and task-work earning drawn monthly by him during the last twelve months of service before his discharge or retirement,

Government of India's decisions :—(1) An officer cannot count his sub. *protem*, allowance if he is made sub-*protem* in the chain of an arrangement in place of a senior incumbent appointed to a post sanctioned for an unlimited period.

[Paragraph 390 of India Supplement to C.S R. (4th Edition).]

(1-A) An employee was holding a temporary post from 1-3-1942 to 28-2-1951. The post was eventually made permanent from 1-3-1951 and the employee was confirmed with effect from that date. He retired on 12-10-1951.A question was, raised whether during the period from 12-10-1948 to 28-2-1951 when he held the temporary post, the pay drawn by him can be taken into account as emoluments under Article 486 C.S.R. for the purposes of average emoluments, under Article 486 C.S R. Ordinarily pay drawn in a temporary post cannot be treated as substantive pay as defined in Article 38 C.S.R. The Government, of India, however, held that in the circumstances of the case, the pension may be reckoned on the pay officiating or substantive which the officer drew during the last three years of his service.

[G.I M.F. letter No. 12(38)-EV/58 dated the 16th October 1958 to the address of the Accountant General, U. P.. Allahabad.]

(1-B) In accordance with the pension rules as they stand amended, *special pay will not. in any circumstances, count as emoluments for pension,* even if it is in the nature of duty allowance. The amendments to the relevant rules will take effect from the 22nd April, 1960, and accordingly special pays drawn by pensons retiring on or after this date will not count for pension.

The Government have, however decided to grant the following concessions :—

(*a*) In the case of persons who have retired on or after the 1st November, 1959, but before the 22nd April, 1960, qualifying service as well as emoluments for pension will be reckoned either according to the relevant pension rules as they stood on the date of their retirement, or under the provisions as amended by the notifications and office memorandum referred to above, whichever is more favourable.

(*b*) In respect of all class III and class IV posts, and other posts the maximum of whose existing time scale of pay does not exceed Rs. 500, and carrying special pays which are in the nature of duty allowance, and are in lieu of separate scales of pay, it is the intention of the Government to prescribe consolidated scales of pay taking into account the quantum of special pay. The consolidated scale of pay will take effect from the Ist November 1959, as in

the case of other revised pay scales which will be (*since prescribed*) prescribed as a result of the recommendations of the Pay Commission.

(c) In respect of persons holding posts referred to in item (*b*) above and who retire on or after the 22nd April, 1960, average emoluments for any period prior to the Ist November 1959, will be reckoned as if they had drawn pay on the consolidated time scales of pay, provided that the emoluments so reckoned will not exceed the amount which would have been reckoned but for the amendment to the pension rules. Until the consolidated scale of pay are actually prescribed, pension should be sanctioned on a provisional basis without taking into consideration the special pay.

[G.I.MF. Memo : No. F. 4(2)-Est./-(Spl)/59-II, dated the 22nd April 1960]

(1—C) Pay drawn on foreign service is not taken into account for the purpose of pension.

[G I. M.F.U.O. 7187-EVA/59, dated 2nd February 1959 in File No. 5 (61) EV/59.]

(2) The sub. *pro tem.* allowance of an officer who has a substantive appointment cannot be counted as part of "emolument" for pension if he is made sub. *pro tem* in place of an officer holding a temporary appointment which subsequently is made permanent.

[Paragraph 391, India Supplement to C. S. R. (4th Edition,]

(3) The sub *pro tem.* allowance of an officer in place of a man temporarily transferred cannot be treated as a part of emoluments.

[Paragaph 392, India Supplement to C.S. R. (4th Edition).]

(4) The sub. *pro tem.* allowances of an officer promoted *sub pro tem* in place of an officer transferred to a newly created post on probation counts as part of emoluments as the lien of the officer transferred is considered as suspended for the time.

[Paragraph 393 India Supplement to C.S.R. (4th Edition)]

(5) An officer promoted from lower to higher pay while on furlough or other leave, on which he would not receive the benefit of enhanced pay till he returned to duty, cannot. if he retires with gratuity without rejoining his appointment, claim the benefit of gratuity calculated on the pay to which he was promoted while on furlough or other leave, as described above.

[G I.F D. No. 1300 dated 7-6-1883.]

(6) The definition of the term "emoluments" as used in clause (*c*) of Article 486 applies to the case of gratuity only, and not to a pension. In cases in which fees or commission are drawn in addition to pay, pension should be calculated on "average emoluments" as defined in Article 487.

[G.I.F.D., No, 4633.P. dated 27-10-1893].

(7) In the case of an officer who has submitted medical certificate of incapacity for further service while on leave other than privilege leave, the period of leave up to the date of its termination when that is later than the date of medical certificate should be taken into account for the purpose of calculating average emoluments.

[G.I.F.D. No. 5179-P , dated 10-12-1896].

(8) A doubt has been expressed as to whether an officer can be declared as having officiated against a vacant permanent post for the purposes of article 486 (*h*) of the Civil Service Regulations in respect of a period during which he may have actually worked in some ex cadre post(*s*) and the vacant permanent post may have been actually held by some other officer. The position is that if an officer would have held the vacant post by virtue of seniority or selection as the case may be, but for his being on deputation or foreign service at the time when the post in question falls vacant, that officer should get the benefit under article 486 (*h*) on the basis of the certificate issued under the next below rule and the junior man actually officiating in the vacant post can earn the benefit only under article 487-B of the Civil Service Regulations if otherwise admissible.

[G.I.M.F. Memo : No. 9 (16)-EV/59, dated the 17th June 1959].

Note.—To obviate the administrative difficulties which might arise in re-opening pension cases in the light of the clarification of Article 486 (*h*) of the Civil Service Regulations contained in decision No. 8 above, it has been decided that cases which have

been regulated otherwise than as stated in the above decision and where the persons concerned had retired from service and their pension cases had been settled finally before 17th June 1959, need not be re-opened.

[G.I.M.F. Memo No. F. 9 (16)-EV/59, dated the 15th January 1960].

(9) *Omitted.*

(10) In calculating the average earnings under Article 486(*c*) Civil Service Regulations, in tne case of a Sub-Registrar on fixed pay and in receipt of a commission on registration fees, who was on leave during the last six months of his service, the principle of rule 1 to Article 487 of the Regulations should be applied.

[G.I.F.D. No. 5422 P., dated 24-5-1905.]

(11) In the calculation of average emoluments of an officer drawing commission who was deputed to temporary duty for some time during the last three years of the service and drew pay, the commission earned by him during the three years should be divided by the period for which he was in his substantive appointment during those years, the period of deputation being disregarded.

[G.I.F.D. No 3000 P., dated 24-5-1907.]

(12) Under Article 486(*c*). Civil Service Regulations, fees can only count towards pension when they are the authorised emoluments of an appointment. The fees earned by a Nazir who is appointed under the Acts detailed below cannot be regarded as the authorised emoluments of a Nazir's appointment as none of the Acts refers to Nazir as such and in no case is his appointment to the management of an estate necessary. Such fees should not therefore be reckoned towards pension :—

1. The Guardian and Wards Act of 1890 (VIII of 1890).
2. The Indian Trust Act, 1882 (II of 1882).
3. The Indian Succession Act, 1865 (X of 1865).
4. The Lunacy District Courts Act, 1858 (XXXV of 1858).
5. Bombay Regulation (VIII of 1827).

[G.I.F.D., 526-C.S.R., dated 11-9-1912].

(12-A) For the purpose of calculating ordinary civil pension or gratuity in the case of a civil officer who has been employed on military duty in connection with the war, his emoluments during such service should be taken to be those he would have drawn from time to time if he had remained in civil employ.

The calculation should be made according to the "nex below," rule where applicable and when that rule is not applicable it should be based on the pay including allowance, if any, mentioned in Article 486, Civil Service Regulations which he would have drawn from time to time prior to retirement in the appointment on which he had a lien.

[G.I.F.D. No. 150 C S.R., dated 11th February 1920.]

(13) When the lien of of an officer on his appointment is suspended under Article 89, Civil Service Regulations, the increased remuneration of all officers whose appointments are made provisionally substantive in the resulting chain of vacancies, should be reckoned at part of average emoluments for the purpose of calculating pension under Article 486(*h*), Civil Service Regulations.

[G.I.F.D. letter No. 1098 C. S. R. dated the 18th December 1938.]

(14) The increased remunerations of all officers whose appointment are made provisionally substantive in the resulting chain of vacancies caused by the suspension of the lien of (*i*) Superintendents, Accountants and clerks who has been deputed from the various civil and railway Accounts Offices to the Military Accounts Department and (*ii*) of members of the Subordinate Accounts and clerical services of the Military Accounts Department who before the 1st April 1919 proceeded on deputation, or resumed charge of temporary appointments, in connection with War, should be reckoned as part of average emoluments for the purpose of average emoluments for the purpose of calculating pension as decided in Government of India, Finance Department letter No. 1098-C. S. R. dated the 18th December 1938, [Incorporated as decision No. (13) above.]

Similarly the increased remuneration of the officers who proceeded on deputation will count, under Article 490 Civil Service Regulations for pension, but officers in temporary appointments will only be allowed this benefit if the temporary appointment was not like character to existing appointments in which case the increase of remuneration, ranks as a deputation allowance for the purpose of article 486(j) read with article 76 (*c*) of Civil Service Regulations.

[G. I. F. D. letter No 1672 Acts/Camp. dated the 22nd November 1919].

(15) The Government of India have decided that in the case of a Government servant with a substantive post on a permanent establishment. who is appointed to officiate after the 1st January 1922 in a permanent post which is substantively vacant or which is temporarily vacant in consequence of the absence of the substantive incumbent on extraordinary leave or on transfer to foreign service, and is allowed to draw the full officiating pay or salary admissible under the rules, the difference between the substantive pay and officiating pay or salary counts as emoluments for pension.

[G. I. F. D. No. 7/84/C. S. R. dated 8-7-1925.]

(16) With reference to Article 486(*h*), C. S. R. the Governor-General in-Council is pleased to declare that in the case of a Government servant who while holding a substantive post on a permanent establishment, is appointed to officiate in a permanent post which is substantively vacant or which is temporarily vacant in consequence of the absence of the substantive incumbent on extraordinary leave or on transfer to foreign service, and is allowed to draw enhanced pay or salary under the Civil Service Regulations for officiating in the latter post, the difference between the substantive pay and officiating pay or salary counts as emoluments for pension. This decision takes effect from the 11th September 1920. the date on which the new acting allowance rules promulgated with Finance Department, Resolution No. 2097 C. S. R dated the 27th November 1920, came into force. * * * * * * * * * * *

[G.I.F.D. Resolution No. F. 16-C.S. R./26 dated the 22nd January 1926.]

(17(The Government of India accept the recommendations of the Auditor General that, for the purpose of calculating average emoluments for pension an officer in foreign service, whose pay is fixed in sterling the rate of 1*s.* 6*d.* to a rupee be adopted for the conversion into Indian Currency of his foreign service pay.

This decision will take effect from the 1st April, 1924.

[G. I. F. D, No. F. 167/C. S. R. 27, dated 30-5-1927.]

(18) Mr. B. A. Harris, an officer of the Indian Audit and Accounts Service was allowed officiating pay of Class 1 of the service while holding the post of Audit Officer, Convey Metur Project a post declared to be a special post for the purpose of the second proviso to Fundamental Rule 30(1). The Government of India have decided that grant to Mr. Harris of the pay of Class I, during the periods in question implied the grant to him also of officiating promotion to Class II and that under clause (*b*) Article 644, Civil Service Regulations his service during the periods automatically counts for the lower grade additional pension without any further sanction.

[G. I, F. D. No. 23 (3) Ex. 1/34, dated the 16th January, 1934]

(19) A Military officer, while officiating in a qualifying post, is transferred to an appointment of corresponding rank and responsibility in foreign service, the period of such foreign service should count towards an additional pension provided that it is certified that but for the Foreign Service, he would have continued to officiate in the qualifying post.

[G. I. F. D. endorsement No, 2326 C. S. R. dated the 28th December 1923].

Note—The above orders are equally applicable in case of civil officers similarly circumstanced.

[Auditor General's letter No, $\frac{236\text{-A}}{40\text{-}25}$ dated the 16th September, 1925.]

(20) Rule 2 under Article 486, C. S. R. has been inserted to provide that an officer with a substantive appointment who before retirement officiates

in a higher appointment or holds a higher temporay appointment may count towards pension either the emoluments which would be taken into account in the higher appointment under the Article or the emoluments which would have been taken into account had the officer remained in his appointment, whichever are more favourable to him. The emoluments which can be taken into account under Article 486 in the cases of an officer officiating in a higher permanent appointment are not only the emoluments referred to in clause (*h*) of that Article but also those referred to in clause (*i*) thereof. The substantive holder of a permanent post who holds a temporary post is likely to draw under Article 76C, C. S. R. deputation (duty) allowance (*i e.* special pay) which counts for pension under Article 486 (*i*). The intention underlying rule 2 is that an officer's pension should not be adversely affected by his appointment to a higher post. [See decision No. 1-B]

[G. I F. D. No. F. 11(14)-R. II/36, dated 28-7-1936].

(21) *Omitted.*

(22) The Government of India have decided that an officer holding a permanent post who is appointed to officiate in a temporary post of the class falling under Article 76B of the Civil Service Regulation, to which a duty allowance is attached should count it towards pension.

[C. C. A's letter No. 83. A/236-29, dated 6-2-1930].

Note:—A Government servant who during the last three years of his service was appointed on probation against a vacant permanent post and who had subsequetly to revert to his original permanent post or retire while still on probation should count the emoluments drawn during the period for pension under clauses (*a*) and (*b*) of Article 486.

[*See Auditor General's decision No. (9) below this Article*]

[C. C, A's letter No. T-816-A 123-31 dated 8-8-1931].

(22-A) The monetary allowance atttached to the 'King's Police Medal and the Indian Police Medal should not be merged in the salary of the recipients of the Medals for the purposes of calculating the average pay and pension.

[G. I. F. D. No, D-865. R. I dated 8-8 1935].

(23) and (24) *Not printed.*

(25) Audit Instruction No. (3) below this Article merely directs audit officer to accept a declaration of competent authority on the point what would have been the substantive emoluments of a person transferred to some other post prior to his retirement. If a special pay would have counted as substantive emoluments there is no bar to its being accepted as a qualifying emoluments under the alternative provision of note 2 to Article 487 C.S.R.

[G. I. M. F. File No. F. 13 (16) Ests. V/48.]

(26) A question was raised whether special pay granted to a Medical Officer of a Provincial Government by the Central Government for part time service counts as emolument for pension. It was held that the liability which the Government of India agreed to bear was limited to special pay and they cannot therefore agree to treat the special pay as 'duty allowance' for the purpose of calculating the average emoluments. It was also added that for the purpose of pension pay as defined in Article : 8 (*a*) of the C S. R. and not as defined in F. R. 9 (21) (*a*) should be taken into account.

[G, I, M. F. U. O. No. 6503-E. V/48 dated 25-10-1948.]

(27) While the lien of an officer on his appointment is supended under Article, 89, C. S. R.. the increased remuneration of all officers whose appointments are made provisionally substantive in the resultant chain of vacancies should be reckoned as part of average emoluments for the purpose of calculating pension under Article 486 (*h*) C.S.R.

[G. I. F. D. No. 1098 C. S. R. dated 18-12-1938.]

(28) With effect from 1st August 1940 bonus earned for work done during the prescribed normal hours of work, by Lino and Mono Operators in the Government of India Presses should form part of their pay or emoluments for the purpose of determining leave salary, winter allowance and *pension* or the amount of subscription and Government contribution in the case of those who subscribed to the Contributory Provident Fund.

[G. I. F. D, No. D/1591-R1/40, dated 5-9-1940.]

Similarly the increased remuneration of the officers who proceeded on deputation will count, under Article 490 Civil Service Regulations for pension, but officers in temporary appointments will only be allowed this benefit if the temporary appointment was not like character to existing appointments in which case the increase of remuneration, ranks as a deputation allowance for the purpose of article 486(*j*) read with article 76 (*c*) of Civil Service Regulations.

[G. I. F. D. letter No 1672 Acts/Camp. dated the 22nd November 1919].

(15) The Government of India have decided that in the case of a Government servant with a substantive post on a permanent establishment. who is appointed to officiate after the 1st January 1922 in a permanent post which is substantively vacant or which is temporarily vacant in consequence of the absence of the substantive incumbent on extraordinary leave or on transfer to foreign service, and is allowed to draw the full officiating pay or salary admissible under the rules, the difference between the substantive pay and officiating pay or salary counts as emoluments for pension.

[G. I. F. D. No. 7/84/C. S. R. dated 8-7-1925.]

(16) With reference to Article 486(*h*), C. S. R. the Governor-General in-Council is pleased to declare that in the case of a Government servant who while holding a substantive post on a permanent establishment, is appointed to officiate in a permanent post which is substantively vacant or which is temporarily vacant in consequence of the absence of the substantive incumbent on extraordinary leave or on transfer to foreign service, and is allowed to draw enhanced pay or salary under the Civil Service Regulations for officiating in the latter post, the difference between the substantive pay and officiating pay or salary counts as emoluments for pension. This decision takes effect from the 11th September 1920. the date on which the new acting allowance rules promulgated with Finance Department, Resolution No. 2097 C. S. R dated the 27th November 1920, came into force. * * * *

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[G.I.F.D. Resolution No. F. 16-C.S. R./26 dated the 22nd January 1926.]

(17(The Government of India accept the recommendations of the Auditor General that, for the purpose of calculating average emoluments for pension an officer in foreign service, whose pay is fixed in sterling the rate of 1*s.* 6*d.* to a rupee be adopted for the conversion into Indian Currency of his foreign service pay.

This decision will take effect from the 1st April, 1924.

[G. I. F. D, No. F. 167/C. S. R. 27, dated 30-5-1927.]

(18) Mr. B. A. Harris, an officer of the Indian Audit and Accounts Service was allowed officiating pay of Class 1 of the service while holding the post of Audit Officer, Convey Metur Project a post declared to be a special post for the purpose of the second proviso to Fundamental Rule 30(1). The Government of India have decided that grant to Mr. Harris of the pay of Class 1, during the periods in question implied the grant to him also of officiating promotion to Class II and that under clause (*b*) Article 644, Civil Service Regulations his service during the periods automatically counts for the lower grade additional pension without any further sanction.

[G. I, F D. No. 23 (3) Ex. 1/34, dated the 16th January, 1934]

(19) A Military officer, while officiating in a qualifying post, is transferred to an appointment of corresponding rank and responsibility in foreign service, the period of such foreign service should count towards an additional pension provided that it is certified that but for the Foreign Service, he would have continued to officiate in the qualifying post.

[G. I. F. D. endorsement No, 2326 C. S. R. dated the 28th December 1923].

Note—The above orders are equally applicable in case of civil officers similarly circumstanced.

[Auditor General's letter No, $\frac{236\text{-A}}{40\text{-}25}$ dated the 16th September, 1925.]

(20) Rule 2 under Article 486, C. S. R. has been inserted to provide that an officer with a substantive appointment who before retirement officiates

in a higher appointment or holds a higher temporay appointment may count towards pension either the emoluments which would be taken into account in the higher appointment under the Article or the emoluments which would have been taken into account had the officer remained in his appointment, whichever are more favourable to him. The emoluments which can be taken into account under Article 486 in the cases of an officer officiating in a higher permanent appointment are not only the emoluments referred to in clause (*h*) of that Article but also those referred to in clause (*i*) thereof. The substantive holder of a permanent post who holds a temporary post is likely to draw under Article 76C, C. S. R. deputation (duty) allowance (*i e.* special pay) which counts for pension under Article 486 (*i*). The intention underlying rule 2 is that an officer's pension should not be adversely affected by his appointment to a higher post. [See decision No. 1-B]

[G. I F. D. No. F. 11(14)-R. II/36, dated 28-7-1936].

(21) *Omitted.*

(22) The Government of India have decided that an officer holding a permanent post who is appointed to officiate in a temporary post of the class falling under Article 76B of the Civil Service Regulation, to which a duty allowance is attached should count it towards pension.

[C. C. A's letter No. 83. A/236-29, dated 6--2-1930].

Note:—A Government servant who during the last three years of his service was appointed on probation against a vacant permanent post and who had subsequetly to revert to his original permanent post or retire while still on probation should count the emoluments drawn during the period for pension under clauses (*a*) and (*b*) of Article 486.

[*See Auditor General's decision No. (9) below this Article*]

[C. C, A's letter No. T-816-A 123-31 dated 8-8-1931].

(22-A) The monetary allowance atttached to the 'King's Police Medal and the Indian Police Medal should not be merged in the salary of the recipients of the Medals for the purposes of calculating the average pay and pension.

[G. I. F. D. No, D-865. R. I dated 8-8 1935].

(23) and (24) *Not printed.*

(25) Audit Instruction No. (3) below this Article merely directs audit officer to accept a declaration of competent authority on the point what would have been the substantive emoluments of a person transferred to some other post prior to his retirement. If a special pay would have counted as substantive emoluments there is no bar to its being accepted as a qualifying emoluments under the alternative provision of note 2 to Article 487 C.S.R.

[G. I. M. F. File No. F. 13 (16) Ests. V/48.]

(26) A question was raised whether special pay granted to a Medical Officer of a Provincial Government by the Central Government for part time service counts as emolument for pension. It was held that the liability which the Government of India agreed to bear was limited to special pay and they cannot therefore agree to treat the special pay as 'duty allowance' for the purpose of calculating the average emoluments. It was also added that for the purpose of pension pay as defined in Article : 8 (*a*) of the C S. R. and not as defined in F. R. 9 (21) (*a*) should be taken into account.

[G, I, M. F. U. O. No. 6503-E. V/48 dated 25-10-1948.]

(27) While the lien of an officer on his appointment is supended under Article, 89, C. S. R.. the increased remuneration of all officers whose appointments are made provisionally substantive in the resultant chain of vacancies should be reckoned as part of average emoluments for the purpose of calculating pension under A:ticle 486 (*h*) C.S.R.

[G. I. F. D. No. 1098 C. S. R. dated 18-12-1938.]

(28) With effect from 1st August 1940 bonus earned for work done during the prescribed normal hours of work, by Lino and Mono Operators in the Government of India Presses should form part of their pay or emoluments for the purpose of determining leave salary, winter allowance and *pension* or the amount of subscription and Government contribution in the case of those who subscribed to the Contributory Provident Fund.

[G. I. F. D, No. D/1591-R1/40, dated 5-9-1940.]

(29) *Omitted.*

(30) In the case of Officers of the Emergency Cadre of the Indian Audit and Accounts Service who retire directly from the Emergency Cadre or within 3 years of their reversion to permanent post, the difference between their temporary pay and their substantive pay will be treated as deputation (duty allowance) under Article 76C of the C.S.R. and it will, therefore, count for pension under Article 486 of the C.S.R. These orders take effect from the date of formation of the Emergency Cadre of the Indian Audit and Accounts Service and the benefit, will be admissible also to officers who had already been retired from service.

[G. I. F. D. letter *No.* F. 13 (1) R-II-44 dated 22-9-44 to the address of of the Auditor General of India.]

(30-A) See Government of India's decision No. (3) below Article 474A.

(30-B) The dearness allowance drawn by the Indian Administrative Service Officers should count as emoluments for the purpose of pension and gratuity to the same extent and subject to the same conditions as laid down in decision No. 31 below Article 486.

[G. I. Ministry of Home Affairs, letter No. 2/13/55-AIS (III) dated 10th July, 1956]

(31) In modification of the existing rules and orders, the Government of India have decided that 50% of the dearness allowance granted to Central Civilian Government servants in the various pay groups upto a pay of Rs. 750 p. m. (with marginal adjustment thereafter) shall be treated as a pay for the purposes and to the extent specified hereinafter. In the case of an unmarried gazetted officer the amount of dearness allowance that shall be treated as pay will be reckoned with reference to the dearness allowance he would have drawn had he been a married officer.

Amount of dearness allowance treated as pay :—

2. While there will be no change in the scales of pay attached to the various posts and the basis on which the dearness allowance is calculated, out of the *dearness allowance admissible, the following amounts shall be treated as "dearness pay" in relation to pay in the different ranges specified below :—

pay range.	*Amount of dearness pay*
Not exceeding Rs. 50	Rs. 20.00
Exceeding Rs. 50 and not exceeding Rs. 100	Rs. 25.00
Exceeding Rs. 100 and not exceeding Rs. 150	Rs. 27.50
Exceeding Rs. 150 and not exceeding Rs. 200	Rs. 30.00
Exceeding Rs. 200 and not exceeding Rs. 250	Rs. 32.50
Exceeding Rs. 250 and not exceeding Rs. 300	Rs. 32.50
Exceeding Rs. 300 and not exceeding Rs. 500	Rs. 35.00
Exceeding Rs. 500 and not exceeding Rs. 750	Rs. 42.50
Exceeding Rs. 750	Amount by which pay falls short of Rs. 792.50.

3. *Pensions and Gratuities. (i)* The dearness pay shall count as "emolument" for pension and gratuity, For this purpose :—

(1) the emolument as reckoned under Article 486 of the C. S. R. shall be increased by the dearness pay appropriate to the pay equal to such emoluments. and

(2) where the concessions sanctioned in the Ministry of Finance Office Memorandum No. F. 15(6)-EV/52. dated the 26th July, 1952 (Government of India's decision No. (6) below Article 487A] are admissible, the pay in the provisionally permanent/officiating/temporary post shall be increased by the amount of dearness pay appropriate to such pay and the ultimate "emoluments" shall be determined on this basis.

(ii) Except as stated below. the ultimate average emoluments under Article 487 of C. S. R. or the Office Memorandum dated the 26th July, 1952

*Rates of dearness allowance were revised but the rates of dearness pay remained unchanged.

as the case may be shall be, determinsd on the above basis This concession shall take effect from the 15th July, 1952, but in the case of persons who have already retired on or after that date or who may retire within three years of that date, the ultimate average emoluments will be calculated as follows :—

The average emoluments shall be reckoned in terms of Article 487 of the Civil Service Regulations read with the Office Memorandum dated the 26th July, 1952 and to the average emoluments thus determined, shall be added—

(*a*) in the case of persons retiring on or after the 15th July, 1952 before the 15th July, 1953 one-half of the dearness pay appropriate to the pay equal to such average emoluments ; and

(*b*) in the case of persons retiring on or after the 15th July, 1953 but before the 15th July, 1955 – the full dearness pay appropriate to the pay equal to such average emoluments.

(*iii*) Pensions and gratuities of persons who have already retired on or after the 15th July, 1952 shall be recalculated on the above basis and the arrears, if any, paid, subject to such adjustments as may be necessary. A set of formulae indicating the actual method to be adopted for determining the ultimate emoluments and average emoluments under these orders are given in the annexure. Necessary action for revising the pensions and gratuities on the basis of these orders should be immediately initiated by the administrative authorities concerned.

(4) *Deleted*

ANNEXURE.

FORMULAE FOR DETERMINING EMOLUMENTS AND AVERAGE EMOLUMENTS AS A RESULT OF COUNTING DEARNESS PAY AS EMOLUMENTS FOR PENSION AND GRATUITY.

DATA

A = emoluments unders Article 486 of the C. S. R.
a = dearness pay appropriate to A.
B = emoluments in provisionally permanent officiating/temporary post, if the post were permanent and held substantively.
b = dearness pay appropriate to B.
X = average to A.
Y = average of B.
XI = average of A+a
YI = average of B+b
} as determined under Article 487 of the C. S. R.
c = dearness pay appropriate to X
d = dearness pay appropriate to $X+\frac{(Y-X}{2}$ or $\frac{X}{3}$ whichever is less).

FORMULAE

	Cases in which the O.M. dated 26-7-52 is not applicable.	*Cases in which the O.M. dated. 26-7-52 is applicable.*
Emoluments.	(A+a)	$(A+a)+\left\{\begin{array}{l}\left\{\frac{(B+b)-(A+a)}{2}\right.\\ \text{or } \frac{A+a}{3}\text{, which}\\ \text{ever is less.}\end{array}\right\}$
Average emoluments.		
(1) In the case of persons retiring between 15-7-52	$\frac{(X+c)}{2}$	$X+\left\{\begin{array}{l}\left\{\frac{Y-X}{2}\text{ or }\frac{X}{3}\right\}\\ \text{whichever is less}\end{array}\right\}+\frac{d}{2}$
(2) In the case of persons retiring between 15-7-53 and 14-7-55.	(X+c)	$X+\left\{\begin{array}{l}\left\{\frac{Y-X}{2}\text{ or }\frac{X}{2}\right\}\\ \text{whichever is less}\end{array}\right\}+d$
(3) In the case of persons retiring on or after 15-7-55.	XI	$XI+\left\{\begin{array}{l}\left\{\frac{YI-XI}{2}\text{ or }\frac{XI}{3}\right\}\\ \text{whichever is less}\end{array}\right\}$

[G.I.M.F. Memo No. 6 (5) –E. II/53, dated the 9th May, 1953].

Note 1. The "Dearness pay" should for budget purposes be included under "Allowances and Honoraria" but shown as a detailed item there under distinct from dearness allowance *vide* G I M.F. Memo No. 1 (94)—B/53, dated the 28th July 1953.

Note 2. The dearness pay should be treated as pay for the purpose of overtiem allowance *vide* G.I.M.F. Memo No. F. 2 (57)—E. III/53, dated the 29th September, 1953.

Note 3. These orders were intended to be, and are also applicable to class IVem-

ployees equally with others. As has been provided in para 3(5) of Appendix 41, the expressions "emoluments" and "average emoluments" occuring in para 3 of this decision will in relation to class IV employees, mean "pay" and average "pay" respectively as defined in rules 5 (*b*) and (*c*) of the Central (Class IV) Services (Gratuity, Pension and Retirement) Rules 1936, provided that if in any case the pay was reduced during the last 3 years of service otherwise than as a penalty, 'average pay' may, at the discretion of the authority which has the power to sanction the gratuity be treated as the "emoluments".

In so far as persons serving in the Indian Audit and Accounts Department are concerned, this issues after consultation with the Comptroller and Auditor General of India.

[G.I.M.F. Memo No. F 66(6)-EV/53 dated the 17th December 1953.]

Note 4. It has been decided by the Government of India that person who has to make a choice under para 4 above, may choose either pension and gratuity without the dearness pay benefit *plus* temporary increase, or the pension and gratuity with the dearness pay benefit. In other words the Government servant is not entitled to choose gratuity on the basis of emoluments including dearness pay and pension with the temporary increase but without the dearness pay benefit.

[Comptroller and Auditor General' letter No. 32-A/126-53, dated the 12th January 1954].

Note 5. The actual drawal of dearness allowance according to the relevant rules governing its drawal is not criteria for determining the amount for counting dearness allowance as emoluments for pension and gratuity during leave. The emoluments or average emoluments should be increased in the manner prescribed in para 3 (*i*) (2), as the case may be, on the periods of leave including that during which Government servant may not be in receipt of dearness allowance under the operation of the Rules governing its drawal.

[G. I. M. F. Memo No. E. (21)-6-EV/54 dated 20th July, 1954 to the address of Accountant General, Bengal.]

Note. 6. A question has been raised as to how the increased pensionary liability on account of counting dearness pay for pension will be allocated between the different Governments under which the Government servant served before retirement. In this connection it has been observed that the benefit of counting dearness pay for pension is a permanent concession and that, so far as pension is concerned, this concession has virtually the effect of enhancing the scale of pay of post from which the Government servant retires, by the amount of the dearness pay admissible to him. The Government of India, therefore, consider that the enhanced pensionary liability on account of counting dearness pay for pension should be allocated between the different Governments in the normal manner, on the basis of length of qualifying service rendered under each Government, in the same way as the increased liability is allocated due to the retirement of a Government servant from a post carrying higher pay.

[G.I.M.F. Memo No F. 12 (21)-EV/54, dated the 22nd October 1954.]

Note 7. The dearness pay will be taken into account for the purpose of *death-cum-retirement* gratuity only if it is taken into account for calculating the pension. The pension and gratuity should be worked out in both the manners *viz.* without dearness pay benefit plus temporary increase in small pension and with dearness pay benefit and then individual concerned allowed an option to make a choice between the two.

(G. I. M. F. letter No. F. 21 (3)-EV/55, dated 20th October, 1955)

Note 8. A question was raised whether such dearness pay should count for the purpose of "discharge gratuity", payable under the Finance Department Office Memorandum No. F. 12 (27)-WII/45, dated the 30th November 1945, as extended from time to time. After careful consideration it has now been decided that dearness pay should so count for the reckoning of "discharge gratuity", subject to the other conditions laid down in the Office Memorandum dated the 30th November, 1945. Past cases should not however, be reopened.

[G.I.M.F. (Department of Expenditure) No. 22(2)-EV/56, dated the 4th October 1956].

Note 9. In the case of a Government servant who is entitled to free board and lodging concessions as a condition of his appointment and is, therefore, entitled to draw dearness allowance at only 50 percent of the normal rates which would otherwise be admissible to him, the amount of dearness allowance to be treated as dearness pay for the purpose of decision No. (31) shall be reckoned at the rate at which would be calculated if free board etc. were not given irrespective of whether the actual amount of dearness allowance drawn is more or less than the amount treated as dearness pay.

These orders will take effect from the date of issue of this decision.

[G.I.M.F. Memo. No. F- I(1) E,II-B-57, dated the 11th June 1957.]

(31-A) Recently, doubts were expressed in the cases of certain employees of the Jammu and Kashmir State Income Tax Department, who were taken over by the Government of India as a result of the Fedral Financial Integration on the 8-10-5 ; and who retired before the 8-10-57, about the extent to which the dearness pay could be counted towards pension. Whlle serving under the State Government, these employees were not in receipt of dearness allowance at the Central Government rates.

The position is in accordance with the provisions made in para 3 (*ii*) (*b*) of Government of India's decision No. 31, above the emoluments of the employees of the above category, who retire before the 15th July 1955, would first be worked out and the full dearness pay appropriate to the pay equal to such average emoluments added to them. The difficulty, however, arises in the cases of employees retiring on or after the 15th July 1955 but before the 8th October 1957, where the emoluments are to be increased by the dearness pay appropriate to the pay equal to such emoluments and therefore/the benefit in regard to dearness pay does not accrue to them in respect of the period of service under the State Government (which is included in the last three years of service and for which they were not drawing Central rates of dearness allowance). This places the employees retiring before the 15th July 1955 in a more advantageous position *vis-a-vis* those retiring on or after the 15th July 1955 but before the 8th October 1957. To remove this anomaly it has been decided that in the cases of the latter category of employees the dearness pay appropriate to the pay equal to the emoluments for the period of service under the State Government should also be taken into account, notwithstanding the fact that during that period the employees were not in receipt of any dearness pay.

[G.I.M.F. Memo : No F. 19 (1) EV/59, dated the 3rd July 1959]

(32) A question has arisen whether the pay drawn in a tenure post held in a substantive or officiating capacity can be allowed to count as 'emoluments' for pension or not, the matter has been carefully considered. The relevant considerations in this connection are that as the very name *tenure post* implies, even substantive appointments to such posts can be made only for definite and limited periods that under the operation of Fundamental Rules 13 and 14 only a provisional lien can be acquired on a tenure post, and even an officer who was been substantively appointed to a tenure post retains a suspended lien on his permanent non-tenure post, and that the pay of an officer holding a tenure post who may be appointed to another post carrying higher responsibilities is fixed with reference to his pay in the permanent non-tenure post on which he holds a lien, and not with reference to his pay in the tenure post. Further, a Government servant holding a tenure post, either under the same Government or under a different Government. technically reverts to his non-tenure permanent post as soon as he vacates the tenure post, even if he retires immediately thereafter. Having regard to all these considerations, the Government of India have reached the conclusion that the pay drawn in a tenure post cannot be allowed to count as 'emoluments' for pension.

As a corollary, in a case where an officer who is a subscriber to the Contributory Provident Fund (India) is appointed to a tenure post, whether in a substantive capacity or otherwise, he cannot be deemed to have been trasferred permanently to pensionable service or to be eligible for the option given in rule 28 of the Contributory Provident Fund (India) Rules. He will therefore, continue to subscribe to the Contributory Provident Fund, (India) and the emoluments to be taken for calculating the rates of subscription and Government contribution will be the emoluments in the post to which the benefit of a Contributory Provident Fund is attached.

[G. I. M. F, Memo No. 15(18) – EV/53, dated the 8th July, 1953]

Note. 1. The restrictions prescribed in the decision does not apply to special pays if the special pay *drawn in a particular post during the* last three years of an officer's service fulfills the conditions for treatment as duty allowances or deputation (duty) allowances under the relevant provisions of the Civil Service Regulations, it should count for pension irrespective of whether it is drawn in tenure post or a non tenure post.

[G. I. M F. Memo No. 12(7)-EV/54, dated the 23rd March, 1954].

Note 2. The decision has been treated only as an interpretation of the existing rules and not as constituting modification thereof. This decision should therefore normally apply in all past cases where pension was irregularly calculated after taking into account the pay drawn in a tenure post and the protection afforded in the Note 2 below article 4 of the Civil Service Regulations should not be available in such cases However, in order to avoid any possible hardship and discontent that might be caused by the reduction, it has been decided that the pension cases of those officers who retired from service before 8th July, 1953 need not be brought within the scope of this decision and

that their pension may be regulated on the basis of the practice followed previously. This decision would of course apply in all other cases.

[G. I. M. F. letter No F. 12(8)-EV/54 dated the 5th May, 1954].

(33) A question was raised whether the personal pay allowed to clerks on *Unified* scales of pay on transfer counts as emoluments for the purpose of death *cum* retirement gratuity admissible under the new scheme laid down in appendix 41 and it was held that the decision is to be made in the light of pension rules in the Civil Service Regulations and the orders issued in connection with the new pension rules and not with reference to the pay rules laid down in the Fundamental Rules. If the personal pay allowed on transfer was in the nature of personal allowance as indicated in Article 61 of the Civil Service Regulations it will count under Article 486 (*b*) otherwise it will not count.

[G. I. M. F. U. O. No. D-6645-E. V/52, dated the 14th October, 1952.]

(34) Wireless Proficiency allowance is a nature of "technical allowance" and is included in the term 'pay' as defined in Article 38(*a*) of the Civil Service Regulations. It therefore counts for pension.

[G. I. M. F. U. O. No 7774-EV/52, dated the 26th November 1952.]

(35) *Omitted.*

(36) See Government of India's decision No. (11) below Article 487A.

(37) See Government of India's decision No. (4) below rule 2 in the Appendix 35.

(38) A question has arisen whether the concession of counting towards pension, dearness pay embodied in decision No. (31) above is admissible to the displaced Government servants referred to in the Government of India's decision below Article 921 of the Civil Service Regulations.

2. In so far as their emoluments for the purposes of pension are concerned, the displaced Government servants from Sind and N. W. F. P. fall under the following categories :—

(*i*) Those who have been appointed substantively to a permanent post under the Government of India three years before retirement.

(*ii*) Those who have been confirmed but have not completed three years service after confirmation.

(*iii*) Those who have not been confirmed under the Government of India.

(*iv*) Those falling under categories (*i*) and (*ii*) above, who have been holding higher provisional permanent/officiating/temporary posts under the Government of India.

3. It has been decided that persons falling under categories (*i*) and (*ii*) above are also eligible for this concession provided they have drawn dearness pay during the last three years (or for a portion of three years, as the case may be) of their service.

4. Persons falling under category (*iii*) are not eligible for this concession as their pension would be calculated on the substantive emoluments drawn by them in their permanent posts in Sind and N. W. F. P. in the manner indicated in para 8 of the decision referred to above.

As regards persons falling under category (*iv*) they also are eligible to count towards pension their dearness pay appropriate to the pay drawn by them in higher appointments subject to the provisions of para 3 of the Ministry of Finance decision No. (31) above.

[G. I. M. H. Affairs Memo No. 31/35/54 D. G. S., dated the 18th August 1954.]

(39) The question has been raised whether personal pay granted for loss of officiating pay which does not conform to the nature of duty allowance or deputation (duty) allowance and which does not, therefore, count for pension under Article 486 (*i*) or 486 (*j*), Civil Service Regulations can be treated as officiating pay' or 'pay drawn in a temporary post' for the purpose of the benefits in Article 487-B, Civil Service Regulations. It has now been decided that, in such cases personal pay granted to compensate for the loss, in officiating pay, will be treated as 'officiating pay' or pay drawn in a temporary post'

for the purpose of the benefits mentioned above.

Since this personal pay is given not for holding a higher post in an officiating capacity but merely for protecting the loss of officiating pay in respect of the particular post held before the Government servant's being brought on to a new scale, or in the case of employee of a new defunct princely State on their absorption in the Central cadre, non of the conditions prescribed in Article 487-B, Civil Service Regulations for the eligibility of the concession therein will be enforced before personal pay granted to protect the loss in officiating pay is allowed to so count for pension.

[G. I. M. F. Memo No. F. 12(17) EV/55, dated the 9th August 1955.]

(40) A question has been raised whether decision No. (32) should apply to Central Secretariat Service Officers who held the post of Deputy Secretary in the Government of India prior to their retirement. In this connection, it has to be noted that in respect of Central Secretariat Service Officers the post of Deputy Secretary cannot be treated as a tenure post, in the same sense as for officers of the other services, because a Central Secretariat Service Deputy Secretary has no other permanent appointment to revert to, on the expiry of the period of tenure, except to a post in his own cadre *viz.*, Grade I of the Central Secretariat Service, or a category 'A' post included in that service. It may, however, be observed that the decision No. (32) referred to above will not apply to this category of officers with effect from Ist October, 1955, that is the date of creation of the Selection Grade of the Central Secretariat Service, *vide*, the Ministry of Home Affairs letter No. 2/26/55-C. S. (A) dated the 23rd October 1956, to the Accountant General, Central Revenues. In terms of this letter, officers of the Central Secretariat Service holding posts of Deputy Secretary will automatically be appointed to the Selection Grade, either in a substantive or in an officiating capacity. It may be further observed that the decision No (32) is not applicable to those officers of the Central Secretariat Service who were, or are drawing pay as Deputy Secretary, on the old rate of pay as for Assistant Secretary, *plus* a special pay of Rs. 200 per mensem, in terms of the Finance Ministry's Office Memorandum No. 12(7) EV/54 dated the 23rd March, 1954.

In the circumstances mentioned above, it is considered that it would be appropriate or equitable to deny the benefits of emoluments drawn as Deputy Secretary to a few officers of the Central Secretariat Service who held such a post on the prescribed scale of pay and retired before the 1st October, 1955, that is, the date of the constitution of the Selection Grade of the Service.

The President is, therefore, pleased to decide that the decision No. (32) above should not apply to such of the officers of the Central Secretariat Service who held the post of Deputy Secretary at the time of their retirement before the 1st October, 1955, on the prescribed scale of pay, and their pension should be regulated according to the provisions of article 487-B, Civil Service Regulations. In other words subject to the conditions prescribed in this article being satisfied, the emoluments and average emoluments, as the case may be, calculated with reference to articles 486 and 487 of the Civil Service Regulations, should be increased :

either (*a*) by one-half of the difference between the emoluments/average emoluments so calculated and the emoluments/average emoluments which would result if such post or posts were permanent and they had held them substantively for the period of service rendered in the higher post ; or

(*b*) by thirty three and one third per cent ; whichever is less.

3. These orders will take effect from the 8th July, 1953.

[G. I. M F. (Department of Expenditure) Memo : No. 12(1) EV/57, dated the 12th January, 1957.]

(41) to (43) *Omitted.*

(44) According to para 3 of decision No. (31) emoluments of Government servants retiring on or after 15th July 1955, as reckoned under Article 486 and where applicable, article 487B, of the Civil Service Regulations are

for the purpose of calculating the ultimate average emoluments, increased by the dearness pay appropriate to the pay equal to such emoluments drawn during the last 36 months. Cases have come to notice in which though the persons concerned had retired on or after the 15th July 1955, due to the intervention of leave without pay etc., the period of 36 months for the purpose of calculation of average emoluments commenced from dates, prior to the 15th July 1952. In such cases under the orders as they stand, the benefit of dearness pay is not admissible in respect of the emoluments drawn before 15th July 1952. In the case of persons retiring before 15th July 1955, however, the period preceding the 15th July 1952 is taken into account for the purpose of average emoluments to which appropriate amounts of dearness pay are added. This places persons retiring before 15th July 1955 in a more advantageous position *vis-a-vis* those retiring on or after the 15th July 1955. To remove this anomally it has been decided that the emoluments of those retiring on or after 15th July 1955, reckoned under article 486, and where applicable, article 487B, of the Civil Service Regulations, should be increased by the dearness pay appropriate to the pay equal to such emoluments, not withstanding the fact that a portion of the last 36 month may fall prior to 25th July 1952, the date from which the benefit of the dearness pay was allowed for the purpose of pension.

[G. I. M. F. No. 22 (1)-E. V. 57 dated the 23rd August 1957].

(45) The position under the rules as they exist at present is that person who is confirmed in a higher post during leave preparatory to retirement, other than the first four months of such leave on average pay or first 120 days of earned leave, preparatory to retirement is not eligible for counting his substantive emoluments in the higher post for pension unless he rejoins duty before final retirement. In this connection attention is invited to the provisions of rule 8 below article 487 of the Civil Service Regulations under which increases in emoluments not actually drawn do not count for pension. Having regard to this position, it was decided, *vide* Government of India Finance Ministry's O.M. No. F. 12 (12)–EV/55, dated the 16th July 1956, [*See note 5, below Government of India's decision No.* (6) *below Article 487A*] that in such cases the concession of article 487B will be admissible so that a person confirmed in a higher post after the first four months of his leave preparatory to retirement might not be worse off in the matter of pension than he would have been if he had held the higher post purely in a temporary or officiating capacity throughout.

It has now been urged in this connection that the whole object of making confirmation while a person is on leave preparatory to retirement is lost if on such confirmation the officer is not allowed to count his pay in the substantive post for pension in full. It is recognised that in number of cases confirmation of officers in higher posts is delayed owing to purely accidental circumstances, *e. g.* non-occurrence of a vacancy or for technical reasons, and in such cases, justification may exist for confirming the officers concerned in higher posts at any time while they are still on leave preparatory to retirement. While the general rule that increase in emoluments not actually drawn should not count for pension is a sound one, it is felt that a distinction in this respect could validly be drawn between confirmation in a post which the person concerned was already holding in an officiating or temporary capacity before proceeding on leave preparatory to retirement and confirmation in a higher post which the Government servant was not holding immediately before proceeding on such leave or which he had never held at any time. While, therefore, no modification of the basic rule is called for in respect of the latter category, it has been decided that a person, who was holding a post in a temporary or officiating capacity before proceeding on leave preparatory to retirement, and is confirmed in such post at any time during the currency of his leave preparatory to retirement shall be eligible to count his substantive emolu-

ments, although not actually drawn by him, for computing pension. Articles 60 and 487 of the Civil Service Regulations have been suitably amended separately to give effect to this decision.

[G. I. M. F. Memo No. F. 12(34)-EV 57, dated the 8th October 1957]

(46) Decision No. (45) above lays down that a person, who was holding a post in a temporary or officiating capacity before proceeding on leave preparatory to retirement, and is confirmed in such a post at any time during the currency of his leave preparatory to retirement, shall be eligible to count his substantive emoluments although not actually drawn by him for computing pension. A question has been raised in this connection whether the intention is to allow the benefit of any increment also if it accrues at any time during the period of leave preparatory to retirement. It is clarified that the benefit of increments, not actually drawn is not to be allowed in such case, except to the extent contemplated in Audit Instruction No. (2) and (3) below Article 487.

[G. I M. F. Memo; No F, 12 (34)-EV/57dated the 27th March, 1958]

(47) See Government of India's decision No. (8) below Article 23-C.

(48) The recomendation of the Pay Commission that the 'Non-practising Allowance' granted to Doctors should be treated as pensionable emoluments has been carefully considered and the President is pleased to decide that the 'Non-practising Allowance' should be allowed to count for purposes of pension to the same extent as special pay. In other words, the 'Non-practising Allowances' shall count towards pension in full if it was received in respect of a permanent post held in a substantive capacity and to the extent of half in all other cases.

The above decision should be deemed to have effect from the 22nd April 1960.

[G. I. M. F. Memo No. F. 39(10)—EV/60, dated the 18th October 1960.]

(49) The purposes and scope of substantive appointments to temporary posts, are explained in Article 76D of the Civil Service Regulations. There is no rule corresponding to this Article in the Fundamental Rules. As stated in Article 76D, a declaration under that article, to the effect that an officer will hold a particular temporary post substantively is made for a specified purpose namely, for the purpose of acting allowance rules. The purpose for which the emoluments drawn in a temporary post held substantively are to be treated as 'substantive pay' is also specified in the article as "for the purpose of calculating salary." It is, therefore, clear that substantive appointments to temporary posts are relevant only in connection with the calculation of salary and that when an officer holds a temporary post in a substantive capacity, the emoluments drawn by him in that post are not to be treated as his substantive pay for the *purpose of pension*. When the pay drawn in a temporary post held substantively does not count for pension, the question of counting acting allowance in respect of a temporary post on which no other officer holds a lien, does not at all arise. It follows that acting allowance mentioned in clause (*h*) of Article 486 of the CSRs refers to permanent posts only.

The object of Rule 2 under Article 486 of the CSRs is to guarantee to a Government servant with a substantive appointment who officiates in another appointment or holds appointments at least, the pension which he would have received had he remained in his substantive appointment. It is to be noted that under clause (*a*) of Rule 2 under Article 486, an officer can be given the alternative benefit of counting emoluments in respect of the appointment in which he officiates or the temporary appointment, only where the conditions of the main rule in Article 486 are fulfilled.

The principles of clause (*h*) of Article 486 of the Civil Service Regulations and Rule 2 under that article, have not been adopted in Article 486A *ibid* which has replaced Article, 486 from the 22nd April, 1960.

[G. I. M. F. Memo No. F. 28(50)-EV/60, dated the 15th December 1960 to the address of the Secretary to Government of Andhra Pradesh, Finance Department, Hydrabad.]

Auditor General's decisions :- (1) It has been decided by the Auditor General with the concurrence of the Government of India that 'duty allowances' whether drawn by a permanent officer or by an officiating Government servant can be unconditionally included in the calculation of average emoluments for pension in as much as, Article 486(j) makes no distinction between the duty allowance drawn by a permanent officer and that drawn by an officiating incumbent.

[Auditor General's No. 394-A/117-24, dated 5-6-1924].

(2) Duty allowances and deputation (duty) allowances should count for purpose of pension as part of an officer's emoluments during long leave if there is no doubt that he would have drawn the allowance, had he remained on duty and the Head of Department makes a declaration to that effect.

[C. C- A's letter No. 103-A-59/31 dated 8-4-1931].

Note 1.—Duty allowances and deputation (duty) allowances are now included in special pay, and privilege leave and long leave now take the form of leave on average pay, half average pay, etc. The special pay of the nature of duty allowance or deputation (duty) allowance should therefore count towards pension in respect of all leave with allowances whether on average pay otherwise, provided there is no doubt that the officer would have drawn the special pay had he remained on duty and the Head of the Department makes a declaration to this effect.

[Auditor General's No. I93A/62-36 dated 17-4-1936].

Note 2.. .It has been decided with the concurrence of the Ministry of Finance that for the period of leave granted under F. R. 86 the emoluments which an individual would have drawn had he remained on duty should be treated as emoluments for the purpose of Article 487 of the C. S. R. in calculating pension.

[Auditor General of India letter No. 261-A/25-48, dated 22nd Jully 1948 and No. 358A/2648, dated the 28th September, 1948.]

Note 3.—The Comptroller and Auditor General of India has, with the concurrance of the Ministry of Finance, decided that the requisite certificates to the effect that an officer on long leave would have drawn the duty allowance and deputation (duty) allowance had he remained on duty may be granted by the heads of Branch Audit Offices in respect of those Government Servants whom they are competent to transfer to such allowance posts.

[Comptroller and Auditor General of India's letter No. 134-Admn. II/339-53, dated the 12th February, 1954]

(3) *Omitted.*

(4) The Auditor General, with the concurrence of the Government of India has decided that the average emoluments of an officer who has been allowed to count Military service for civil pension under Article 356, Civil Servic Regulations should be calculated on the basis of pay drawn in the Civil and Military Departments during the last 3 years of service and the break, if any, between the Military and the Civil Service should be disregarded and an equal period before the 3 years should be included on the analogy of rule 2 under Article 487, Civil Service Regulations.

[C. C. A., letter No 43-A/252/31 dated 8th-10th February, 1932]

(5) It has been decided by the Auditor General with the concurrence of the Government of India that under Article 486,(*h*), Civil Service Regulations the concession of counting the officiating pay as emoluments for purposes of pension is admissible only to the person who officiates in the post which is substantively vacant and not to other persons appointed in that chain since in their case, it cannot be said that the condition laid down in the rule about officiating in posts which are substantively vacant is satisfied. This position is not effected by the ruling given as item No. (8) of the Government of India's decision below Article 486 which allows the benefit to all persons appointed provisionally or substantively *pro-tempore* in the chain of appointments made in consequence of the absence of the permanent incumbents of the post on leave without allowances or on foreign service.

[Auditor General's letter No. 341-A/166—39, dated the 19th Jully, 1939].

Note—It has now been held that the special pay of Rs. 30 p. m and of 20% of clerical pay allowed to unpassed clerks holding posts of S.A.S. and Divisional Accountants respectively in the Indian Audit and Accounts Department should be treated to fall within the purview of the Government of India decision No. (11) below Article 487-A of the C. S. R. and allowed to count towards pensions to the extent admissible under Articles 487-A & 487-B of the Civil Services Regulations subject to the conditions mentioned in the decision *ibid.*

These orders will have effect from 28-10-1954 (*remained in force upto 21-4-60 vide G. I, decision No. 1B*)

[Comptroller and Auditor General of India's letter No. 820-NGE 1/105-55, dated the 2nd May, 1955 copy received with his letter No. 1317-NGE 1/173 58, dated the 7th August, 1958].

(6) *Omitted.*

(7) The Accountant General U. P. submitted the following case of Dr Bala Dat Pande for the decision of the Auditor General as to whether the additional pay allowed under Fundamental Rule 49(*b*) would count for pension.

Dr. Pande, P. C. M. S. holding the appointment of Assistant to the Civil Surgeon. Naini-Tal on Rs. 500 *plus* a special pay of Rs. 40 p. m. for delivering lectures was allowed to perform the duties of the Civil Surgeon, Naini-Tal in addition to his own duties from 4th March, 1933 to 14th March 1934 in a clear vacancy owing to the absence on transfer of the permanent Civil Surgeon who belonged to the I. M. S. cadre, Dr. Pande's pay for the above period which fell during the last 3 years of his service was fixed at Rs. 600, the minimum pay of the grade of Civil Surgeons. An additional pay of Rs. 108 equal to 1/5th of (Rs. 500 *plus* Rs. 40) was also allowed to him under Fundamental Rule 49 (*b*).

The Auditor General explained that under the Civil Service Regulations pension rules in a case of combination of appointments, the pension which would have been admissible to a Government servant in respect of each appointment if he had held it separately and alone, had to be calculated separately (*c. f.* Article 492, C. S. R.) and consequently in calculating pension admissible in respect of any one appointment "emoluments" received in respect of more than one appointment could not be taken into account. Dr. Pande is not entitled to any pension in respect of his officiating appointment as Civil Surgeon. In calculating his pension in respect of his sbustantive appointment as Assistant to the Civil Surgeon his "emoluments" should under rule 2 below Article 486 C. S. R. be taken to mean either (*i*) the emoluments which would be taken into account under Article 486 in respect of the appointment in which he officiated (*viz.* Rs. 500) Substantive pay *plus* Rs. 100 acting allowance in vacant post=Rs. 600) or (*ii*) the emoluments which would have been taken into account under Article 486 had he remained in his substantive appointment (*viz.* Rs. 500 Substantive pay *plus* Rs. 40 special pay or duty allowance=540) whichever is more favourable. The former (*viz* Rs. 600) is more favourable and should be taken into account in calculating his pension. The additional sum of Rs. 108 which he received under Fundamental Rule 49 (*b*) being part of his "substantive pay" proper (and of his duty allowance of Rs. 40) for holding his substantive appointment could not be treated either as connected with his officiating appointment or as "duty allowance" for "increase of work and responsibility"(under Article 23C Civil service Regulations) either in his substantive or officiating appointment and it could not consequently be taken into account in calculating his pension. This decision had the concurrence of the Government of India.

[Auditor General's letter No 123A/31/37, dated 5th April, 1937.]

Note :—The Auditor General has decided with the concurrence of the Government of India that past case in which sanction to pension was accorded before 5th April 1937 should not be re-opened now, even though the pensions still continue to be paid at a rate higher than as admissible under the accepted interpetation given in Auditor General's letter No. 123-A/31-37, dated 5th April, 1937.

[Audit r General' letter No. 2659G.B.E/163 37, dated 1st November 1937.]

(8) A question arose whether Mr. A. L. Chatterjee who was made provisionally substantive Assistant Accounts Officer of the Accountant, General, Bihar, in the vacancy caused by the suspension of lien of Mr. Muzaffar, a permanent Assistant Accounts Officer in that office consequent on the latter's substantive appoitment to the permanent post of Assistant Financial Secretary to the N. W. F, P. Government (decided to be a tenure post so far as officers of the Indian Audit Department are concerned for the purpose of regulation of pay) could count his emoluments as provisional substantive Assistant Accounts

Officer towards pension. The following decision was given by the Auditor-General.

The relevant rule to be applied in this case is Article 486 (*h*) of the Civil Service Regulations under which the allowances drawn by an officer appointed provisionally under Article 89, Civil Service Regulations. to an office which is vacant and on which no other officer has a lien count as emoluments far pension. After the introduction of the Fundamental Rules the liens of the officers governed by these rules are suspended under Fundamental Rule 14(*d*). It has, therefore, to be seen in this case for the purpose of Article 486 (*h*), Civil Service Rugulations. whether suspension of lien could properly be made under Article 89, Civil Service Regulations, or in other words, whether it fulfils the conditions mentioned in that Article *viz* :—

(1) that the officer is transferred to duty which is such that he retains no connection with his own appointment, and

(2) that there is reason to believe that the duty will not terminate with in three years.

Condition (2) is clearly fulfiled in the present case. As regards condition No. (1) it is a fact that the post of the Assistant Financial Secretary, N. W. F. P. is a permanent post and since Mr, Muzaffar was holding it in a substantive capacity, he could undoubtedly have counted his service and emoluments as Assistant Financial Secretary towards his pension under Article 361, read with Article 368, Civil Service Regulations. Article 376, Civil Service Regulations has no application here, since, as will be seen from Article 377, Civil Service Regulations, the former Article is an exception to the second condition mentioned in Article 361 and as such applies only to cases of permanent, men attached on temporary duty *e. g.* in temporary posts.

For these reasons, the Auditor General has held and the Government of India agree with him that the suspension of Mr. Muzaffar's lien satisfies both the conditions mentioned in Article 89. Civil Service Regulations, and, consequently Mr. Chatterjee can count towards pension the emoluments drawn by him as provisionally substantive Assistant Accounts Officer.

[Auditor General's letter No. 31 GBE 397-43, dated 10th January, 1944.]

(9) With the concurrence of the Government of India in the Finance Department, the Auditor General has decided that in cases where Government servant is appointed on probation against a vacant permanent post during the last three years of his service and has subsequently to revert to his original permanent post or retire while still on probation, the emoluments drawn by him in the permanent post held on probation count for pension under clause (*a*) and (*b*) of Artile 485, Civil Service Regulations.

[Auditor General's endorsement No 190-A 123/31, dated 20-8-1931]

(10) In cases where the conditions of Article 486(*h*) are fulfilled, the concession of counting officiating allowances as emoluments for pension is admissible to Provincial Service Officers officiating in All India Service Posts.

[Auditor General's endorsement No. 431-A/186-41, dated the 14th November, 1941]

Audit Instructions (1) Article 486(*h*) provides *inter alia* that the "allowances drawn by an officer * * appointed substantively *pro tempore* * * to an office which is substantively vacant and on which no officer has a lien or to an office temporarily vacant in consequence of the absence of the permanent incumbent on leave without allowances or on transfer to foreign service" count as emoluments for Pension. Under the "new acting allowance rules" introduced on 11th September 1920, and the rules relating to officiating pay are contained in the Fundamental Rules, officiating appointments are now made in cases in which substantive *pro tempore* appointments were admissible under the old rules. In the circumtances, the provision mentioned above should be interpreted as meaning that, in the case of a Government servant who while holding substantively a post on a permanent establishment, is appointed to officiate in a permanent post which is substantively vacant or which is temporarily vacant in consequence of the absence of the substantive incumbent

on extraordinary leave or on transfer to foreign service Regulations for officiating in the latter post the difference between the substantive pay and officiating pay or salary counts as emoluments for pension.

[Para 25 of Section III of the Manual of Audit Instructions (Reprint)].

(2) *Omitted.*

(3) In the case where cadre posts (some of which carry special pay) are involved, the question which post should be considered as the substantive post in which the officer would have remained if he had not been appointed to officiate elsewhere is one which can only be decided by the competent appointing authority with reference to actual facts, irrespective of the substantive post actually held immediately before the officiating appointment and irrespective of whether the officer is actually allowed a lien on *a particulars* post or on a post in the cadre for the purpose of rule 2 (*b*) under Article 486, C. S. R. a declaration from the competent authority in such cases specifying the substantive appointment in which an officer would have remained if he had not been appointed to officiate elsewhere will be accepted in Audit.

[Para 26-A, Section III of the Manual of Audit Instructions, (Reprint)]

(4) In the case of a Government servant who has been granted leave preparatory to retirement under the Fundamental Rules or 'refused leave after the date of compulsory retirement under F. R. 86, and who during the currency of the leave on average pay not exceeding four months or the first four months of any period of leave on average pay not exceeding four months earns an increment which is not withheld, the Government servant is entitled to count the pay which he would have drawn had he remained on duty as "emoluments" for the purpose of calculation of Death *cum*-Retirement gratuity under sub-paragraph (5) of paragraph 3 in Section II of the Liberalised Pension Rules issued in the Ministry of Finance office Memorandum No. F. 3. (1)-Est. (Spl)/47, dated the 17th April, 1950, [Appendix 41] even though the increase in pay is not actually drawn during leave under the Fundamental Rules corresponding to privilege leave.

[Para 27 Section III of the Manual of Audit Instructions (Reprint) copy received with Comptroller and Auditor General's Memo No 203-A/22-53, dated the 24th February 1953]

486A—In respect of officers retiring from service on or after the 22nd April 1960, the term 'emoluments' when used in this Part of the Regulations means the emoluments which the officer was receiving immediately before his retirements and includes—

- **(*a*) Substantive pay in respect of a permanent post other than a tenure post, held in a substantive capacity ;**
- **(*b*) personal allowance which is granted in lieu of loss of substantive pay in respect of a permanent post other than a tenure post ;**
- **(*c*) fees or commission if they are authorised emoluments of an appointment and are in addition to pay (in this case, 'emoluments' means the average earning for the last six months of service);**
- **(*d*) special pay attached to a permanent post other than a temporary special pay has been sanctioned permanently and the post is held in a substantive capacity ;**
- **(*e*) Save as otherwise provided in Article 486-B one half of :**
  - **(*i*) the difference between the total of the emoluments referred to in clauses (*a*), (*b*) and (*d*) above and the pay actually drawn in higher officiating or temporary appointments;**
  - **(*ii*) special pay other than that referred to in clause (*d*) above.**
  - **(*iii*) pay drawn in temporary or officiating appointments ;**
  - **(*iv*) personal allowance other than that referred to in clause (*b*) above ;**
  - **(*v*) the difference between the substantive pay actually drawn**

in higher tenure appointment(s) whether held in substantive, or officiating capacity, provided that service in the appointment(s) does not qualify for the grant of a special tenure additional pension.

Note 1.—If immediately before his retirement or death, an officer has been absent from duty on leave with allowances, his emoluments for the purpose of calculating service gratuity and/or death-cum-retirement gratuity should be taken at what they would have been had he not been absent from duty.

Provided that the amount of gratuity is not increased on account of increase in pay not actually drawn and that benefit of higher officiating or temporary pay is given only if it is certified that he would have continued to hold the higher officiating or temporary appointment but for his proceeding on leave.

Note 2.—In cases where a Government servant in *quasi*-permanent service is appointed substantively to a permanent post any time during the last three years of his service, the emoluments drawn by him in *quasi*-permanent capacity during the period he was not holding permanent post shall be treated as if drawn in a permanent post held in substantive capacity.

Government of India's decision (1) A doubt has been raised to whether it is permissible to reckon qualifying service as well as emolument under the revised rules and calculate pension/gratuity at the old rates and *vice versa*. It is accordingly clarified that in respect of person who retired on or after the 1st November, 1959 but before the 22nd April. 1960, qualifying service, emoluments for pension as well as the rate of pension/gratuity and death-cum-retirement gratuity will be reckoned either according to the relevant pension rules as they stood on the date of their retirement or under the provisions of the rules as they stand amended with effect from the 22nd April, 1960, whichever is more favourable to them.

[G. I. M. F. Memo. No. F. 39 (A)-EV/60, dated the 20th March, 1961.]

(2) Doubt have been raised about the exact intention of clause (*a*) of Article 486A of the Civil Service Regulations. It is accordingly clarified that a special pay can count in full for pension under the said clause if.

(*a*) the special pay has been sanctioned permanently *i. e.* without limit of time, and

(*b*) drawn in a permanent post which is held by the individual concerned in a substantive capacity.

However, when certain posts in a cadre have special pay attached to them permanently, it will count in full for pension if the holder of a post to which special pay is attached is permanent in that cadre.

[G. I. M. F. Memo ; No. 8 (22) EV (c)/61, dated the 4th November, 1961.]

(3) The President is pleased to decide that in the case of persons who retire/die on or after the 22nd April, 1960 ; or those who retired/died on or after 1st November 1959 but before 22nd April 1960 to whom the application of Article 486-A is advantageous, and who drew pay in the existing scales of pay for full or a part of the last three years of service in respect of a post held whether in substantive or officiating capacity, the dearness pay appropriate to the pay of the post in the existing scale should be treated as part of day of the post(s) in question, for calculating emoluments for pension under Article 486A of the C. S. Rs. Accordingly, for working out the difference between officiating pay and substantive pay under sub-clause (*e*) (*i*) of Article 486A, in such cases, dearness pay appropriate to the pay of the post(s) on pre-1931 or prescribed scales should be added to such pay, and the total thus arrived at treated as officiating pay or substantive pay, as the case may be.

Past cases which have already been settled in accordance with the instructions contained in old decision No : (3) should not be re-opened.

[G. I. M. F. Memo : No. F-39 (6) EV/60, dated the 3rd January 1963.]

(4) A doubt has been felt about the benefit for pension and gratuity, of the officiating or temporary pay for periods of leave in respect of which it is certified that the Government servant concerned would have held in an officiating or temporary capacity a post different from the one from which he went on leave. If is clarified that in such cases the officiating or tempo-

rary pay should be reckoned with reference to the post which the officer held immediately before going on leave or the post which he would have held but for proceeding on leave, whichever of the two post is *lower*.

[G. I. M. F. Memo : No : F. 8 (10) —EV (C)/62, dated the 8th June 1962.]

(5) While fixing the scale of a post, sometimes a special pay is attached to an existing scale so as to avoid multiplicity of time-scales. When such a post is held by a Government servant in a substantive capacity, the special pay for all purposes forms part of his substantive pay. Accordingly personal pay granted in lieu of loss of special pay of this kind due to revision of scale of pay etc., should be treated as personal pay granted in lieu of loss of substantive pay, for the purpose of clause (*b*) of Article 486A of the Civil Service Rugulations, if the post in question was held in substantive capacity.

[G. I. M. F. Memo No. F. 8 (13)—EV(C)/62, dated the 16th June 1962.]

(6) When a State Government employee comes on depuation to the Central Government, he is generally granted a deputation special pay in addition to his usual pay. Till lately the question whether any part of this deputation special pay could be reckoned as 'emoluments for calculating pension used to be decided by the Central Government with reference to their rules on the subject. Recently this practice was reviewed by the Government of India in consultation with the Comptroller and Auditor General and the State Governments. It was held that since a State Government employee, while on temporary deputation to the Central Government, did not become subject to the rules and orders of the latter Government, and his pension was otherwise calculated under the rules of the State Government of which he was a permanent employee, the practice of applying Central Government rules to determine the quantum of deputation special pay which should count for pension was incongruous. It has, therefore, been decided that henceforth in cases of deputation of State Government employees to the Central Government the question whether any part of the deputation special pay received by such an employee will count for pension will be decided by the State Government concerned with reference to their own rules on the subject. If for proper application of the State Government rules any question arises regarding the exact nature and classification of the deputation special pay, the State Government will consult the Central Government who alone would be aware of the precise reasons for which the additional remuneration was granted. Similary when a State Government employee on deputation to the Central Government holds a temporary or officiating appointment on a regular time-scale, the question whether any part of the difference between the pay, which he actually draws while on deputation and that which he would have drawn from the State Government but for his deputation, should count for pension, will be decided by the State Government with reference to their pension rules.

The same arrangement will apply in reverse in the case of Central Government employees who are sent on deputation to State Governments.

Past cases in which the question of counting additional emoluments received during deputation has not yet been decided will also be settled in accordance with the above instructions.

2. Allocation of pensionary liability between the Central Government and State Governments in these cases will be made in accordnnce with the rules of incidence laid down in Section IV of Appendix 3 to Account Code, Volume I, as already being done generally.

3. The above instructions will nor apply in cases of officers on deputation to Central Government from the State of Jammu and Kashmir and Punjab or *vice versa*.

The Jammu and Kashmir Government's arrangement in cases of deputation from and to that Government is different from that of other Governments. The pay or recover leave and pension contributions monthly, as the case may be, and thus the pensionary liability of the borrowing Government is discharged concurrently.

The Punjab Government have not agreed to the above arrangement. Accordingly in cases of deputation to and from that Government, questions relating to counting of additional remuneration received during period of deputation for pension, and sharing of additional pensionary liability between the two Governments should be settled before hand in each case.

[G. I. M, F. Memo ; No. F.8(5)-EV (C)/61, dated the 2nd July 1961]

(7) A doubt has been felt as to how the personal allowance granted to a Government servant to protect him partly from the loss of substantive pay and partly in lieu of some other emoluments viz., officiating/dearness allowance etc., consequent on refixation of pay under C. C. S. (RP) Rules 1960 or for any other reason could be taken into account for the purpose of 'emoluments' for pension/gratuity. It is' clarified that, part of the personal allowance which has been/is granted to protect against loss of substantive pay would count in full under clause (*b*) of Article 486A CSR while the remaining would count to the exent of one half under clause (*e*) (*iv*) *ibid.*

Instances have also come to the notice of the Government of India where in the case of a quasi-permanent Government servant personal allowance was granted to protect him partly from the loss in quasi– permanent pay and partly in lieu of other emoluments due to refixation of pay in the revised scale of pay.

The matter has been examined and the President is pleased to decide that, that part of personal allowance which has been granted solely to protect against loss of quasi-permanent pay would count in full under clause (*b*) of Article 486A CSR while that part of the personal allowance which has been granted to protect from loss of emoluments other than quasi-permanent pay would count in the extent of one half under clause (*e*) (*iv*) *ibid.*

[G. I. M. F. Memo : No : F. 8(4)-EV (C)/61, dated the 31st January 1963]

486-B. (1) If an officer holding a permanent post in substantive capacity :—

(*a*) officiates in a higher permanent post (other than a tenure post) or holds a higher temporary post) other than a tenure post) borne on a cadre which includes permanent posts on the same time scale as the temporary post, continuously for not less than three years, and retires or dies while so officiating or holding the higher post ; or

(*b*) is confirmed in such higher permanent post at any time during the last three years of his service after having officiated in that post continously for three years or more.

his emoluments for pension in respect of the higher post for any period beyond three years' continuous service in that post shall be determined under Article 486-A as if he held, in substantive capacity a permanent post on a time scale identical with that of the higher post.

2. For computing the length of continuous service in respect of the higher post under clause (1), all kinds of leave, all periods during which an officer officiated in a permanent post or held a temporary post on identical or higher time scale, and the time spent on deputation and foreign service shall be included; provided that it is certified that but for his proceeding on leave or serving in other post(s) or going on deputation or foreign service, as the case may be, the officer concerned would have officiated in or held the higher post.

487. The term "Average emoluments" means the average calculated upon the last three years of Service.

1. If during the last three years of his service, an officer has been absent from duty on leave with allowances, or having been suspended, has been reinstated without forfieture of service, his emoluments for the purpose of ascertaining the average, should be taken at what they would have been had he not been absent from duty or suspended : Provided always (*a*) that except as provided in rule 1A his pension must not be increased on account of increase in pay not actually drawn and (*b*) that an(officer will not during leave be allowed to count as emoluments the *sub protem* allowance or the allowances drawn by him

in an officiating capacity in an office which is substantively vacant : which he would have been entitled to so count under Article 486(*h*) had he remained on duty. if another officer has been appointed *sub protem* to the same appointment during the period of such leave. But if his absence on Departmental or Recess leave is reckoned as service under Article 409, only the allowances, if any, actually received during such leave should be taken into account.

Note 1. The effect of proviso (*h*) to this rule is that in the event of an officer proceeding on leave with allowances from his *sub pro tem* or officiating appointment, the *sub pro tem* or officiating allowances will count as 'emoluments' for pension for the period of leave to the extent indicated below—

(*i*) If no other officer is appointed in the resulting vacancy, the *sub-pro-tem* or officiating allowances that would have been reckoned as 'emoluments' but for the officer proceeding on leave, for the entire period of such leave with allowances :

(*ii*) If another officer is appointed in the leave vacancy, the *sub-pro-tem* or officiating allowances that would have been reckoned as 'emoluments' but for the officer proceeding on leave for the period of privilege leave or leave on average pay for the first four months only. as the case may be, provided that the officer retains a lien superior to that of his *locum tenens* on the post which he was holding before proceeding on such leave.

Note 2.—The proviso (*b*) to rule 1 and Note 1 above are not applicable to officers who retire on or after the 22nd April, 1960.

*1A-In the case of an officer who. while on leave preparatory to retirement is confirmed in the higher post which he held in an officiating or temporary capacity before proceeding on such leave, his substantive emoluments in the higher post, which he would have drawn had he been on duty, shall be taken into account for the purpose of calculation of average emoluments.

2. If, during the last three years of his service, any officer has been absent from duty on leave without allowances (not counting for pension), or in inferior service, or suspended under such circumstances that the period of suspension does not count as service, the periods so passed should be disregarded in the calculation of the average, an equal period before the three years being included.

2A. In the case of a military officer, departmental officer, warrant or non-commissioned officer or soldier who was in civil employ on 7th June, 1937 and was or may be granted a pension under military rules on or after the 30th May, 1933 and whose pay has been reduced under Clause (*b*) of Article 526' emoluments for purpose of ascertaining the average shall be taken at what they would have been had the pay not been reduced.

3. Excepting as provided in rules 1, 2 and 2A only emoluments actually received can be included in the calculation. For example, when an officer is allowed to count time retrospectively towards increase of pay, but does not receive retrospectively the intermediate periodical increments, these intermediate increments are not reckoned in the calculations.

4. In the case of Section-writers whose service has been allowed to count for pension under special orders of the Government of India and Press servants whose service qualifies under Article 380, 'Average emoluments' means the average earning of the last seventy-two months in Superior service.

Note 1.—This rule applies in the case of a Press servant remunerated by a fixed rate of pay if his pay is met from the grant for piece work.

Note 2—Overtime earnings of Press servants paid at piece work rates may be taken into account in calculating Average emoluments under this rule : but such earnings must be excluded in reckoning the Average Emoluments of Press employees who draw pay at fixed rates

Note 3.—If during the last 72 months of service a Press servant has been for some period on fixed pay and for other periods a piece work employee, overtime earnings may be taken into account in calculating pension only for the periods during which he was remunerated at piece work rates.

5. The 'Average Emoluments of a telegraph messenger paid on the task work system shall be deemed to be the average amount of subsistence allowance and the task-work earnings drawn monthly by him during the last three years of service before discharge or retirement

Government of India's decisions :—(1) The "average emoluments" of an officer, reduced while on leave during the last three years of his service, should be calculated at the reduced rate.

[Paragraph 314 of India Supplement to C. S. R. : [5th Edition].]

(1—A) A question has been raised as to whether the 'emoluments' drawn by an officer in a *quasi*-permanent capacity during a portion of the last three years of his service in a post in which he is ultimately confirmed, can be taken

*Added vide Notification No. F. 12 (3)-Ev/58. dated 11-2-58 and has effect from the 8th October, 1957.

into account for the purpose of calculating his average emoluments' under Article 487, C.S. Rs. Strictly, the position is that only the 'emoluments drawn in respect of a permanent post held substantively' as defined in Article 486-C.S.Rs. are taken into account while working out the average emoluments under Art. 487-C.S.Rs. Since however the benefits accruing to a *quasi*-permanent employee are more or less similar to those accruing to him had he held such a permanent post in a substantive capacity the Government of India consider that no disability should be attached to the *quasi*-permanent service and the 'emoluments' drawn in the *quasi*-permanent capacity for that purpose. Accordingly, it has been decided that where a Government servant in *quasi*-permanent service is appointed substantively to a permanent post the 'emoluments' drawn by him in a *quasi*-permanent capacity during a portion of the last three years of his service should be treated as if drawn in a substantive capacity and taken into account for the purpose of calculating his 'average emoluments'.

[G.I M.F. Memo : No. F. 12(44)-E.V./58 dated the 18th December 1958.]

Note.—This decision applies to cases of retirement prior to the 18th December 1958 also but cases already decided otherwise will not be re-opened vide G.I.M.F. letter No. 12 (44)-EV/58, dated the 21st March 1959.

(2) In the case of an officer who has submitted a medical certificate of incapacity for further service while on leave other than privilege leave, the period of leave after the date of its termination when that is later than the date of medical certificate should be taken into account for the purpose of calculating average emoluments.

[G.I F.D. No. 5179-P., dated 10-12-1896].

(3) The actual pay on which pension contribution was paid during the last three years of his service should be taken in finding out average emoluments. No increment on which contribution was not paid should be taken into account.

[Paragraph 316 of India Supplement to C.S.R. (5th Edition)].

(4) When promotion is given or increase of pay is allowed and paid to an officer during the portion of combined leave. the average emoluments should be calculated on his increased rate.

[Paragraph 315 of India Supplement to C.S.R. (5th Edition)].

(5) The term "Service" as used in the 2nd line of Article 487, Civil Service Regulation, means qualifying service.

[Paragraph 317 of India Supplement to C.S.R. (5th Edition)].

(6) In the case of a man reduced while on leave and transferred to his old office, his pay for average emoluments will be the pay which he would have drawn had he not been on leave from the date on which permanent arrangements were made in his new office.

[Paragraph 318 of India Supplement to C. S. R. (5th Edition)].

(7) The period of imprisonment should be treated as one of suspension (either qualifying or non-qualifying as service according to circumstances) in the calculation of average emoluments.

[Paragraph 324 of India Supplement to C. S. R. (5th Edition)].

(7-A). In the case of a piece-worker leave without pay in this rule means only sanctioned periods of leave and not casual absence without allowance.

[G.I.F.D. No. 1225-P., dated 5th March, 1909].

(8) *Terms of Reference* :—A Certain piece-rate Press Employees was on military duty and Foreign Service within the last 72 months of his service. The class pay drawn by the man prior to his transfer was accepted as his assumed pay on which pension contribution during the foreign service was realised. As by the application of this method, the man was a great loser in respect of his pension, the question as to how the average emoluments of the officer should be determined, was referred to the Government of India.

Decision—With the concurrence of the Finance Department the Government of India, Industries add Labour Department, decided that the man's average earnings (inclusive or overtime earnings) for the 6 months immediately prior to his transfer from the regular service should be taken as his emoluments for

the period of his military duty. The amount should also be regarded as his assumed pay for the period during which he was on foreign service.

(The recovery of the arrear pension contribution on the above basis was also waived).

[G.I.F.D Memo : No. F. XXV-C.S.R./27 dated 26-7-1927].

(9) (*a*) In cases in which a piece-work employee in a Press establishment is remunerated at different times during the last three years of his service by fixed pay and piece-rates, average emoluments should be calculated on the last 12 months' service according to Rule 4 under Article 487 of the Civil Service Regulations.

(*b*) In cases where a piece-work employee retires on a date other than the 1st day of a month and broken periods of a month have consequently to be taken into account in calculating pension, average emoluments should be calculated on the earnings of the last 72 complete month's, ending on the last day of the month immediately preceding that in which the officer retires from the Service, the "month" referred to above being not necessarily the calendar month but the month for which the accounts of piece-workers, earnings are made out, namely from one date in a calendar month to the corresponding date of the next calendar month.

(*c*) In cases where leave without allowances or suspension occurs during the 72 months' service, an equal period of qualifying service rendered immediately before the period should be taken into account in accordance with the principle laid down in Rule 2 under Article 487 of the Civil Service Regulations.

[G. I. F. D. No. 5179-P., dated 10-12-1896].

(10) Leave without allowances in Rule 2 under Article 487 is extraordinary leave granted under Article 339, (*now*, 306), Civil Service Regulations, and not furlough or other leave which but for the operation of Article 147 (*iii*) would carry leave allowances, and that such leave whether it actually carries leave allowances or not, is leave with allowances for the purposes of the rules under Article 487, Civil Service Regulations.

[G. I. F. D. No. 927-P., dated 15-2-1906].

(11) In the calculation of average emoluments of an officer drawing commission who was deputed to temporary duty for some time during the last three years of his service and drew pay, the commission earned by him during the three years should be divided by the period for which he was in his substantive appointment during those years, the period of deputation being discharged.

[G. I. F. D. No. 3090-P., dated 24th May, 1907].

(12) The local allowances drawn by part-time observers holding substantive appointment in Government service should be treated as "remunerative" local allowance which should count towards leave allowances and pensions.

[Government of India, Revenue and Agriculture Department, letter No. 156—75-2, dated 28th January, 1916].

(12-A) In the case of an inferior Government servant governed by the Central Subordinate (Inferior) Service (Gratuity, Pension and Retirement) Rules, who takes leave preparatory to retirement the principle underlying the instructions contained in this paragraph, should be followed in determining for the purposes of rule 7 of these rules, monthly substantive pay which he would have drawn.

[G.I.F.D. No. F. 6 (77)-R. II/33, dated 12th January, 1939.]

(13) The following decisions have been reached in regard to the counting of half of dearness allowance as pay for the purpose of calculating the amount of pension admissible in the case of all Government servants who were either actually drawing such allowance or would have drawn it but for their officiating in a post on a pay above the monetary limits of eligibility for the allowance :—

(*i*) In the case of a Government servant referred to above, the 'average emoluments' for pension calculated under Article 487 of the Civil

Service Regulations will be increased by one-half of the average of the dearness allowance which he had drawn or would have drawn in the posts the emoluments in respect of which have been included is the calculation of 'average emoluments'

(*ii*) Where a Government servant is eligible only for a gratuity under Article 474(*a*) of the Civil Service Regulations, one-half of the monthly dearness allowance in the appointment, the emoluments of which are reckoned for gratuity will be added to his "emoluments" as calculated under Article 486 of the Civil Service Regulations for the purpose of determining the amount of gratuity admissible ;

(*iii*) For the purpose of these orders, the "dearness allowance" means the dearness allowance, including marginal allowances (adjustments) drawn up to 31st December, 1946, Marginal dearness allowance which would have been allowed but for the introduction of war allowance will also be taken into account for this purpose ;

(*iv*) The extra pension admissible under these orders will be added to the existing pension and the two treated as one pension for purposes of commutation

2. The orders contained in the preceding para will apply to all eligible Government servants who retired after the 1st August, 1942, the date from which dearness allowance was sanctioned, but the resulting increase in pension will be granted only with effect from the 1st January, 1946. Prior to that date certain maxima limits applied to the pension of grade IV Government servants. The additional pension on account of dearness allowance now sanctioned may be allowed even in cases where the maximum of the normal pension is admissible, but the resulting increased pension will be drawn with effect from the Ist January 1946 only.

3. It has also been decided that for the purpose of calculating injury and family pensions and gratuities under the extraordinary Pension Rules, one-half on the monthly rate of dearness allowance for the period immediately prior to injury or death, as the case may be, which would count under para 1 (*i*) above should be taken into account in all cases where the injury was sustained or death occurred on or after the Ist August 1942, but the increase in pension will be granted only with effect from Ist January, 1946.

[G. I M. F. 13 (7)-Est, V./47, dated 1-12-1947].

(13A) Orders issued in Finance Ministry's Memorandum No. 13 (7)-Est. V/47, dated the Ist December. 1947 [decision No. (13) above] indicate the extent to which and the manner in which half the amount of dearness allowance drawn upto the 31st December, 1946 could be counted as the emoluments for pension. The orders regulating the drawal of dearness allowance did not permit its being drawn during leave in excess of four months at a time, and there have been cases in which such leave was taken during the last three years of a Government servant's service, when no portion of dearness allowance was included in the calculation of emoluments for pension. Rule 1 below Article 487 Civil Service Regulations, however, provides that for periods during the last three years of service when a Government servant was on leave with allowances, average emoluments should be calculated as if he was not on leave. The Government of India have decided, in consultation with Comptroller and Auditor-General, that in calculating average emoluments under this rule half the dearness allowance which would have been drawn before the Ist January 1947, if the Government servant concerned had not been on leave, should also be taken into account. Pensions which have been calculated without taking this element into account may now be recalculated accordingly.

[G.I.M F. Memo. No: F.-14(16)-EV/50, dated 26-4-1950.]

Note. The provisions of this order will also apply to the corresponding personnel paid from Defence Service Estimates *vide* Army Instruction No. 250 dated 29-7-50.

(14) The concession referred to in decision No. (13) above will be admissible, to the same extent and subject to the same conditions to Government servants who were on foreign service for any period during the last three

years of their service.

It is not intended to recover an additional pension contribution on this account from foreign emyloyers.

[G. I. M. F. Memo : No. 14 (33) E. V/49, dated 27-8-1949].

Note :—The provision of the aforesaid order apply also to the corresponding personnel paid from the Defence Service Estimates, *vide* Army Instruction No 82 dated 25-3-1950.

(15) In the case of persons belonging to Indian Audit Department deputed to the Military and Supply Accounts Offices the extra cost due to the counting of half of dearness allowance towards pension under the Ministry of Finance Memorandum No. F. 13 (7)-Est V/47,dated the Ist December, 1947 [decision No. (12) above] should, as in respect of their special pay be a charge on the Defence Service Estimates. The debit on account of the capitalised value of the pension will be passed on by the Civil Accountants General to the Military Accounts Department for adjustment against the Defence Estimates as and when pension is granted to the persons concerned.

[G. I. M. F. letter No. : F, 14 (14)-EV/49, dated 18-4-1949].

(16) See Government of India's decision below Article 490.

(17) *Omitted.*

(18) War allowance does not count as pay for the purposes of calculation of pension under Government of India's decision No. (13) above.

[G. I M. F. No. 7133-E. V/47, dated 11-2-1948].

(19) Average of dearness allowance should be struck not for the actual period for which dearness allowance may have been drawn but for three years prior to retirement as is done in arriving at the average pay *i.e.* it should be divided by 36 to arrive at the amount of average of dearness allowance.

[G.I.M.F.U.O. No· 4164 E. V/48, dated 28-6 1948].

(20) Officiating pay drawn in a temporary post does not count for pension.

[G.I.M.F.U.O. No. D-4187-E. V/48, dated 7-7-1948].

(21) See Government of India's decision No. (31) below Article 486.

(22) Article 487 C. S. R. prescribes that emoluments actually received can only be included in the calculations of average emoluments. In the case of Under Secretaries and Deputy Secretaries, the pay has been fixed from the date of option in 1947 and no arrears have been paid. The pension should therefore be based on the pay actually drawn and no benefit of the higher pay re-fixed but not actually drawn should be allowed in the calculation of pension.

[G.I.M.F.U.O. No : D-660 E. V/53, dated 22nd January, 1953].

(23) A Government servant consumed his refused leave concurring with the period of his re-employment ; but his leave salary was, by an executive order, restricted to the amount of his anticipated pension. It was decided with the concurrence of the Comptrollor and Auditor General that for the purpose of Rule 1 below Article 487 read with Article 261 of the Civil Service Regulations he should be deemed to have been on actual duty for the period of refused leave and that the increment which fell due within the period of refused privilege leave should count for increase in pay for the purpose of pension.

As the grant of refused leave after the date of compulsory retirement carries with it extension of service and the Government servant holds a lien on his post during such leave, it will be incorrect to say that his service terminated on his re employment when he was actually on refused leave preparatory to retirement.

[G. I. M. F. U. O. No. D-3465. E. V/58, dated the 1st May 1953].

(24) The principle enunciated in Audit Instruction No. (2) and (3) below Article 487 of Chaudri's Compliation of C. S. R. in respect of privilege leave or leave on average pay not exceeding four months or the four months of any period of leave on average pay exceeding four months may apply to earned leave not exceeding 120 days in any one spell.

[G. I. M. F. U. O. No. 589/EV/55, dated 29th June, 1955 in File F. 11(21)-EV/55].

Note :—See note below Audit Instruction No, (3) below this Article.

(25) A question has been raised whether the benefit of *ad-hoc* increase of Rs. 5 can be allowed to personnel who were on leave preparatory to retirement on the crucial date, *viz.*, 1st August, 1956. The refixation of any pay under G. I. M. F. Memo. No. F. (4)-E. III/56, dated the 24th April, 1938 will not give benefit to the personnel in question in the matter of leave salary which is based on average pay drawn prior to proceeding on leave. Further, Article 487 (1) of Civil Service Regulations prohibits an increase in pension on account of increase in pay not actually drawn. However, under Audit Instruction No. (3) below Article 487, C. S. Rs. it is permissible to take into account increases in pay which occur during the first four months of leave on average pay. The Government of India have, therefore, been pleased to decide that the benefit of *ad-hoc* increases may de allowed to the staff who were on leave preparatory to retirement on the crucial date and in whose case the increase will occur within the first four months of leave on average pay.

[G. I. M. F. Memo. No. F. 4(4)-E' III/56 dated the 4th April, 1958].

(26) Some cases have come to notice of the Government in which owing to administrative errors persons not due for reversion were reverted and re-promoted after lapse of some period resulting in decrease in their pensions due to non-inclusion of the emoluments which they would have received but for their reversion for the purpose of calculating pension, *vide* rule 3 under Article 487 of the Civil Service Regulations. It is considered that in such cases it would not be fair to put the persons concerned to a recurring loss in the form of reduced pension. It has therefore been decided that in cases of wrongful reversion, where on re-promotion the pay of the individual is fixed in accordance with the provisions of sub-para 2 (1) (*a*) of Government of India, Ministry of Home Affairs Memo. No 9/49/54 RPS dated the 24th April 1958, for the purpose of pension, the pay which individual would have drawn but for his reversion should be taken into account,

[G. I. M. H Affairs Memo. No. 50/6/59, Est. (A), dated the 5th December 1959].

(27) Consequent on the promulgation of the C.C.S. (Revised pay) Rules, 1960, a doubt has been raised whether in the case of person who while on leave preparatory to retirement opt for or are brought on to the Revised Scales of pay, the increase in pay, if, any' which accures during the currency of such leave may be taken into account for purposes of calculating the pension/ gratuity etc. Under rule 1 below Article 487 of the C.S.Rs., if during the last three years of his service, an officer has been absent from duty, on leave with allowances, his emoluments, for the purpose of ascertaining the average emoluments,are to be taken at what they would have been had he not been absent from duty. Proviso (*a*) to that rule, however, lays down that the pension must not be increased on account of increase in pay not actually drawn. Therefore strictly speaking, the increase in pay during leave preparatory to retirement in the circumstances explained above should not be taken into account for purposes of pension. However, Audit instructions No. (3) below Article 487 permits counting of increase in pay not actually drawn for calculation of average emoluments under Article 487, C, S.Rs if such increase occurs during the first four months of leave on average pay. A similar position exists in so far as arriving at emoluments for purposes of gratuity/Death-cum-Retir. ment gratuity is concerned. It is accordingly clarified that the increase in pay consequent on refixation of pay in the revised scales of pay may be allowed for calculation of average emoluments under Article 487 C S.Rs for purposes of pension or for arriving at emoluments for purposes of calculating gratuity/death-cum-retirement gratuity in case of persons who were on leave preparatory to retirement on the date of their coming over to the revised scales of pay where such increase actually accrues from a date during the first four months of leave on average pay or the first 120 days of earned leave.

[G.I-M.F· Memo No. F. 28 (52)—EV/60. dated the 28th December 1960.]

(28) The Government servants who were on refused leave on the crucial

date (1st July 1959) are eligible for the fixation of pay under the Central Civil Services (Revised Pay Rules) 1960 on the analogy of Government of India's decision below rule 9 in Appendix B to the Chaudri's Compilation of Fundamental and Supplementary Rules.

As regards the benefit of counting of increase in pay falling during the period of refused leave consequent on fixation of pay in the revised scale for purpose of pension etc. in respect of persons who retired prior to the issue of Finance Ministry's Office Memorandum No. 7 (122)-Est. IV (A)/60 dated the 1st September 1960 or who were on refused leave on the date of issue of the orders, it is confirmed that it may also be given on the analogy of the orders contained in Government of India's decision No. (27) above.

The provisions of the decision No. (27) cited above, will also apply in case of persons who were on leave combined with the period of refused leave where the refused leave actually commenced from a date prior to 1st September, 1960.

[G. I. M. F. Memo : No F. 28 (52) EV/60. dated the 23rd August 1961]

(29) The decision No. (27) above provides for counting towards pension and gratuity an increase in pay not actually drawn in cases of persons who were on leave preparatory to retirement on the date on which they came over to the revised scales of pay.

A doubt has been felt whether similar benefit is also admissible to the persons who were on leave other than leave preparatory to retirement on such a date.

It is clarified that the benefit of counting increase in pay due to refixation of pay in the revised scales of pay shall also be admissible to persons who were on leave on the day such increase accrued to them to the same extent as provided in the decision referred to above.

These orders issue in consultation with the Comptroller and Auditor General of India.

[G. I. M. F. Memo : No. F 8 (9)—EV (C)/62, dated the 15th June 1962]

(30) According to Note (2) to Government of India's decision No (1) below Article 474 the benefit of temporary increase in pension is not allowed to persons whose pensions are determined on emoluments inclusive of dearness pay sanctioned under orders in Government of India's decision No. (31) below Article 486. In the case of displaced Government servant who has not completed three years of service after confirmation under the Government of India, the pension is determined with reference to substantive emoluments which he would have drawn in Sind/N.W.F.P. and the substantive emoluments actually drawn in India during the remaining portion of the last three years of service. The benefit of dearness pay is thus admissible only in respect of emoluments drawn in India and not in respect of emoluments drawn in Pakistan *vide* Ministry of Home Affairs Office Memorandum No. 31/53/54-DGS, dated the 16th August. 1954. A question has been raised whether in the case of such displaced Government servants, the provisions of Note (2) *ibid* should apply or the provisions of para 4 of decisions No. (31) *ibid*. should continue to apply.

2. It has been represented that provision of Note (2) to Government of India's decisian No. (1) below Article 474 have adversely affected the quantum of pensions in respect of displaced Government servants of the category referred to above.

3. As in regard to calculation of 'average emoluments' for pension, displaced Government servants stand on a differnet footing, President is pleased to decide that the instructions contained in Note (2) to Government of India's decision No. (1) below Article 474 should not be applied in their cases. In other words, the provisions of para 4 of decision No. (31) below Article 486 may continue to be observed for the purpose of granting temporary increase in pension or the benefit or dearness pay to those displaced Government servants who are confirmed under the Government of India for

the first time during the last three years of their service. Only those past cases may be re-opended where the benefit of dearness pay was allowed in respect of a portion of the last three years of service *i. e.* in respect sf emoluments drawn under the Government of India in a substantive capacity. In other words, the provisions of Finance Office Memorandum will take effect from 26-5-59 and will apply to those displaced Government servants retiring on or after 15-7-55.

[G. I. M. F. Memo. No. F. 16(4) EV(C)/63, dated the 23rd April 1963.]

(31) A question has been raised whether a permanent displaced Government servant who was not confirmed under the Government of India and whose pension was, therefore, determined with reference to the emoluments he would have drawn in the substantive post held by him last under the former provincial Governments of Sind and N. W. F. P., and who was given the benefit of dearness pay in respect of emoluments drawn by him in an officiating post under the Government of India for the purpose of Article 487-B CSR, can be allowed to forego the benefit of dearness pay and get, in lieu thereof the benefit of temporary increase in pension as sanctioned from time to time. The President has been pleased to decide that in the case of such a displaced Government servant in whose case the benefit of dearness pay was allowed only in respect of emoluments drawn in an officiating post under the Government of India, the pension already sanctioned may be revised by excluding the element of dearness pay and the person concerned allowed in lieu thereof temporary increase in pension provided that the pension already sanctioned is not adversely affected. Pending cases and cases which may arise after the issue of these orders may also be dealt with accordingly.

[G. I. M. F. Memo. No.'F 16(4) EV (63), dated the 29th August 1963.]

Auditor General's decisions :—(1) With the concurrence of the Government of India, the Auditor General has decided that in cases where leave with allowances occurs during the last 72 month's service of a piece-worker employed in a Government Press, the principle of Rule 1 under Article 487, Civil Service Regulations, should be applied in calculating his "average emoluments" for pension, and his "wages" or "earning" at full class rates may be taken into account for the period of leave on average and half average pay for this purpose.

[Assistant Director of Commercial Audits, Calcutta No. 33/Endt/20-3-30 dated 19-6-193[1.]

(2) The Controller of Civil Accounts has decided with the concurrence of the Government of India that the average emoluments of the employee of the Civil Departments who have been allowed to count their previous military service for civil pension under Article 356, C. S. R., but retire before completing 3 year's service in the Civil Department, should be calculated on the basis of pay drawn in the Civil and Military Departments during the last 3 years of service, and the break between the military and civil services should be disregarded and an equal period before the 3 years should be included on the analogy at Rule 2 under Article 487, C. S. R.

[C.C.A.'s letter No. 43-A/252-31, dated 10-2-1932].

(3) See Auditor General's decision below Article 490.

(4) The meaning of Rule 1 under Article 487, C. S. R. is that pension cannot be increased on account of an increase in pay which might or would have accrued during an officer's leave, but which was not actually drawn until the officer returned to duty. The proviso (*a*) under ***Rule*** 487 means that benefit should not be given of increments actually accrued, but not drawn during leave.

[Auditor General's No. T/1007/289A-25 dated 22-9-1925.]

(5) A question was raised whether the periods during which an official of a seasonal establishment governed by Article 369, C. S. R, is not employed and does not draw pay or leave salary, should form part of three years service for the purpose of calculations of average emoluments under Article 487 C.S.R. and if so, what should be the emoluments for this purpose. The Auditor

General with the concurrence of the Government of India held that the substantive rule in Article 487 C. S. R. defines average emoluments as average calculated upon the last three years of an officer's service. Since there is no exception to this general rule to cover cases like that under consideration the whole of the last three years of service including the periods which count but during which no emoluments were drawn should enter into calculations and not merely the periods during which emoluments were drawn. while on the other hand the emoluments that should be taken into account should, under rule 3 below Article 487 be those actually drawn during the period.

[Auditor General's U. O. I. No. 189-A/57-44, dated 1-5-1944.]

(6) Shri D. Arokiaswami of the Survey of India Department held the post of Superintendent in the Scale of Rs. 400-20-500, in a substantive capacity and was in receipt of a pay of Rs. 440 p.m. plus a personal pay of Rs. 20 p m. He was transferred to another post at his own request on 12th April 1952 and was appointed to officiate in the scale of Rs. 250—15—400. He was drawing Rs. 400 in that post and was due to retire from service on 20th October 1956 and a question arose whether he was entitled to count the emoluments of the higher post for the purposes of his pension.

The Comptroller and Auditor General held that the officer in this case was allowed Rs. 400 p.m. though his substantive pay was Rs. 440 p.m. since 1952. Accordingly only Rs. 400 out of his substantive pay of Rs. 440 can be included in the calculations of average emoluments.

[Comptroller and Auditor General's letter No. 704-A/79-56, dated the 28th May 1956 to the address of Accountant General's, U. p.]

Audit Instructions :—(1) Average emoluments for pension should be worked out wholly by converting sterling overseas pay into rupees at the rate of 1*s.* 6*d.* to the rupee and the entire pension should be fixed in rupees.

[Para 27 (*i*) Section III of the Manual of Audit Instructions (Reprint)]

(2) For the purposes of calculations of "average emoluments", an increase of pay which took effect during the currency of privilege leave combined with furlough during the last three years of service and was actually drawn by a Government servant as part of his privilege leave allowances under Article 60, C. S. R. is not an increase in pay not actually drawn" within the meaning of proviso (*a*) to Rule 1 under Article 487, C. S. R. The rate of pay during the furlough portion to be taken into account for the calculation of "average emoluments" would be what the Government servant would have drawn had he been on duty *i. e.* the increased rate of pay drawn during the privilege leave portion of the combined leave.

[Para 27 (*ii*), Sections III of the Manual of Audit Instructions (Reprint)].

(3) The principle underlying audit instruction No. (2) above applies in the case of a Government servant who takes leaves under the Fundamental Rules during the last three years of his service and who during the currency of the average pay not exceeding four months or the first four months of any period of leave on average pay exceeding four months is promoted in a substantive or provisionally substantive capacity to a post carrying a higher rate of pay or earns an increment which is not withheld. In such a case the Government servant is entitled in respect of period of his leave to count the pay which he would have drawn had he remained on duty as 'emoluments' for the purpose of the Article 487, Civil Service Regulations, even though the increase in pay due to promotion or increment is not actually drawn during leave under the Fundamental Rules corresponding to privilege leave.

[Para 27 (*iii*), Section III of Manual of Audit Instructions (Reprint).]

Note :—This Audit Instruction applies only in a case of promotion in a substantive or provisionally substantive capacity. An Officer was promoted only to officiate in one of the up-graded posts and it was held that his case was not covered by this Audit Instruction and he would not accordingly he allowed to include the increased emoluments he would have drawn under Article 487 C. S. R. The concession of increase in pay is justified in the case of those persons who were actaully officiating in a higher post and would have continued to officiate in that post but for leave. There is no question of extending this benefit to a man who was not actually officiating but would have officiated had he not proceeded on leave. Counting of increment as emoluments for pension when

such increments falls due during the period of leave preparatory to retirement corresponding to privilege leave is different from counting of officiating pay for pension. The latter even under the libralised provisions of Article 487-C.S R. should have been drawn for two complete years immediately before proceeding on leave.

[G.I.M.F. File No : 12(21)-EV/57.]

(4) *Not printed.*

(5) For purposes of calculation of average emoluments for pension, in respect of seasonal establishments the whole of the last three years of service including the periods which count but during which no emoluments were drawn should enter into calculation and not merely the periods during which emoluments were drawn. The emoluments that should be taken into account should, under rule 3 below Article 487, C. S. R., be those actually drawn during that period.

[Para 27 (*vi*) Section III of the Manual of Audit Instruction (Reprint).]

(6) Periods of joining time other than joining time under note 2 below F. R. 107 which fall within the last three years of Government Servant's service should form part of three years for the purpose of average emoluments

In cases of joining time falling under clause (*a*) and (*c*) of F. R. 107, where the pay of a particular post is drawn, the actual "emoluments" (not the actual joining time allowance drawn should be taken for the purpose of average emoluments. In cases of joining time falling under clause (*b*) (*ii*) of F. R. 107 during which leave salary is drawn, and in cases falling clause (*b*) (*i*) of F.R. 107 during which no leave salary is drawn, the pay, (*i. e.* emoluments) which would have been drawn (but for a rule or order not allowing it) if the Government servant had not been on joining time should be taken into account in the calculation of "average emoluments."

This period of joining time under note (2) below F. R. 107 during which a Government servant is not entitled to be paid, should be regulated for the calculation of average emoluments on the lines of rule 2 below Article 487, C. S. R.

[Para 27 (*v*), Section III of the Manual of Audit Instruction (Reprint).]

487A. In the case of a Government servant who quits service on superannuation, retiring, invalid or compensation, pension, or invalid or compensation gratuity and who during the period from 3rd September, 1939, to 31st December, 1947, holds or has held before retirement a permanent post in a provisionally substantive or officiating capacity, or a temporary post in a substantive or officiating capacity, where such post carries a rate of pay higher than his substantive pay, but the increase over substantive pay, does not count for pension or gratuity under Article 486 (*h*), Civil Service Regulations :—

(*i*) his average emoluments for pension as calculated with reference to Articles 486 and 487 of the Civil Service Regulations shall be increased :—

either (*a*) by one-half of the difference between the average emoluments so calculated and the average emoluments which would result if each post or posts were permanent and he had held them substantively for the period of service rendered in the higher post or posts between the dates 3rd September 1939 and 31st December 1947.

or (*b*) by thirty three and one-third per cent ; whichever is less.

(*ii*) if he is eligible only for gratuity calculated with reference to the provisions of Article 474(*a*) of the Civil Service Regulations, the amount of gratuity shall be increased :—

either (*a*) by one-half of the difference between the amount so calculated and that which would have been taken into account if such post or posts were permanent and he had held them substantively for the period of service rendered in the higher post or posts between the dates 3rd September, 1939 and 31st December, 1947.

or (*b*) by thirty-three and one-third per cent ; whichever is less.

(*iii*) During periods of leave with allowances taken by a Government servant while holding a temporary post substantively or while holding a permanent post in a provisionally substantive capacity, the emoluments which he would have drawn had he not proceeded on leave will be taken into account for the purpose of sub-paragraphs (*i*) and (*ii*) above in all other cases, the concession will not be applicable during the periods of leave.

In the case, however, of an officer governed by the Civil Service Regulations who held or will hold a lien, under Article 210, Civil Service Regulations, during the period of privilege leave on a post, permanent or temporary, in which he was officiating, the emoluments which he would have drawa had he not gone on such leave will be taken into account for this purpose.

(*iv*) The pension of Government servants who have already retired after the 3rd September, 1939, shall be revised in accordance with the above formula, but the increased pension shall have effect only from 24th March, 1947, the date of promulgation of this amendment.

(*v*) Nothing contained in the fromula set out above shall have the effect of modifying any of the existing rules which govern the counting of service qualifying for pension or the several maxima of pensions prescribed in the rules nor shall it affect any of the existing rules or orders relating to the special pay attached to temporary or permanent posts counting as emoluments for pension.

Note :—The concession admissible under this Article will apply to permanent Government servants who served in the Naval, Military or Air Force during the period 3rd September, 1939 to 31st December, 1947 and for the purpose of this Article such Government servant shall if he was actually in receipt of Military rates of pay during the said period, be deemed to have held an analogous post in the Civil Department on a rate of pay equal to the pay of this appointment/rank (including paid acting/temporary rank) including Indian Army Allowance, corps pay, additional pay, charge pay, parachute pay and specialist pay.

Government of India's decisions :—(1) It has been decided with the concurrence of the Auditor General that the provisions of this Article are applicable to Government servants officiating in leave vacancies as well. As a matter of fact this rule was meant to cover such cases which did not come within the scope of Article 486 (*b*).

[G. I. M. F. U. O. No. 2542E. V/48,, dated 7-5-1948.]

(2) The Government of India have held with the concurrence of the Auditor General that the pension originally sanctioned *plus* the increase under the Article should be treated as one pension for all purposes including commutation and that there would be no objection to allowing persons who have already commuted a portion of their pension commutation to the extent permissible under the rules. But this will not do away with the need for fresh medical examination etc, required under the Civil Pensions (Commutation) Rules. In other words, this will be trated as a commutation for a further sum within the limits laid down in the rules.

[G. I. M. F. U. O. No, 2439—E. V/48, dated 21-4-1948.]

(3) A question was raised whether the expression "average emoluments for pension as calculated with reference to Article 486 and 487 of the Civil Service Regulations" used in Article 487A means the average emoluments inclusive of the element of dearness allowance added in accordance with Ministry of Finance office Memorandum No. F-13 (7)-Est-V/47, dated the 1st December, 1947 [see decision No. (13) below Article 487, C.S.R.] It was held that for the purpose of Article 487A, the element of dearness allowance should be treated separately and should not be taken into consideration for computing the increase under the Article.

[G. I. M. F. Memo No. 14(1) E. V/40 dated 17-1-1949.]

(4) A civilian Government servant on transfer to Military Accounts Department during the period 3-9-1939 to 31-12-1947 will be governed by

the substantive part of Article 487A, C.S.R. rather than by note thereunder. In cases where the 'note' applies it does not differentiate between combatants and non-combatants.

[G.I.M.F.U.O. No. 4018-E V/49, dated 28-6-1949.]

(5) It has been held that under Article 487A, C. S. R. when the substantive holder of a temporary post is appointed to officiate in a higher post and he proceeds on leave, the emoluments for pension during leave of which he availed himself of while officiating in the higher post will be calculated with reference to his substantive pay in respect of permanent post and not in respect of his temporary post.

[G.I.M.F.U.O. No. 8051/E. V/49, dated 29-11-1949.]

(6) Certain pensionary concessions were extended to Central Government servants who were in permanent pensionable service, and who held during the last three years of their service, higher posts in a temporary or officiating capacity during the period from the 3rd September, 1939, to the 31st December, 1947, *vide* Article 487A, Civil Service Regulations. The Government of India have now decided to extend these concessions for a period of *ten years from the 1st January, 1948, to the same extent and on the same conditions, but subject to the following modifications :—

(*i*) The concession will be admissible to a Government servant only if he had continuously officiated in a higher post or continuously held a higher temporory post during two complete years immediately before his retirement, or death.

Note :—1. For the purpose of the clause, all kinds of leave taken during the last two years of service will be included in the two year period, if it is certified that the Government servant would have continued to hold the higher post if he had not proceeded on leave.

Note :—2. In the case of a Government servant who, while continuously officiating in a higher post or holding a higher temporary post during the last two years before retirement is confirmed in that higher post, the period after confirmation will be included in calculating the prescribed period of two years.

Note :—3. So long as a Government servant held a post higher than his substantive post for two complete years before retirement, it is not necessary that he should have held the same higher post throughout this period.

(*ii*) The pensions of those who retired between the 1st January 1948 and the Ist August 1952 will be recalculated on the basis of these orders, but no arrears will be paid.

(*iii*) The concession will be admissible during all periods of leave, provided that Government servant concerned had continuously officiated in a higher post or continuously held a temporary post for two complete years immediately before proceeding on such leave, and it is certified that he would have continued to hold that post for the entire period if he had not proceeded on leave.

2. When a Government servant is eligible for service gratuity only, or is eligible for a service gratuity or pension and a death-*cnm* retirement gratuity, the emoluments for the purpose of calculating these gratuities will also be increased in the manner prescribed in clause (*ii*) of Article 487A, Civil Service Regulations. This increase will be allowed to Government servants who have retired even before the date of issue of these orders. if they are otherwise eligible for it but the amount payable will be reduced in proportion to the period which has already elapsed since the Government servant's retirement. For this purpose, the monthly pension equivalent of the amount of increase will be calculated on the basis of the commutation table with reference to age next birthday after retirement, and a total sum at this rate deducted for the actual period that has elapsed between the date of retirement and the Ist August, 1952.

[G. I. M. F. Memo : No. F. 15 (6) E. V/52, dated the 25th July, 1952.]

Note.—1. It has been held :—

(*i*) that the grant of the concession embodied in the above decision to persons who are holding higher posts in a provisionally substantive or temporary substantive capacity

*Extended to 31st December 1962 vide Article 487B.

is also subject to the fulfilment by them of the various conditions laid down therein, and is not automatic ; and

(*ii*) that the admissibility of the concessien to a Government servant whose eligility therefor has already been established with reference to clause (*i*) of para 1 of this decision during a spell of leave or during each of several spells of leave, is subject to the requirement laid down in clause (*ii*) *ibid* being satisfied, namely ; that the Government servant concerned should have actually been on duty for two complete years immediately before proceeding on each spell of leave.

[G. I. M. F. Memo : No. F. 15 (6)-E. V/52, dated the 7th June, 1952].

Note.—2. A question has been raised as to what would be the effect of the orders contained in this decision on the death gratuity and or family pension payable under the New Pension Rules in respect of an officer who died while in service or within 5 years of his retirement, in the interval between the 16th April 1950 and the 1st Augusf, 1952. The question has been carefully considered and it has been decided that the family pension and death gratuity admissible in such cases should also be re-calculated with reference to the orders contained in this decision so, however, that the increased rate of family pension will be admissible only in respect of the period after the 31st July, 1952, and the re-calculated death gratuity will be reduced in the manner contemplated in para 2 of this decision.

[G. I. M. F. Memo : No. 15(6)—EV/52, dated the 18th August, 1955]

Note.—3. The restiction in sub para (*iii*) of the para 1 of above decision will apply only in regard to reckonging of pension. In the case, however, of (gratuity including death cum-retirement gratuity) which is based on 'emoluments' and not on 'average emoluments' the restriction in that sub para will not apply. The gratuity will, therefore, be based on emoluments which the officer would have drawn but for his proceeding on leave even though the Government servant may not have continuously officiated in higher post or continuously held higher temporary post for two complete years immediately before proceeding on such leave.

[G. I. M. Memo : No. F. 12(10)-Est-A/55, dated the 17th June, 1955].

Note.—4. Note 3 above is clarificatory in that it merely purports to make and in fact makes it explicit that the restriction in sub para (*iii*) of this decision, does not apply in regard to the reckoning of gratuity (including death-cum retirement gratuity) the gratuity is based enly on emoluments as defined in Article 486, C.S.R. and read with para 2 of the memorandum referred to above and not on average emoluments. The question, therefore, whether the above note takes effect retrospectively from the 1st January, 1948 or from the date of its issue itself, *i.e.* the 17th June 1955, does not arise.

[G.I.M F. letter No F. 12(10)-E V/55, dated the 10th September 1955, to the Accountant General, Madhya Pradesh, Nagpur).

Note.—5 A doubt has been expressed in certain quarters with reference to note (3) above as to what 'emolument' should be taken into account in the calculation of pension and or death-cum-retirement gratuity in the case of a person who while on leave pending retirement during the last three years of his service, is confirmed in the higher post which he held in an officiating or temporary capacity, after the first four months of such leave. Such a person is neither eligible for counting for pension the substantive emoluments in the higher post unless he rejoins duty before his retirement, nor officiating emoluments to the extent admissible under Article 487-B. Since it is not intended that he should be worse off in the matter of pension than what he would have got had he held the higher post purely in an officiating or temporary capcity, it has been decided, in consultation with the Comptroller and Auditor General, that he may be allowed the concession of Article 487-B Civil Service Regulations, only to the extent and subject to the conditions imposed therein.

[G. I M F. Memo : No. F. 12 (10)-E.V/55, dated the 16th Jully, 1956]

(7) See Government of India's decision No. (31) below Article 486.

(8) Graade pay and good service pay are in the nature of pay and should therefore be included in the expression pay of his appointment/rank (including paid acting temporary rank) including Indian Army Allowance, Corps pay, additional pay, and special pay, etc. occurring in the note below Article 487-A of the C. S. R. Grade pay has ceased to be admissible with effect from the 1st July, 1957.

[G. I. M F. letter No. F, 15 (1) E. V/53, dated the 15th January, 1953 to the address of the Accountant Genea Mysore.]

(9) question has been raised whether the concession embodied in decision No. (6) above is admissible also to a Government servant who is transferred on foreign service or deputed to service under a State Government, in respect of any higher temporary or officiating post which he would have held had he not been so transferred on foreign service or been sent on deputation. The question has been carefully considered, and it has been decided, as a result, that the benefits under the said decision shall be admissible in such cases also ; provided that the Government servant

concerned has received *pro forma* promotion under Fundamental Rule 113 or under the second provision to Fundamental Rule 30(1), as the case may be. The other conditions regarding eligibility etc. for the benefits under the said decision would also continue to apply in such cases.

These order will have effect as if they had formed part of and been issued along with the decision referred to above.

In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India.

[G. I M Memo : No. 15 (6)—EV/52, dated the 22nd October, 1953.]

(10) The concession embodied in decision No. (6) above shall be admissible also to such of the Class IV Central Government servants as retired or may retire on or after the Ist August, 1952. In other words, the benefit of counting for pension a portion of the emolumens received in a higher temporary or officiating appointment by such servants shall be available to them subject to the other conditions of the Office Memorandum cited above being fulfilled, only in respects of such appointments held by them on or after the Ist August 1949.

2. In so far as persons serving in the Indian Audit Department are concerned these orders have been issued after eonsultatlon with the Comproller and Auditor General.

[G. I. M. F. Memo : No. F. 15 (32) EV/59, dated the 16th December, 1953.]

(11) A question has been raised whether a special pay, which does not conform to the definition of duty allowance or deputation (duty) allowance given in the Civil Service Regulations and which does not therefore count for pension under Articie 486 (*i*) or Article 486 (*j*) of these Regulations, can be treated as 'officiating pay drawn in a temporay post' for the purpose of the benefits in Article 487A of the Civil Service Regulations, as modified by decision No. (6) above. The question has been carefuly considered in consultation with the Comptroller and Auditor General. It has now been decided that, in such cases, special pay other than that which is in the nature of deputation (local) allowance, will be treated as 'officiating pay' or 'pay drawn in a temporary post' for the purpose of the benefits mentioned above and clause (*v*) of Article 487-A of the Civil Service Regulations should be deemed to have been modified to this extent. No portion of a special pay, which is in the nature of a depution (local) allowance, as defined in Article 23-B of the Civil Service Regulations, should however, be allowed to count for pension in any circumstances.

[G. I. M. F. No. 12(20)-EV/54, dated the 28th October, 1954.]

(12) The concession of Articles 487-A and 487-B of the C. S. R. are different one's and the legibility of each depends on the fulfillment of the conditions prescribed under the respective Articles. Thus in a case where a Government servant held a temporary post in substantive capacity and proceeded on leave from 3-12-47, and resumed duty on 6-1-48 and retired from service on 10-3-48 the officer will be entitled to the concession for the period of leave upto 31-12-47 under Article 487A. He was holding the post substantively, but from the period 1-1-48 the to 5-1-48 the concession would not be admissible as he has not been on duty for a period of 2 years before proceeding on leave with effect from 3-12-47. This would mean that a single spell of leave in such a case will have to be notionally split up and the concession in respect of each portion of leave determined separately. The cases already dealt with finally need not, however, be re-opened.

[Comptroller and Auditor General's U. O. No. 1252-A/29-52 (Pt. III) dated the 13th October, 1954 and G. I. M. F. U O. No. 8763-EV/53 dated the 22nd November 1954 in File No. F 12(27)EV/54.]

487-B. In the case of a Government servant who quits service on a superannuation, retiring, invalid or compensation pension, or invalid or compensation gratuity and who, during the period from the 1st January, 1948, to the 31st December 1962 holds or has held before

retirment a permanent post in provisionally substantive or officiating capacity, or a temporary post in a substantive or officiating capacity, where such post carries a rate of pay higher than his substantive pay, but the increse over substantive pay does not count for pension or gratuity under clause (*h*) of article 486 of these Regulations :—

(*i*) his average emoluments for pension as calculated with reference to articles 486 & 487 shall be increased ;—

either (*a*) by one-half of the difference between the average emoluments so calculated and the average emoluments which would result if such post or posts were permanent and he had held them substantively for the period of service rendered in the higher post or posts between the 1st January 1948 and 31st December, 1962 ;

or (*b*) by thirty-three and one-third per cent ; whichever is less.

(*ii*) If he is eligible only for a gratuity calculated with reference to the provisions of clause (*a*) of article 474 of these Regulations, the amount of gratuity shall be increased :

either (*a*) by one-half of the difference between the amount so calculated and the amount which would have been arrived at as if such post or posts were permanent and he had held them substantively ;

or (*b*) by thirty-three and one-third percent, whichever is less.

Provided that the increase referred to in clauses (*i*) and (*ii*) shall be allowed only to such Government servants as had held continuously a higher post or posts—

(*a*) for period of not less than two complete years immediately before the date of his retirement, or

(*b*) for two or more spells during the last three years of his service, the last spell covering a period of two years or more, in which case the concession shall be admissible in respect of all the spells.

Note. (1) For the purpose of clauses (*i*) and (*ii*) all kinds of leave taken during the last two years of service shall be included in the two-year period, if it is certified that the Government servant would have continued to hold the higher post or posts if he had not proceeded on leave.

Note. (2) In the case of a Government servant who while continuously holding a higher post or posts, is confirmed in a higher post, the period after confirmation may where necessary, be included in calculating the prescribed period of two years

Note. (3) So long as a Government servant holds a post higher than his substantive post for two complete years immediately before the date of his retirement, it is not necessary that he should have held the same higher post througout the period.

(*iii*) This concession shall be admissible during a period of leave also provided that the Government servant had continuously held a higher post or posts for two complete years immediately before proceeding on leave, and it is certified that he would have continued to hold that post for the entire period if he had not proceeded to leave.

(*iv*) The pension of Government servants who retired on or after the 1st January, 1948, shall be revised in accordance with clcuse (*i*) of this article but the increased pension shall have effect only from the 1st August, 1952, For the increase in the amount of gratuity admissible under clause (*ii*) of article over the amount calcualated under clause (a) of article 474 of these Regulations, there shall be deducted a sum, in respect of period between the date of retirement and the 1st August 1952, calculated at the rate of monthly pension equivalent to the amount of increase on the basis of the commutation table with reference to the age next birth-day after retirement.

(*v*) Nothing contained in this article shall have the effect of modifying any of the existing rules which govern the counting of service qual ifying for pension or the definition of emoluments reckoning

for pension, or the several maxima of pensions prescribed in the Regulations.

Provided that special pays [other than those of the nature of deputation (local) allowance] which are not of the nature of duty allowance or deputation (duty) allowance, as defined in these Regulations, and which do not, therefore count for pension otherwise, shall be treated as 'officiating pay' or 'pay drawn in a temporary post' as the case may be, for the purpose of benefits under this article.

(*vi*) **The concession admissible under this article shall also apply to a permanent Government servant who served in the Army, Navy or Air Force during the period from the 1st January, 1948 to the 31st December, 1962, and for the purpose of this article, such Government servant shall, if he was holding a lien on a permanent civil appointment and was actually in receipt of military rates of pay during the said period, be deemed to have held an analogous post in the Civil Department on a rate of pay equal to the pay of his appointment or rank (including any paid-acting or temporary rank) including parachute pay and specialist pay.**

Government of India's decisions. (1) See Government of India's decision No. 39 below Article 486.

(2) Clause (*ii*) and the Notes there-under of Article 487-B, C. S. Rs., lays down that the concession in the Article is admissible only if the Government servant concerned had held a higher post or posts for a period of not less than two complete years immediately before the date of retirement. A doubt has arisen whether the concession is admissible to a Government servant who had officiated in a higher post or posts during a portion of the last three yeare of his service but who had been subsequently confirmed in the same or other higher post or posts and the service after confirmation is more than two years immediately before his retirement in an officiating, temporary substantive capacity or a combination of these and if the other conditions prescribed are satisfied.

[G. I. M. F. Memo No F. 12(22)EV/55, dated the 10th December, 1955.]

(3) In accordance with clause (*iii*) of Article 487-B of the Civil Service Regulations the benefit of counting for pension the emoluments drawn by a Government servant in a higher post in a temporary or officiating capacity is admissible during a spell of leave only if the Government servant concerned had continuously held the higher post or posts for two complete years immediately before proceeding on that leave and it is certified that he would have continued to hold it if he had not proceeded on that leave. It has been brought to the notice of the Government of India that this condition opertes harshly in the case of Government servants who may have to go on leave (other than long leave) for one reason or the other and who do not therefore satisfy the condition of two year's continuous duty. It has, therefore, been represented that in computing the two year's period of duty, the intervening spell or spells of leaves during which the officer otherwise would have continued to officiate should also be taken into account. After careful consideration the Government of India have decided that any spell of leave not exceeding four months at a time shall not constitute an interruption of duty for the purpose of reckoning the two-year period.

[G. I. M. F. Memo No. F. 12(28)-E. V/55, dated the 2nd February, 1956.]

(4) *Omitted.*

(5) See Government of India's decisions Nos. (44) and (45) below Article 486.

(6) A doubt has been expressed whether the expression "any spell of leave" occurring in the last sentence of Government of India's decision No. (3) above, includes extra-ordinary leave and commuted leave. It is accordingly stated for the guidance of all concerned that for the purpose of computing the two year's period of officiating under Article 487B., C. S. Rs. the expression

"any spell of leave" occuring in aforesaid decision, covers any kind of leave (including commuted leave and extra-ordinary leave) not exceeding four months at a time.

[G. I. M. F Memo No. F. 12(19)-EV/57, dated the 4th July, 1957.]

(7) The benefit allowed in proviso (*b*) to clause (*i*) and (*ii*) to Article 487-B of the C. S. R. will be admissible only if the Government servant is officiating for two years or more in a higher post or posts immediately before retirement and not otherwise.

[G. I. M. F. Memo No. F. 12(33)-EV/57, dated 30-9-1957.]

(8) The Assistant Accounts Officer on deputation to the Posts and Telegraph Department are given deputation allowance as an inducement to attract the right type of officers. The object of including the special pay for purposes of Article 487B C. S. R. is to allow concession in cases where the post held by the person concerned is undoubtedly higher one and a higher scale of pay would have been prescribed therefor instead of the temporary expedient of grade pay in another lower post plus a special pay. The deputation allowance is in the nature of compensatory allowance only and no portion of it can be allowed to count as emoluments for pension under the Rules.

[G. I M, F. File No, 12(4)-EV/57].

(9) One of the conditions for the grant of the benefit of counting higher officiating emoluments for pension under Article 487-B, C. S. Rs., to a permanent Central Government employee on deputation to a State Government is that he shall have received *pro forma* promotion under the second proviso to the Fundamental Rule 30 (1). Such a condition does not, however, exist in the case of a Central Government employee on deputation to the Armed Forces or to another Department of the Central Government. As the deputation of such an employee under a State Government is analogous to his deputation to the Armed Forces or to another Department of the Central Government the condition referred to above leads to a discrimination in the matter of admissibility of the concession under Article 487-B, C. S. R. The matter has been carefully considered and it has been decided that the benefit of counting for pension higher officiating emoluments actually drawn while on deputation shall be admissible in the case of a Central Government employee on deputation under a State Government irrespective of whether the employee has received any *pro forma* promotion or not.

The other conditions regarding eligibility etc. for the benefit under Article 487-B, C. S. R. would, of course, continue to apply in such cases.

Past cases, already decided otherwise, will not be reopened.

In so far as persons serving in the Indian Audit & Accounts Department are concerned, these orders have been issued after consultation with the Comptroller & Auditor General.

[G I. M. F Memo : No. 12 (42)-EV/57, dated the 7th January, 1958.]

(10) According to decision No : (3) above any spell of leave not exceeding four months at a time does not constitute an interruption of duty for the purpose of reckoning the two-year limit laid down in clause (*iii*) of Article 487B, of the Civil Service Regulations. The said orders took effect from the date of their issue, *i.e.* from the 2nd February 1956.

*As a result of certain respresentations received in this behalf, the President has now been pleased to decide that pensions sanctioned with effect from 1st January 1948, the date on which Article 487B, came into force, or a later date but before the 2nd Februrary, 1956, shall also be revised, wherever necessary in accordance with the decision No : (3) above and given effect from the 1st January 1958.

In so far as persons serving in the Indian Audit and Acconnts Department are concerned, these orders have been issued in consultation with the Comptroller & Auditor General.

[G I. M, F. Memo No : 12(41)-EV/57, dated the 9th January 1958].

*As amended *vide* decision No : 10B below Article 487B.

(10-B) Doubts have been expressed (*i*) whether the pensions sanctioned on or after the 1st January, 1948, even if the persons retired before this date, are also to be revised in accordance with the Government of India's decision No. (3) above, and (*ii*) whether the pensions sanctioned on or after the 2nd February, 1956 in respect of persons retiring during the period from 1st January, 1948 to 1st February, 1956 are not to be so revised. The position is that since Article 487-B, C. S. Rs., itself came into force on the 1st January, 1948 the orders contained in Finance Ministry's Office Memorandum dated the 9th January, 1958 are not applicable to the persons retiring before the 1st January, 1948 are not to be revised. The pensions of persons retiring during the period from the 1st January, 1948 to the 1st February, 1956, even if sanctioned on or after the 2nd February, 1956, should, of course, be revised.

In view of the above position, it has been decided that the expression "sanctioned on and after 1st January, 1948, the date on which Article 487-B, C. S. Rs. came into force, but before the 2nd February, 1956" occuring in para 2 of the decision No : (10) shall be substituted by the expression ,'sanctioned with effect from 1st January, 1948 the date on which Article 487-B. C. S. Rs. came into force, or a later date but before the 2nd February, 1956."

It is also clarified that payment of arrears due to the revision of pension in accordance with the provisions of the decision No. (10) is to be made in respect of pensions due for the period from the 1st January, 1958 onwards.

[G. I M. F. Memo : No. F, 12(44) EV/57, dated the 30th April, 1958].

(11) A question has been raised whether the benefit of *ad-hoc* increase of Rs. 5 can be allowed to personnel who were on leave preparatory to retirement on the crucial date *viz.*, 1st August 1956. The refiaxtion of pay under the orders will not give benefit to the personnel in question in the matter of leave salary which is based on average pay drawn prior to proceeding on leave. Further, Article 487(1) of Civil Service Regulations prohibits an increase in pension on account of an increase in pay not actually drawn. However, under Audit Instruction 27 (*iii*) below Article 487, C. S. Rs. in Section III of the Manual of Audit Instructions, it is permissible to take into account increases in pay which occur during the first four months of leave on average pay. The Government of India have, therefore, been pleased to decide that the benefit of *ad-hoc* increase may be allowed to the staff who were on leave preparatory to retirement on the crucial date and in whose case the increase will occur within the first four months of leave on average pay.

[G. I. M. F. Memo No. F 4(4)-E. III/56, dated the 24th April 1956].

Auditor General's decisions (1) It has been decided in consultation with the Government of India, Ministry of Finance that under sub-rule (2) to Article 487-C. S Rs., if during the last three years of his service any officer has been suspended under such circumstances that the period of suspension does not count as service, the period so passed should be disregarded in the calculation of average emoluments, and equal period before the three years being included. As such, for purposes of average emoluments, the retirement is in effect antidated by the period of suspension. The person concerned is considered to have been retired before the date of suspension. If even then the Government servant in question fulfills the conditions prescribed for the concession admissible under Article 487-B, C. S. Rs., for the period taken into calculation of average emoluments, it cannot be denied to him.

As regards a Government servants who is reinstated after suspension without being allowed to count the period of suspension as duty for pension, and then retires after putting in further service for some months, the case is regulated under Note 2 below Article 487, C. S. Rs. for the purpose of calculation of average emoluments for pension. The provision will apply also in cases falling under Article 487-B, C. S. Rs. As regards computing of two year's period to become eligible for the concession under the latter article, the Government servant should have officiated in a higher post before and after the period of suspension, which should be ignored for a period of two years. In other words,

if a Government servant has officiated in a higher post for 1 year and 8 months, and is then placed under suspension, on reinstatement officiates in the same post for 4 months, he would be deemed to have completed two year's period, ignoring the period of suspension which does not count for pension for, the purpose of Article 487-B, C. S. Rs.

[Comptroller and Auditor General's letter No. 1716-N. G. E. 1/117-58 dated the 27th October 1958 received with his memo : No 962-N G E 1/117-58 dated the 30th April 1959]

(2) The restrictions contained in Government of India's decision No. (5) below Rule 7 of the Revised Leave Rules in Chaudri's Compilation of the Civil Service Regulations, Volume II are not-applicable to the granting of Certificates under Article 487-B.

[Comptroller and Auditor General's letter No. 513-A. 1/372-59, dated the 11th July 1960]

Allowances which do not count.

488. An officer cannot count the following allowances :—

(1) Local allowances and deputation (local) allowances ;

(2) Messing allowances, Working allowances, and Provision allowance to officers in the Marine Department.

(3) House-rent allowances, or estimated value of free quarters ;

(4) Tour and other allowances (to officers who accompany the Viceroy or any (Government);

(5) Compensation of dearness of provisions.

Net Emoluments taken.

489. Any part of an officer's pay or emoluments, which is specially intended to provide for expenses incidental to his duty, must be excluded.

The following are examples of the operation of this Article :—

(1) When an officer's pay is intended partly to cover the expense of his providing or keeping a horse. his pay must be taken only at what it would be if it was not intended to cover such expense. When a water carrier's pay includes provision for a bullock, his pay must be taken at what it would be if he were not required to keep a bullock.

(2) When a consolidated pay specially includes tentage, travelling allowance, or house allowance, these must be deducted :

(3) **Not printed*

(4) When an officer's pay is fixed at two rates, a smaller rate during stationary duty and a higher rate during periods passed on tour or travelling, the former rate alone should be the basis of the calculation.

490. When service on temporary duty counts for pension under Article 376, the pay of the permanent appointment held by the officer, and not that drawn in respect of the temporary duty is taken into consideration in determining the amount of pension, unless the officer draws a deputation (duty) allowance under the provision of Article 76C or Article 81.

Auditor General's decision:—When a permanent officer during the last three years of his service, happens to be deputed to an appointment which though at first created experimentally or temporarily, eventually, becomes permanent, the average emoluments for the purposes of pension should be calculated on the pay of the permanent appointment held by the officer and not on the pay drawn in respect of the temporary duty.

[Auditor-General. letter No. $\frac{565\text{-Code}}{106\ ;\ \text{E-24}'}$, dated the 4th July 1925.

*Refers to Thugyi in Lower Burma.

491. The preceding Article does not apply to an officer deputed tempnrarily to service in the Income-tax Department or to an officer deputed on abolition of his appointment to special duty (Article 397), or to an officer who, when his appointment was abolished, was on special duty. In these cases the full allowances are counted.

Combination of Appointments.

492. If an officer has held more than one appointment in respect on each of which, if he had held it separately and alone, pension would have been admissible to him the pension admissible to him is the sum of the several pensions which would have been admissible to him if he had held each office separately and alone. The consolidated pension thus admissible is subject to the limitations prescribed in Article– 474 to 480 ond 481.

Auditor Genral's decision—The decision No. (7) below Article 486.

493. An officer is not entitled, for service in an office conjointly with another office to any pension which would not have been admissible to him if he had held the office separately and alone.

CHAPTER XX – SPECIAL RULES FOR THE POLICE.

SECTION I.—EXTENT OF APPLICATION

Government Police.

494. The rules in this Chapter apply to :—

(1) Members of Police Forces constituted unde Acts XIII of 1856, XXIV of 1859, and V of 1861 of the Governor-General of India in Council, Act, IV of 1886 of the Lieutenent-Governor of Bengal in Council, and Acts VII of 1857 and I of 1872 of the Governor of Bombay in Council.

(2) The Trans Indus Police Force, which was not organised under Act V of 1861 until the 4th August 1873, and never possessed a Superannuation Fund

(3) Members of the Salt Preventive Force employed on the Northern Frontier line, at the Runn Salt Works in the Bombay Presidency and on Salt Preventive Lines on the Goa and Daman frontiers, though the Forces to which they belong are not constituted under any of the Legislature, and never possessed a Superannuation Fund.

(4) Members of the Polic Force serving in the Baluchistan Agency and sowars of the Somali Coast Mounted Police Force, although the Forces are not constituted under any Act of the Legislature.

Municipal Police

495. (*a*) If the police of a town are wholly supported by and under the control of a municipality, the Government has no concern with their pensions.

(*b*) But if the Government being interested in the efficienay of a Police Force, paid, wholly or partly, by a Municipality: the Calcutta Port Trust or from Cantonment Funds, or from the General Revenues subsidised by a contribution from a Municipality, the Calcutta Port Trust, or from Cantonment Funds, undertakes the organisation and control of the Force, as connected with and auxiliary to the Civil Constabulary, service in such a Force qualifies, the contributions of Municipalities, the Culcutta Port Trust, or of Cantonment Funds towards the cost of the pension of such Force are, for the present undetermined.

496. The Police Forces in the Presidency towns of Calcutta, Madras and Bombay, and in the Municipalities in Lower Bengal come under clause (*b*) of tbe preceding Article.

497. *Omited.*

Railway Police.

498. The service of members of the Railway Police, appointed and controlled by Government, qualifies, though they may be either wholly or partly paid by the Railway Companies.

Government of India's decision.—The cost of retiring gratuity to members of Watch and Ward Staff, the cost of which is duly shared by Government and the Company, should similarly be shared by Government in the same way as Railway Companies bear their share of the liability for pension of members of Law and Order Police Force. It is not necessary that such gratuities or pensions should be granted under the rules of the C. S. R.

[G. I.F. D. No 4018., A dated 2nd August 1910.]

SECTION II—QUALIFYING SERVICE.

499-500. *Not Printed.*

Service Before Enlistment.

501. In the following cases service rendered before enlistment in the persent Police Constabulary qualifies :—

(*a*) **Service in superior grades in any other Department qualifies.**

(*b*) **Service in the Bombay Excise (Abkari) Police, before that Force was amalgamated with the Bombay District Police, qualifies.**

(*c*) **Native Commissioned officers and men of the Army who volunteer for transfer to the levies and Military Police raised in Burma in consequence of the annexation of Upper Burma, are allowed to count their Army service for pension under the rules applicable to the Police in that Province.**

(*d*) **A subadar or jemadar of the Bengal or Assam Military Police recruited from the Army or from a local corps, and Native Officers and men of the Dera Ghazi Khan Border Military Police recruited from the Army count service as follows :—**

(*i*) **A man recruited from the Army will be eligible for pension under the civil rules (counting both his past Military and Police service) on completion of ten years' service in the Military Police. If he retires with less than ten years' service in the Police he will be granted pension on the Military scale according to his rank for the whole period of his service including service in the Police.**

(*ii*) **A man recruited from a local corps may count half his service in such corps to wards Civil pension.**

Note :—Pensions granted to men who count Army service under the foregoing rules are, if their Military service was sufficient to entitle them to pension if discharged without fault, a Military charge ; otherwise they are a Civil charge.

Auditor General's decision.—The U. P. Government issued order in 1922 to the effect that service in the Military Police in Assam and Burma would not count for pension in the case of a person who was re-enlisted in the U. P. Police Force. A question was raised whether the order of the U. P. Government was consistent with the provisions of Article 501 C.S,R.

Auditor General's decision.—

The question has reference to two classes of pensions (*i*) constables of the Burma and Assam Military Police who join the U.P. Police without a break in service. In regard to persons of the first category the U P. Government are not competent to order that the past sorvice in Assam and Burma should not count for pension if that service is qualifying service under the pension rules of the Assam and Burma Government, as such an order will have a deliberalising effect on the conditions of service of the persons concerned and will run counter to the provisions in Section 241 (3) of the Government of India Act, 1935,

As for the persons of the second category, Article 501, C. S. R. can be

applied only through Article 422 *ibid*. Under the latter Article it is entirely a matter for discretion of the competent authority to condone or not to condone the break. The executive order of the U. P, Government, means in effect a restriction on the powers of the competent authority in cases of persons of the second cotegory *i. e.* on this order the competent authority has been debarred from exercissng the power under Article 422, C. S. R. when service in Assam and Burma Military Police is concerned. The U. P. Government were competent to issue such instructions to the executive officers under them ; and Article 422, C. S. R. as applicable to persons under the rule-making control of the U. P. Government is therefore to be regarded as modified to the extent specified in the order,

[Auditor General's No. T. 998-A/123-37, dated 24th August 1937.]

502 *Cancelled.*

SECTION III—AMOUNT OF PENSION.

503. The pension admissible to police constables will be determined according to the rules contained in Chapters XVII to XIX for the calculation of pensions for Superior Serviee ; except that their service in the Police Force after the age of 18 years qualifies.

Government of India's decision.—Under this article the Police constables are entitled to pension at superior scale. This position has not been effected by the General reclassification of posts of superiors and inferiors by amendment to Article 396 of the Civil Service Regulations.

G. I. M. F, U. O. No. D-482-EV/53, dated the 17th January 1953]

504, *Not-printed.*

505 *Deleted*

506. The pension admissible to an Officer other, than a police constable, is determined by the rules which apply to ordinary service except that service rendered after the completion of twenty years of age and declared by this Chapter to be qualifying, is treated as Superior Service.

If the officer was promoted from the rank of police constable and losses by promotion any benefit as to pension which he would have enjoyed his pension may be regulated as if he had not received the promotion.

2. Men of the Bombay City Police count as Superior their service in the Force in Inferior grades before the establishment of the Superanuuation Fund.

Previous Inferior Service.

507. If part of an officer's continuous service qualifies for pension under the general rules, but does not qualify under the rules in this Chapter, he may elect to receive, in lieu of the pension admissible under this Chapter, such pension as is admissible to him under Article 398 and 481 to 488 for the whole of his service both Inferior and Superior (*see* **Article 460**)

508. *Deleted.*

Calculation of Pension.

509. Except in the case of officers of the Town Police of Calcutta and of officers of the Town of Bombay who were in the Force before the 1st April, 1886 (Article 504), pension is to be calculated upon the net pay *i e* **the pay actually received by the officer, and not upon the gross pay,** *i. e.* **the pay from which were deducted the subscription to the Superannuation Funds** [*See concluding sentence of Note 1 to Article* **499] But this rule shall not, unless he be either promoted to higher pay or degraded for miscunduct to lower, pay be applied to any officer who, on the 19th July, 1871 was entitled by the rules of the Superannuaoion Fund, to have his pension calculated on his gross pay.**

Government of India's orders. (1) The recipients of the King's Police Medal or a Bar to the medal, should, where the decoration is awarded for an act of gallantry, be entitled to monetary allowance subject to the following conditions :—

(*a*) The allowance should be granted only to officers of and below the

rank of Inspector of Police.

(*b*) The amount of the allowance should depend on the rank of the receipient at the time when the act of gallantry is performed and it should continue to be paid at that rate on promotion to higher rank (including ranks above that of Inspector),

(*c*) In the case of an officer already in receipt of an allowance, an addition should be made to the allowance on the award of a bar to the medel, according to the rank of the recipient at the time when the services for which the Bar is awarded are rendered, provided that if at the time of the award of the Bar the recipient is of higher rank than when he was awarded the medal, he shall be entitled to substitute for the original allowances *plus* the additional allowance, the amount of allowances he would be entitled to draw, had he been awarded the medal in his present rank.

(*d*) The allowance should be granted from the date of the act for which the award is given and unless it is forfeited for misconduct, will continue until death.

(*e*) Where an individual is in receipt of the allowance at the time of his death, it shall be continued for life or till remarriage (unless) forfeited for misconduct) to his widow (the first married wife having the preference).

2. The rates of the allowance for the different ranks will be as follows—

Rank	Allowance for Medal or for Bar awarded to an officer not already in receipt of an allowance. Rs. A.	Allowance for Bar awarded to an officer already in receipt of an allowance. Rs. A.
Inspector Civil Police ... ... Subedar-Major and Subedar, Military Police Deputy Inspector, Sub-Inspector and Sergeant, Civil Police.	25 0 per mensem	12 0 per mensem
Jamadar, Military Police.	16 0 ,, ,,	7 0 ,, ,,
Assistant Sub Inspector, Civil Police ...	10 0 ,, ,,	5 0 ,, ,,
Head Constable, Civil Police ... ... Havildar and Naik Military Police ... Constable, Civil Police	7 8 ,, ,,	3 8 ,, ,,
Sepoy, Military Police	5 0 ,, ,,	2 8 ,, ,,

3. The Governor-General in Council has further decided that the present holders of the Medal and Bar granted for acts of gallantry including those on pension, should be entitled to draw the allowance with effect from the 1st January, 1930.

[G.I. F. D endorsement No. D/1757-EX. II/30, dated 15th February 1930]

(2) The widows of the recipients of the King's Police Medal falling under the categories mentioned below should be eligible for the allowance sanctioned in order No. (1) above under the conditions stated in clause (*e*) of para 1 of the aforesaid order :—

(*i*) Widows of men posthumously granted the Medal or Bar for gallantry on or before 1st January, 1930.

(*ii*) Widows of men posthumously granted the Medal or Bar for gallantry after 1st January, 1930.

(*iii*) Widows of holders of the Medal or Bar for gallantry who die before 1st January, 1930.

Children are not entitled to the allownnce in case there is no widow,

[G. I, F. D., endorsement No. D. 3423 Ex, 11-31 dated 16th April, 1931,]

Auditor General's decisions : (1) Payment of the allowance to men on non-effective service and to the widows of deceased persons who were in receipt of the allowance will be authorised by the issue of a separate Pension Payment Order in favour of the recipient. The allowance will be drawn separately on a,

pension bill form the nature of the claim being clearly stated in the bill. These charges will he audited in the Pension Section on the lines of audit prescribed for ordinary pension. The Departmental Section concerned will send those bills monthly to the pension section for audit and return.

The charges of those allowances when paid to men on effective service should be classified as "Honoraria" and those granted to the persons not in effective service and to the widows of deceased persons to "Supplies and Services—Miscellaneous" under the respective "minor and sub-heads" under the major-head "23-Police."

[C. C. A. letter No. T-1575-Admn. -135-30, dated 16th October, 1930]

(2) The conditions governing the grant of the allowance attached to the King's Police Medal hold good in the case of the allowance attached to the Indian Police Medal. The charges will be met from the Central or Provincial revenue according as the recipients are paid from the Central or Provincial revenues.

The Auditor General has decided that the procedure prescribed for the audit of payments of the allowance granted to the recipients of the King's Police Medal should be adopted in respect of payments of the allownnce to the recipients of the Indian Police Medal also in so far as the payments to Police officers in British India are concerned,

[Auditor General's endorsement No, 1117 Admn-I/383-32, dated 4th December, 1932]

CHAPTER XXI—RE-EMPLOYMENT OF PENSIONERS

SECTION—I. GENERAL

509A. No. officer, Civil or Military, may retire with the view of being re-employed, and drawing pension in addition to pay, whether in the general service or in the service of any Local Fund.

Government of India's orders.—(1) The following Extract from Hon'ble Minister Finance's D. O. to Hon'ble Minister for Works, Mines and Power No. 3594-PSF/49, dated the 17th May, 1949 which was circulated with G.I.M.F. endorsement No. F. 6 (10)-E. III/49, dated the 21st May, 1949, explains the policy for fixation of pay re-employed pensioners :—

"2. In determining the pay of a re employed pensioner we now apply two rules namely—

(*i*) The pay must not exceed the current (revised) scale applicable to the post; and

(*ii*) Pension which is non-effective pay, should not be allowed in addition to effective pay.

3. So far as (*i*) is concerned, in exceptional cases an officer may be allowed an initial pay higher than the minimum of the current scale, with prior financial concurrence but in no case should it exceed the maximum of the scale prescribed

* * * * * * *

In regard to (*ii*) above it is only logical that a person should not be allowed to draw effective pay as well as non-effective pay at the same time I confess that Finance Ministry have in the past slipped up in certain cases and concurred in exceptions being made, but you will agree with me that in a matter like this, we must make a start some time and get away from precedents.

4. It is possible that the fixation of pay for unemployed officer may result in his getting less pay than what he was actually drawing at the time of retirement or what some of his juniors serving under him may be receiving. Such a situation is bound to arise so long as we have a set of old entrants who joined service before July, 1931, and have been allowed to retain these old rates of pay which are substantially higher than the scales now prescribed by the Central Pay Commission. There is, however, nothing unusual or derogatory in this situation. A re-employed pensioner has necessarily to be treated on a par with a new entrant and his pay must be fixed in the current scales, not withstanding the fact that prior to retirement he was drawing a protected rate of pay.

5. The question of fixation of pay will not of course arise if any officer who is about to retire is given an extension of service."

Government of India's decision—(1) *Omitted.*

(I-A) In supersession of all earlier orders on the subject, the Government of India have decided that the following procedure should be adopted in fixing thd pay of pensioners including officers pensioned off or retired on Contributory Provident Fund, and from services of the State Government, local bodies, Port Trusts etc. administered by Government, Raiiways, Defence Estimates. etc,

re-employed in Central Civil Departments :—

(*a*) Re-employed pensioners should be allowed only the prescribed scales of pay, that is, no protected time scales such as those available to pre-1931 entrants should be extended to them.

(*b*) The initial pay, on re-employment, should be fixed at the minimum stage of the scale of pay prescribed for the post in which an individual is re-employed.

In cases where it is felt that the fixation of initial pay of the re-employed officer at the minimum of the prescribed pay scale will cause undue hardship, the pay may be fixed at a higher stage by allowing one increment for each year of service which the officer has rendered before retirement in a post not lower than that in which he is re-employed.

(*c*) In addition to (*b*) above, the Government servant may be permitted to draw separately any pension sanctioned to him and to retain any other form of retirement benefit for which he is eligible *e. g.*. Government's contribution to a Contributory Provident Fund, gratuity, commuted value of pension, etc.. provided that the total amount of initial pay as at (*b*) above, *plus* the gross amount of pension and/or the pension equivalent of other froms of retirement benefit does not exceed :—

(*i*) the pay he drew before his retirement (pre-retirement pay,) or

(*ii*) Rs. 3,000 whichever is less.

Note 1. In all cases where either of these limits is exceeded the pension and other retirement benefits may be paid in full and the necessary adjustments made in the pay so as to ensure that the tolal of pay pensionary benefits is within the prescribed limits.

Where after the pay is fixed at the minimum or any higher stage, it is reduced below the minimum as a result of the said adjustments, increase in pay may be allowed after each year of service at the rates of increments admissible, as if the pay had been fixed at the minimum or the higher stage as the case may be,

Note, 2. Pay last drawn before retirement will be taken to be the substantive pay plus special pay, if any, pay drawn in an officiating appointment may be taken into account if it was drawn continuously for at least one year before retirement.

(*d*) In the case of posts for which personnel with the requisite qualifications and experience are not available and is found necessary to recruit an officer for service at a place situated at a considerable distance from his home town the restriction that initial pay on re-employment plus pension should not exceed the last pay drawn, may be relaxed to the extent indicated below ;—

(*i*) Initial pay on re-employment plus gross pension/pension equivalent of other retirement benefits should not exceed the pay last drawn before retirement by more that Rs. 250.

(*ii*) The total of initial pay on re-employment as fixed under para (*b*) plus gross pension/pension equivalent of other retirement benefits should not exceed Rs. 1,000.

(*iii*) The above concession will be admissible only where the officer has retired on a superanuation pension.

(*e*) In cases where the minimum pay of the post in which the officer is re-employed is more than the last pay drawn, the officer concerned may be allowed the minimum of the prescribed scale of the post less pension and pension equivalent of other retirement benefits.

(*f*) Where the restriction that pay on re-employment plus gross pension equivalent of other retirement benefits should not exceed the last pay drawn has to be relaxed in circumstances other than those mentioned in sub-paragraphs (i) and (*e*) above, the approval of the Ministry of Finance should be obtainad in each individual case.

(*g*) Once the initial pay of a re-employed pensioner has been fixed in the manner indicated above, he may be allowed to draw-normal increments in the time-scale of the post to which he is appointed, provided that the pay and gross pension/pension equivalent of the other retirement benefits taken together do not at any time exceed Rs. 3,000 per month.

(*h*) Re-employed officers may be permitted to contribute to the Contributory Provident Fund, provided that where the term of re employment is initially for a year or less but is later extended so as to exceed one year the Government contribution with interest will be credited only after the completion of one year's re-employed service. The Government contribution with interest shall be payable for the entire period for which the re-employed officers is allowed to contribute to the Contributory Provident Fund if such period exceeds one year.

(*i*) (i) In cases where an officer, who before retirement was in the civil employ of the Central Government (excluding the Railway Department) is re-employed before he had an opportunity to avail himself of the leave which had been refused to him in the exigencies of public service under F. R. 86(*a*) or the corresponding rule in the Revised Leave Rules/Civil Service Regulations, before the date of superannuation, and which, under the rules, could be enjoyed by him after the date of superannuation, the officer may be permitted to avail himself of the unutilised portion of such leave on termination of the period of re-employment, on the same leave salary as would have been admissible to him in the normal course but for the re-employment.

(*ii*) The leave salary for the period of such leave would be the same as would have been admissible in the normal course but for re-employment reduced by the amount of pension and/or pension equivalent of gratuity and other retirement benefits.

(*iii*) The leave salary for the refused leave which is permitted to be availed of on termination would be borne by the Department which would have borne it had the leave been enjoyed before re-employment and not postponed.

(*iv*) The existing position will continue in the case of officer who may be re-employed during the period of their leave preparatory to retirement.

(*v*) To the extent the leave earned during the period of re-employment is not availed of during the period of re-employment itself it will be allowed to be availed of on termination of re-employment, provided the leave on average pay or earned leave carried forward under para 1 (*i*) (*i*) above and the earned leave allowed as terminal leave shall together not exceed the limits upto which leave on average pay, privilege leave or earned leave can be allowed at a time under the Fundamental Rules, Civil Service Regulations or the Revised Leave Rules, whichever of these rules were applicable to the officer before retirement.

If a person has on the date of re-employment enjoyed a portion of the refused leave, the leave admissible to him on finally demitting office after re-employment will be composed of the unavailed of portion of such leave and the leave earned during the period of re-employment in such manner as the officer desires and the incidence of such leave salary will follow the manner in which the two leaves are combined. Formal sanction to such leave should be accorded by the authority or authorities empowered to sanction it prior to and during re-employment.

(*vi*) The earned leave earned during re-employment shall be allowed to be availed of as terminal leave even though it may not have been formally applied for and refused in the exigencies of public service.

2. The Administrative Ministries will be competent to fix the pay of retired officers re-employed under them in accordance with the formula mentioned in paragraph 1 above, provided the post in which the officer is re-

employed already carries a sanctioned scale of pay. Cases in which a scale of pay has not been sanctioned for the post, will, as hitherto, continue to be referred to the Ministry of Finance in terms of Finance Ministry' sOffice Memorandum No. F. 10 (5)-E. V/50 dated the 6th June, 1950.

3. These ordors will apply to cases of re-employment occuring hereafter and past cases are not to be re-opened. In respect of officers already on re-employment, these orders will apply from the date of commencement of the further period of re-employment, if the existing period of re-employwent is extended

4. In so far as the staff of the Indian Audit and Accounts Department are concerned, these orders are issued in consultation with the Comptroller and Auditor General, who will exercise the powers nf an administrative Ministry for the purpose of these orders in respects of persons re-employed in the I. A. & A. Department.

[G. I. M. F. Memo : No. 8 (34)/Est. III/57, dated the 25th November. 1958]

Note. It has been decided that officers who have been re-employed from a date prior to 25th November, 1958 for an unspecified period or for a period which extends beyond the date of issue of the present orders may, subject to their option, be brought under the provisions of the above decision with immediate effect.

The option should be exercised in writing within a period of three months from the date of issue of these orders. The option once exercised shall be final-

[G. I. M. F- Memo : No : F. 8(19)-Est. III/60, dated the 30th May 1960].

(1—A A) According to Note 2 below paragraph 1 (c) of Government of India's decision No. (1-A) below Article 509A pay last drawn before retirement will be taken to be the substantive pay plus special pay; if any pay drawn in an officiating appointment may also be taken into account if it was drawn continuously for at least one year on the date of retirement.

A question has been raised whether qualification pay drawn by certain personnel in the Defence Services on the date of retirement may be taken into account in computing their last pay for the purpose of fixation of pay on re-employment. It has been decided that it should not be taken into account.

(1-B) It has been decided that the Administrative Ministries may henceforth delegate their powers indicated in decision No : (1-A) above to lower authorities at their discretion in respect of appointments which are within the powers of such lower authorities to make, provided that where pay is proposed to be fixed at a stage higher than the minimum under para 1 (*b*) and where provisions contained in para 1 (*d*) are to be invoked, each such case should continue to be referred to the Administrative Ministry concerned for orders as heretofore.

In so far as the persons serving in the In lian Audit and Accounts Department are concerned, these orders are issued in consultation with the Comptroller and Auditor General, who will exercise the powers of an Administrative Ministry for the purpose of these orders in respect of persons re-employed in the Indian Audit and Accounts Department.

[G, I. M, F. Memo No. F. 8 (34)—E. III/57, dated the 31st March 1960].

(1 C) See Government of India's decision No. 3 below Article 200.

(1-D) Under the Govt. of India late Finance Department letter No. 520-C.S.R dated the 31st May, 1922 embodied in Chaudri's Compilation of C.S.R. Volume I as Government of India's decision Mo (4) below Article 459, the grant of leave under Fundamental Rule 86 or corresponding other rules automatically carries with it the extension of service required and no formal sanction to the extension is necessary.

A question has been raised whether in the case of a Government servant who is permitted to avail of the refused leave on termination of a period of re-employment under paragraph 1(*i*) of decision No. (1—A) the refused leave thus availed of by him will also carry with it automatic extension of service. The position is that. since under paragraph 1 (*i*) above the refused leave is availed of after the date of actual retirement from Government service when the Government servant concerned ceases to retain a lien on his permanent post, such leave cannot and will not be treated as carrying with it automatic exten-

sion of service.

[G. I. M. F. Memo No. F-7 (27).Est. IV (A)60, dated the 14th March 1960].

(IE) Government of India have issued the following clarifications in respect of decision No. (1—A).

S. No.	Reference	Point of doubt	Clarification
1.	Paragraph 1(*b*)	Whether the benefit of a higher stage for each year of service as envisaged in sub-para (*b*) of para 1 can be allowed even though the periodicity of the increment in the scale of the post in which the pensioner is re-employed is longer than a year.	No. In such cases pay should be fixed at a stage which the officer would have reached if he had rendered the service, for which credit is given to him, in the post in which he is re-employed (*e.g.* if an officer is re-employed in a post the scale of which carries a biennial rate of increment and he had rendered 8 year's service in equivalent or higher posts before retirement he will be allowed 4 increments only and *not* 8).
2.	—do—	In the case of persons who had enjoyed the benefit of a higher start in the scale of pay of the last post held by them at the time of retirement by the operation of F. R. 22(*a*) with reference to their pay in previous posts, should the number of increments that may be given if they are re employed in the same post or in a post on the same scale of pay be equal to the number of years' service rendered in that post before retirement or equal to the number that a directly recruited officer would have to earn to reach the stage of pay at which the re employed persons retired.	One increment for each year's service actually put in an equivalent or higher grades should be allowed by adding the number of increments to the minimum of the prescribed scale. The fact that an officer actually entered the scale at a higher stage because of his holding a substantive post in a lower scale, should be ignored (*e.g.* an officer drawing a substantive pay Rs. 375 in the scale of Rs. 275—500 is promoted to the grade of Rs. 275 –800 in which his pay is fixed at Rs, 400. If he has rendered 3 years' service in the latter post and is re-employed in the same scale, his pay on re-employment (in case of hardship) can be fixed after adding 3 increments to the minimum of the scale of pay *viz.*, Rs. 275, and not to Rs. 400.
3.	Note 2 below para 1 (*c*)	Whether an increment earned during the period of L. P. R., can be taken into account for determining the retirement pay.	Increments accuring during the first four months of leave on average pay or within earned leave of 120 days taken as L.P.R. will be taken into account. If the re-employed officer was holding a post in an officiating capacity the increment in respect of that post may be taken into account only if the competent authority certifies that the re-employed officer would have held the officiating appointment but for proceeding on Leave preparatory to retirement, Promotion to any higher post which the officer would have got but for going on leave will not be taken into account.
4.	—do—	Whether all kinds of special pays will count towards pre-retirement pay, particularly pay granted for combination of appointments, special pay granted in addition to pay of the lower post and special pay attached to officiating or tenure posts and	(*i*) Only special pay granted in terms of F. R. 9(25) will be taken into account for determining pre-retirement pay. But such special pay like officiating pay should be taken towards pre-retirement pay only if it has been drawn for at least one year before

		whether generally special pay can be taken into account without any limitation as to the minimum period for which it was drawn before retirement.	retirement. Cases which might have been dealt with otherwise before the issue of this clarification need not be reopened. (*ii*) Pay for holding more than one charge under F. R. 49 can hardly be treated as special pay. Normally there should be no occasion for a person to hold such charges for over one year. Such additional pay should not, therefore, be taken into account in fixing pre-retirement pay.
5.	—do—	Whether personal pay granted either for loss of substantive pay or in certain circumstances for loss of officiating pay or on other personal consideration can be taken towards pre-retirement pay.	Personal pay granted for loss of substantive pay should be taken into account in fixing pre-retirement pay irrespective of whether it is drawn for a year or not as it stands on the same footing as substantive pay. But other personal pays should be accorded the same treatment as officiating pay and taken into account only if they had been drawn for a year or more.
6	—do—	Whether leave preparatory to retirement. foreign service, etc. during the last one year before retirement would be included in the computation of one year for the purpose of determining pre-retirement pay if it is certified that the officer would have officiated in the higher post but for his being on such leave, foreign service etc.	There is no objection to the periods indicated in Col. 3 being taken into account towards the period of one year provided the competent authority certifies that the officer would have officiated in the higher post but for his being on such leave, foreign service etc.
7.	—do—	What pay should be reckoned as pre-retirement pay of officers who retire from foreign service.	It should be the pay that the officer would have drawn in his parent service. Regard will also be given to the promotions which the officer would have received in his parent service as provided for in F.R. 113, provided he would have officiated for more than one year.
8.	—do—	Whether special pay and personal pay which do not count towards emoluments for pension but which are added to the officiating pay for giving benefit under Art. 487-B of the C.S.R. can be counted towards pre-retirement pay.	It would be difficult to make a distinction between special pay and personal pay counting towards emoluments and those counting towards officiating pay for the purpose of benefit under Art. 487-B of the C,S.R. However, the working rule should be as suggested againt 4(*i*) above, that is, the benefit of special pay and personal pay other than granted for loss of substantive pay should be allowed only if it has been drawn continuously for at least one year before retirement.
9.	—do—	If an officer has officiated in a grade for more than one year, whether the pay drawn by him in that grade for less than one year before retirement would be taken as his last pay for the purpose of fixation of pay.	The pay drawn in a grade in which an official has officiated continuousy for more than one year will be taken as his pre-retirement pay irrespective of the fact that the last pay drawn was far less than a year.

[G. I. M. F. Memo ; No. 8(32) Est-III/60 dated the 21st July 1960].

(I-F) A question has been raised whether in all cases of re-employment while issuing the sanction for fixation of pay it would suffice if the gross amount

of pay as calculated under para 1 (*b*) of decision No. (1-A) above is indicated and the necessary adjustments under paragraph 1 (c) of that decision if necessary, being left to Audit/Pay & Accounts Officers concerned to make. The point has been examined in consultation with the Comptroller and Auditor General and the following procedure may be adopted in future.

2. In the case of re-employment of pensioners under Central Government (Civil), whether it is in gazetted, non-gazetted or Class IV Service, the competent anthority is to indicate the pay of a re-employed officer.

For the correct determination of pay of Government servants re-employed in Central Government (Civil) Departments under decision No. (1-A), competent authorities should obtain the following information in respect of all officers *viz* Gazetted, non-gazetted officers and Class IV, from the Audit/Pay and Accounts Officers who reported on the title to pension etc.

(*i*) Post held substantively on the date of retirement and substantive pay in that post together with scale of pay.

(*ii*) Other post, if any, held in an officiating capacity on the date of retirement and officiating pay drawn in the post together with scale of pay.

(*iii*) In the case of (*ii*) the dates of actual officiation.

(*iv*) (*a*) Special pay, personal pay, and deputation allowance, if any drawn on the date of retirement and the period for which it was drawn continuously·

(*b*) The portion counted as emolument for pension should be indicated.

(*c*) In the case of special pay, drawn in a substantiv post whether it is a part of the prescribed scale of that post and included in the relevant pay schedules.

(*v*) Gross pension, including amount commuted, particulars of Pension Payment Order, to be quoted,

(*vi*) Death-cum-Retirement or other gratuity and pension equivalent thereof.

(*vii*) Government contribution to the Contributiory Provident Fund with interest and pension equivalent thereof the Contributory Provident Fund Account Number previously allotted and the particulars of the authority issued by the previous Audit/Pay & Accounts Officer.

Competent authorities after getting the above information should fix the re-employed pay of the officers under the provisions of decision No. (I-A) and communicate the same in the sanction letter to the Audit/Pay& Accounts Officer. In addition to the above, competent authorities may give the following additional information to the Audit/P & A/cs. Officer. Particulars of equivalent-higher posts held by the re-employed Government servant which are taken into account for giving a higher starting salary under para I (*b*) of decision No. (1-A).

[G. I. M. F. Memos. No. 8(40)-Est. III/61, dated the 1st November, 1961]

(1—G) It was clarified *vide* item 3 of decision No : (1—E) above that the increment accruing during the firse four months of leave on average pay or within 120 days taken as leave preparatory to retirement could be taken into account in determining the pre-retirement pay on re-employment except that if the re-employed Government servant was holding the pre-retirement post in an officiating capacity the increment in respect of that post could be taken into account only if the competent authority certified that the re-employed officer would have held the officiating appointment but for proceeding on leave preparatory to retirement.

With the issue of Finance Ministry's Office Memorandum No. F. 7 (122)-Estt. IV/A/60 dated the 1st September 1960 [G. I. decision No. (1) below F R. 86 in Chaudri's Compilation of F. R. and S. R.] the grant of leave extending beyond the date of compulsory retirement or beyond the expiry of extension in service is not treated as an extension of service and the Government servant is not permitted to retain a lien on his permanent post or any other post dur-

ing the period of leave.

Further in accordance with the clarification in item 1 of Finance Ministry's Office Memorandum No. 7 (1)-E. IV/A/61 dated the 7th January 1961, [See G.I. decision No. (9) below F. R. 86 in Chaudri's Compilation of F.R. and S. R. in the case of an officer availing himself of refused leave, the pensionary benefit would be admissible as due to him on the date of superannuation though the benefit could be given only after the expiry of the leave.

In the circumstances, the question of the increment falling due during the period of refused leave being taken into account for determining the pre-retirement pay of an officer on his re-employment would not arise and item (3) should be deemed to have been cancelled.

[G.I.M.F. Memo : No : 7 (38)-Est, III/62, dated the 18th October 1962]

(I-H) It was decided in decision No : (I-G) above that an increment falling due during the period of refused leave should not be taken into account for determining the pre-retirement pay of an officer in fixing his pay on re-employment and item (3) of the statement annexed to decision No : (IE) above was cancelled. This item however applied to L. P. R. in general which would have included both ordinary leave prepatory to retirement and leave refused under F. R. 86. The difficulty in certifying that but for the leave the officer would have continued in the officiating post concerned exists in the case of refused leave only. In the case ordinary leave preparatory to retirement it should be possible to decide on the issue of such certificates on the merits of each case. It is accordingly clarified that item (3) of the statement annexed to decision No : IE should be deemed not to have been cancelled at all but that its provisions would not apply to increments falling due during "refused" leave.

[G.I.M.F. Memo, No. 7 (38)-EIII/62, dated the 10th March 1963]

(2) See Government of India's decision Nos. (2) and (3) below Article 510.

*(3) The Government servants who have opted for India and are found surplus to the requirements of the Ministry concerned are nominated by the Transfer Bureau of the Ministry of Home Affairs to the various Ministries and offices of the Government of India for appointment to analogous posts in or under the Ministries concerned.

A question has arisen as to the fixation of their initial pay on appointment of such posts. It has been decided with the concurrence of the Ministry of Finance, that :—

(*i*) the pay of the permanent Government servants other than those officiating in higher posts at the time of evacuation to India should be fixed in accordance with the provisions of the Fundamental Rules.

(*ii*) If a temporary Government servant or a permanent Government servant, officiating in a higher post at the time of evacuation to India is appointed to a post comparable to the post previously held by him, his pay will be fixed as if the previous post had been held substantively and the provision of F. R. 22 (*a*) (*ii*) applied. If, however, he is appointed to a lower post than the one he was holding previously, the period of service rendered by him in the higher post shall be taken into account for the purpose of increments in the lower post.

[G. I. M. H. Affairs Memo : No. 70/14/47 Eats—(R), dated 9th December 1947].

(4) It has been decided that for the purpose of initial fixation of any of refugee Government servants under Home Ministry's Office Memorandum No. 70/14/47 Ests (R), dated the 9th December, 1947, [decision No. 3 above] comparability of posts should be determined purely by the scales of pay attached to them and should have no relation to the duties. The comparison need not be meticulously close. If the difference between the minimum *and* the maximum of the two scales is within 20% of the lower figure, the grades

*Also see decision No. 5-B below Article 509A.

may be treated as corresponding ones. For example the scale of Rs. 100-10-200 would be treated as corresponding to Rs. 80-8-220. Border line cases may be decided by the Accountant General, Central Revenues, without the approval of Finance Ministry. Any doubtful case should be referred to this (Finance Minisry for a ruling.

[G. I. M. F U. O. No. 2293-Est. III/48, dated 29-4-1948 circulated with Memo No. F. 15 (2)-Est III/49, dated 22-2-49].

(4A) Ministers who are in receipt of pension from Government remain entitled to draw the pension as well as the full salary as Minister, Deputy Minister during his term of office. Comptroller and Auditor General also agreed *vide* his U. O. No : 1069A/266-58, dated 21-5-1958.

[G. I. M. F. File No : 7 (98) EV/58].

(5) In the course of the application of the orders contained in decision No. (3) above some interpretations and decisions have been given by Finance Ministry in consultation with the Ministtry of Home Affairs with a view either to fill in certain *lacunae* in the original orders or to avoid undue and un-intended hardship to displaced persons by their literal application. In order that these decisions and interpretations may be uniformly applied in cases, they are embodied below for information :—

1. *Marginal cases of comparability decided on merits* :—The 20 per cent limit referred to in decision No : (4) above for the purpose of comparability of scales is generally adhered to but marginal cases are decided on merits, in consultation with this (Finance) Ministry.

2. *Pre 1931 scales taken for comparability in cases of pre-1931 entrants*— In case of a displaced Provincial Government servant, who was a pre-1931 entrant, the pre-1931 scale of the post to which such a person has been appointed in India, is taken into account for the purpose of comparability of scales, if the prescribed (*i. e*) 1947) scale does not happen to be comparable with the scale attached to his post in Pakistan. The actual pay, however, is fixed in the prescribed (*i. e.* 1947) scale of pay.

3. *Benefit of Officiating pay in post lower than that last held in Pakistan* :- In cases where the post to which a displaced Government servant has been appointed in India is not comparable to post last held by him in an officiating capacity on the date on which he was last on duty in Pakistan, but is comparable to the lower post in which he was officiating prior to his promotion to such higher post, benefit of the officiating pay that he would have drawn on that date in the lower post but for his promotion, is allowed under para 2 (*ii*) of the orders of the 9th December, 1947, [See decision No. (3) above] subject, however, to the condition that the total period of officiating service in the lower as well as the higher post in Pakistan is not *less* than six months.

Note. Doubts have been raised as to whether in determining the comparability of scales in cases falling under para 3 of this decision pre-31 scales of pay can be taken into account in respect of pre-31 entrants as envisaged in sub-para 2 of para 1 therein. para 3 being a liberalisation of para 1 (1), the intention is that the provisions of all other sub-paras of para 1 should be applied *mutatis-mutandis* while considering the cases under para 3

[G. I. M. F. No. F. 15 (4) Est.III/49, dated the 16th January 1953.]

4. *Criterion for including special pay for the purpose of comparability and fixation of pay* :—For the purpose of fixation of pay in India special pay drawn by a displaced person in Pakistan is ordinarily not taken into account but if in any particular case the special pay had been granted in lieu of a higher scale of pay, it is taken into account both for determination of comparability of scale and fixation of pay. An example of this would be the special pay attached to the posts of Head Assistants in the N. W.F.P. No specific scales existed for the posts. An Assistant promoted as Head Assistant continued to get up in his basic scale of Assistant *viz.* Rs. 120—10—200—10—300 and was granted a special pay of Rs. 50 in addition. This (Finance) Ministry has considered such a special pay as part of basic scale of pay. The benefit of such a special pay can, however, be given only if the virtual scale of the post in Pakistan (arrived at by adding the special pay to basic scale) in which one was officiat

ing in Pakistan is comparable to the scale of his present post in accordance with the existing formula, and the period of officiation as Head Assistant was not less than six months.

Each case has, however, to be considered on its merits in consultation with this (Finance) Ministry.

5. *Benefit of officiting pay, if officiating period was not less than six months* :—Benefit of officiating pay drawn by a displaced Government servant in Pakistan in a comparable post is allowed under para. 2 (*ii*) of the orders referred to above only in cases where the officiating period was not *less* than six month.

6. *Pay restricted to the maximum of the scale applicable to the post in India*—A displaced Provincial Government servant is not allowed more pay than maximum of the prescribed scale of the post to which he has been appointed in India even though his substantive pay in Pakistan was more than the maximum. In this connection attention is invited to Finance Ministry's endorsement No. 8432-E. III/49, dated the 13th August 1949, [see decision No. (4) above]. This restriction, however does not apply to a permanent Central Government servant who opted for India. In his case full protection in respect of his substantive (permanent) pay and scale has been guaranteed.

7. *Pay fixed on the analogy of F.R. 22 (a) (i) when the post in India is higher than the officiating post last held in Pakistan* :—When a displaced Government servant is appointed to a post in India which is not comparable but is higher than the officiating post last held by him for not less than six months in Pakistan, pay is fixed at the stage next above his officiating pay in Pakistan on the analogy of F.R. 22 (*a*)(*i*), treating his officiating pay as substantive pay.

8. *Method of fixation of pay of persons appointed to lower post*—Under para. 2 (*ii*) of the orders of the 9th December, 1947, [see decision No. (3) above the pay of a person appointed to a post lower than the one in which he was officiating on the date on which he was last on duty in Pakistan is fixed in the prescribed scale after counting the period of service rendered in the higher post in Pakistan.

The exact method of fixation of pay in such cases is as follows :—

(*i*) The minimum of the scale of pay attached to the post in India *plus* increments for the periods (provided it is not less than a year) he held the higher post in Pakistan ; or

(*ii*) the pay fixed on the basis of his substantive (permanent) pay, whichever is more advantageous to him.

9. *Pay fixed on the basis of that actually drawn while last on duty in Pakistan*—For the purpose of fixation of pay under the orders of the 9th December, 1947, only the pay (substantive or officiating, as the case may be) actually admissible to a person on the date of his last duty in Pakistan is taken into account. In other words benefit of any higher pay that would have been admissible, *e.g.*, through increment or promotion, at a later date, is not allowed.

10. *Benefit of revised scales (1944) allowed to ex-Sind employees.* In the case of displaced ex-Sind Government employees comparability of scales and fixation of pay is done with reference to the pay which they had become entitled in the revised scales introduced by Sind Government with retrospective effect from the 1st April, 1944 or a later date but not later than the date on which the Government servant concerned was last on duty under that Government, irrespective of whether they had or had not, actually drawn pay on that scale,

11. *Fixation of pay of displaced Government servant from N. W. F. P.* The President is pleased to decide that pay that would have been admissible in both the substantive and officiating appointments held by the displaced Government servants in N. W.F.P. on the 1st August 1948 in accordance with the revised scale of pay had they continued to serve that Government, should

be deemed to be the last pay drawn by them in Pakistan ; and on this basis their pay should be refixed in India with effect from the same date. *i. e.* 1st August, 1948, or the actual date of appointment under the Government of India, whichever is later. The pay in the above said revised scale will be initially fixed as on 1st August, 1948, if so required by the Government servant concerned, in writing before 30th September. 1956, in accordance with the orders issued by the Government of N.W.F.P. in their Memorandum No. 19690-712-F dated the 31st March, 1951 and No. 4909-39-F, dated the 26th January 1951 (See Annexure) and thereafter refixed under the relevant general orders regulating the fixation of pay of displaced Government servants on their appointment under the Government of India. If the pay in the revised scale falls short of the pre-revised pay *plus* interim relief, the pay in the revised scale shall be fixed as not to be less than the pay *plus* interim relief previously drawn, the difference being treated as personel pay to be absorbed in future increase in pay. The manner in which the pay is to be fixed is indicated in the following examples :—

(*i*) The pay of 'A' on 1st August, 1948, was Rs. 110½ in the original scale *viz.* Rs. 120-10-200/10-300, subject to 15%cut. It will be refixed at Rs. 115 in the revised N. W. F .P. scales, *viz.* Rs. 105-10-165/225 on the 1st Agust, 1948. His pay in India will again be refixed with effect from 1st August, 1948 or the date of his appointment, whichever is later, on the basis of Rs. 115 instead of Rs. 110½, which was the actual rate of pay that would have been drawn on the crucial date. The next increment will be allowed after a year's service from the date of refixation of pay.

(*ii*) The pay of 'B' on 1st August, 1948 was Rs. 85 *plus* an interim relief ot Rs. 3/8/- in the original scale *viz*. Rs. 75-5-100/5-150 subject to 15% cut. It will be refixed at Rs. 15 in the revised scale *viz*. Rs 65-5-85/5-130 *plus* Rs. 3½ as personal pay to be absorbed in future increases *in* pay. His pay in India will again be refixed with effect from 1st August, 1948 or the date of his appointment, whichever is later, on the basis of the pay so fixed The next increment will be admissible after a year's service from the date of refixation of pay.

(*iii*) The pay of 'C' on 1st August; 1948 was Rs. 42½ *plus* an interim relief of Rs. 3½ in the pre-revised scale *viz*. Rs. 40-2-80/2-90 subject to 15% cut, It will be refixed at Rs. 44 in the revised scale *viz*., Rs. 34-2-68/2-76 *plus* Rs. 2 as personal pay to be absorbed in futre increase in pay. His pay in India will again be refixed with effect from 1st August, 1948, or the date of his appointment, whichever is later, on the basis of the pay so fixed. The next increment will be admissible after a year's service from the date of refixation of pay.

No arrears accuring as a result of refixation of pay on the above basis will be allowed for period prior to 1st April 1956.

[G.I.M.F. Memo No. F. 8(2), Est. III/55, dated the 3rd July, 1956.]

ANNEXURE

Copy of Memorandum No. 19690-712-F, dated the 31st March, 1951, from the Secretary to Government, N.W.P. Finance Department, to all Heads of Departments (Provincial) in the N W F. P.

Subject :—Removal of 15% cut from the pay of new entrant in Government Service.

Reference this Department Memo, No. 39984—40010—F, dated the 18th October 1949.

The proposal for the refixation of pay of those Government servants whose pays were revised with effect from the 1st August, 1948 *vide* this Department Memo No. 39061-73 F, dated the 27th September, 1948, was presented in the form of a Schedule for New Expenditure to the Legislative Assembly and has been approved *vide* page 296 of the publication, Memorandum Explanatory of the Budget and proposals for new expenditure 1951-52. The Governor, N.W.F.P. is pleased to direct that effect to the

proposal may now be given retrospectively from the 1st August, 1948 as follows :—

(*a*) A person who on 1st August 1948 was drawing the minimum of his old scale subject to 15% cut shall be allowed to count the period of his past service on that minimum for increment on the minimum of the new time scale not subject to 15% cut : and

(*b*) A person whose pay after 15% cut on the 1st August, 1948 in the old scale fell intermediary between two stages of the new scale of pay shall be allowed to draw pay at the next higher stage in the new scale.

The extra cost involved will be met by all the Departments from within their sanctioned Budget grant for the year 1951-52.

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Copy of Memorandum No. 4909-39-F, dated the 26th January, 1951 from the Secretary to Government N.W F.P., Finance Department to all Heads of Deptts, (Provincial) in the N.W.F P.

Subject :—Refixation of pay of Government servants in the New Scales of pay.

Consequent on the revision of scales of pay of certain Classes of Government servants in the N. W. F. P. a number of officials have held to sustain some loss on the refixation of their pays in the revised time-scales (with interim relief) under F. R. 22 (*a*) (*ii*) read with F R. 23. The Provincial Government therefore direct that in cases where the pay as arrived at under the ordinary rules falls short of the pay *plus* Interim Relief previously drawn, the difference being treated as personal pay to be absorbed in future increments. This is to be taken as a general decision to be applied with retrospective effect to all cases of revision sanctioned after the partition.

12. *Nature of officiating period* :

The minimum period of six months of officiating service prescribed in sub-paras 3, 4, 5, and 7 above should be continuous and be immediately prior to migration.

Note.—Cases which have been decided but in which the conditions laid down in the new sub-para (12) have not been satisfied, need not be re-opened.

[G. I. M. F. Memo No. F . 15(4) Est III/50, dated the 26th April 1951].

2. If, in the light of the above decisions and interpretations, it becomes necessary, to refix the pay of a Government servant, it should be done with effect from the date of appointment. The arrears due ; if any, will be paid in excess of the pay found admissible under these orders, the excess will be treated as personal pay to be absorbed in future increments.

3. Some of provisions in para 1 above mean a definite measure of liberalisation in the methods of fixing pay in these cases, and in order to meet them, have now decided to adopt the following standards :—

(*a*) The scale of pay in India as shown in the attached schedule will be considered as comparable to the scales of pay outside India indicated against each.

(*b*) If the difference between the minima and maximum of the scales outside India and the prescribed scales (that is, 1947 scales) of pay in India do not exceed :—

40 per cent. – where the minimum of the prescribed scale is Rs. 100 or less, or

33⅓ percent.—where the minimum of the prescribed scale is above Rs. 100 those scales will still be treated as comparable.

Pay will be refixed according to these standards with effect from the date of appointment of the displaced Government servant concerned, but no arrears of pay and allowances on this revised basis will be payable for the period before the 1st February, 1950.

Pay may be fixed in direct consultation with the Audit Officer, and no action will be taken by Finance Ministry on the lists of 'hard cases' received in response to this (Finance) Ministry's Office Memorandum No. F. 15(4)-E. III/49 dated the 26th April, 1949.

4. Since benefit of the orders of the 9th December, 1947, has already been extended to Government servants rendered surplus by the West Punjab Government and from the Sylhet District of Assam the principles and formulae explained above will be equally applicable to them.

SCHEDULE

	Post and Scale in India.		Post and Scale in Pakistan considered comparable	
1	Assistant in the Secretariat or an attached office.	Rs. 160—10—300—E. B.—15—450	(*a*) Head Assistant, N.W.F.P. ...	Rs. 120—10—200—10—300+50
			(*b*) Superintendent, N.W.F.P. ...	Rs. 350—20—450—30—480—20—600
			(*c*) Superintendent, Baluchistan ...	Rs. 250—20—350 (Old)
			(*d*) ,, ,, ...	Rs. 225—15—300 (New)
			(*e*) Superintendent, Sind ...	Rs. 275—25—500
			(*f*) Any other clerical scale the minimum of which is not more than Rs. 150.	
			(*g*) Senior Assistant ...	Rs. 200—10—300
2	Upper Division Clerk.	Rs. 80—5—120—E.B.—8—200—10/2—220.	(*a*) Clerical scale 'C' (Sind) ...	Rs. 120—10—210
			(*b*) Assistant (N.W.F.P.) ...	Rs. 120—10—200—10—300
			(*c*) Assistant (Baluchistan) ...	Rs 125—10—175 (Old)
			(*d*) Any other clerical scale the minimum of which is not more than Rs. 125.	Rs. 115—5—160 (New)
3	Lower Division Clerk.	Rs. 55—3—85—E. B.—4—125—5—130.	(*a*) Clerical scale 'D' Sind	Rs. 100—5—150
		Rs. 55—3—85—4—125—5—130—E. B.—8—170.	(*b*) Clerk (N.W.F.P.)	Rs. 75—6—150
			(*c*) Any other lower clericle scale.	

[G.I.M.F. Memo No. F. 15 (4)—Est. III/49, dated the 9th May 1950.]

Note 1.—It has been decided in consultation with the Ministries of Home Affairs and External Affairs that the present pay and date of increment of the ex-Baluchistan employees should not be disturbed so long as the scales of pay attached to their previous posts (*i.e.* in Baluchistan) are not prescribed under the Central Civil Services (Revision of Pay) Rules 1947 and pay regularised thereunder. When, however, their pay has been fixed in accordance with the provisions of Central Civil Services (Revision of Pay) Rules 1947 in the prescribed scales (in respect of the posts held by them in Baluchistan their pay in the posts to which they are appointed under the Government of India should be re-fixed under this decision. As they have been declared as Central Government servants, the date of increment in the posts held by them in India will be regulated under the Fundamental Rules.

[G.I.M F. Memo No. 14 (1) Est. III/51, dated the 25th April 1951.]

Note 2.—The post of Superintendent in Baluchistan in scale Rs. 250-20-350 has been shown at item No. 1 (*c*) of the above schedule as comparable to the post of Assistant in the scale of Rs. 160-10-300-EB 15-450 under the Government of India. A doubt has been raised as to whether the arrears of pay in a case, to which the said item applies, will be granted with effect from the 1st February, 1950, as laid down in paragraph 3 of this decision or with effect from the date of appointment of Government servant concerned.

In this connection, it is pointed out that in so far as pre-1931 entrants are concerned, the two posts in question have been treated as comparable in terms of paragraph (2) read with paragraph 1(1) of the above decision. In other words, they are covered by the provisions in paragraph 1 of the decision, the individual concerned being thus eligible to the arrears of pay with effect from the date of their appointment as provided in paragraph 2 of the decision. This being the position, item 1 (c) of the schedule, referred to in the foregoing paragraph, will be considerod to have been cancelled.

[G.I.M.F, Memo ; F. 15 (4)-E.III/49 (II), dated the 20th October 1954].

(5-A) Instances have come to notice in which the pay of re-employed Government servants had been fixed without taking into account the death-cum-retirement gratuity admissible under the Liberalised Pension Rules and or the commuted portion of pension, either due to the instructions issued in this behalf being overlooked or because of failure to follow the said instructions in particular cases.

2. The position in this respect has been clarified in the orders contained in decisions Nos. (3) and (4) above. According to those orders, the pension equivalent of the death-cum-retirement gratuity which an officer may become, entitled to on retirement under the Liberalised Pension Rules, and any portion of the pension which may have been got commuted, are to be taken into account in fixing the pay during re-employment. The decisions may once again be brought to the notice of all concerned for careful observance. Care should be taken in all such cases invariably to obtain detailed and authentic information about the gross retirement benefits received by, or due to, the retired officer, including the point whether any portion of the pension has been got commuted by him, before the terms of his re-employment are fixed. The formal orders fixing the pay on re-employment should make it clear beyond doubt that the pension to be taken into account in this connection is the gross pension and that it shall include the pensionary equivalent of death-cum-retirement gratuity or any other form or retirement benefits.

3. Where the pay of a re-employed officer is fixed at a certain amount (*e. g.* the minimum of the 'prescribed' scale) *plus* pension, subject to the condition that the total amount of pay at any time *plus* the gross amount of pension and/or pension equivalent of any other form of retirement benefit does not exceed the pre-retirement pay or a fixed maximum amount, the amount of pension to be taken into account for applying, the 'ceiling' will similarly be the gross amount of pension sanctioned, *including any portion there of which might have been commuted*, together with the pension equivalent of any other form of retirement benefits. If the pay *plus* the gross amount of pension and/or pension equivalent of any other form of retirement benefits exceeds the said ceiling, the total should be restricted to that ceiling either by holding the whole or a portion of the pension in abeyance, or where this is not possible by suitably reducing the pay on re-employment.

4. The Ministry of Home Affairs/etc. are requested to ensure that the above instructions are observed also by all Government controlled industrial/commercial undertakings and corporations under their administrative control, while re employing retired Government employees.

[G. I. M. F. Memo. No. 20(42) EV/57, dated the 5th November 1957.]

(5-B) Representations have been received from individual displaced Government servants employed under the Government of India as well as associations of such persons urging that a rigid application of the provisions of paragraph 1 (12) of decision No. (5) above has caused undue hardship to them in the matter of fixation of pay. It has been represented that many displaced Government servants officiated in higher posts in Pakistan from dates earlier than the partition of undivided India up to the last date of their duty in Pakistan and would have continued to officiate but for their migration to India, on account of the conditions prevailing in Pakistan before completing six months of such officiating service. As, however, they had not officiated for six months in higher posts prior to migration, they have not been allowed the benefit of their last officiating pay in their appointments under the Government of India. It has been urged that this is not equitable to them as it does not take into account the fact that these individuals would have, in the normal course, officiated in regular vacancies in higher posts.

In decision No. (5) above, the limit of six months was prescribed in order to ensure that persons who were given the advantage of the officiating pay drawn by them in Pakistan for the purpose of fixation of their pay in their appointments under the Government of India, were officiating in higher

posts in the normal course and not in leave vacancies or due to fortuitous circumstances. It was necessary to impose this limit as in most cases it could not be definitely ascertained whether the displaced Government servants concerned were officiating in regular or in leave vacancies. On the other hand, there appears to be some force in the contention of the displaced Government servants that rigid application of the six months' limit has affected them adversely even though they might have been officiating in regular vacancies. It has, therefore been decided, in consultation with the Ministry of Home Affairs, that in cases where displaced Government servants had officiated for less than six months in higher posts prior to migration, their last officiating pay in Pakistan should be taken into account for the purpose of fixation of pay in their appointments under the Government of India provided that they produce collateral evidence from at least two responsible persons, preferably (but not necessarily) gazetted officers under the Government of India, testifying from their personal knowledge that the displaced Government servants concerned were officiating in regular vacancies in higher posts as distinguished from leave or other temporary vacancies and in the normal course *i. e.* not due to fortuitous circumstances. The Ministry of Home Affairs/etc. are requested to consider such cases on the basis of such collateral evidence, produced by individuals concerned. The normal rule should be that where a displaced Government servant has produced satisfactory collateral evidence, he should be allowed the benefit of his last officiating pay in Pakistan for the purpose of fixation of pay in his appointment under the Government of India. Doubtful cases will be decided by the Finance Ministry in consultation with the Ministry of Home Affairs.

Pay in the manner mentioned above will be refixed with effect from the date of appointment of the displaced Government servant concerned but no arrears of pay and allowances on the revised basic pay will be payable for the period prior to the 1st April, 1954.

[G. I M. F. Memo No 8(6)-III/53, dated the 12th August 1954].

(6) The Government of India have had under consideration the question of fixation of pay of the following categories of displaced Government servants who were employees of any of the Governments in Pakistan and have on migration to India, secured employment under the Government of India :—

(*i*) those on leave preparatory to retirement and who are in receipt of leave salary in India.

(*ii*) those on leave preparatory to retirement and who are drawing their leave salary in Pakistan.

(*iii*) those on leave preparatory to retirement and in whose cases orders sanctioning the leave salary have not yet issued.

(*iv*) retired ex-employees of the Government in Pakistan who are in receipt ef pension which is being paid in India.

(*v*) retired ex-employees of the Government in Pakistan who are in receipt of pension which is being paid in Pakistan and

(*vi*) retired ex-employees of the Government in Pakistan in which cases orders sanctioning the pension have not yet issued.

It has been decided that the fixation of pay of such displaced persons on re-employment in India, will be initially made on a provisional basis under the Ministry of Home Affairs Office Memorandum No. 70/14/47-Ests. (R), dated the 9th December, 1947 [incorporated as Government of India's decision No. (3) above] as explained and amplified in Finance Ministry's Office Memorandum No. F. 15 (4)-Est. III/49, dated the 9th May, 1950, [incorporated as decision No. (5) above] without taking into account the leave salary or pension that may be admissible to them from the Government concerned in Pakistsn. The leave salary or pension will then be adjusted and the pay finally fixed in the same manner as for an employee of the State in India in receipt of leave or pension during leave preparatory to retirement when re-employed under the Government of India. In cases where it is not possible to carry out the necessary

adjustment at the time of fixation of pay, the Government servant concerned will be required to furnish an undertaking in the form referred to in decision No : 6-B below in duplicate to the effect that he agrees to the refixation of his pay and necessary adjustment being made and overpayments, if any, recovered from the arrears of pay, leave salary or pension due to him. One copy of the undertaking should be attached to the Service Book and the other copy sent to the Accounts Officer in India in whose circle he wishes to draw his leave salary or pension.

2. The method of making adjustment will be as follows :—

(*a*) In the cases of Government servants falling under categories (*i*), (*ii*) (*iv*) and (*v*), steps should immediately be taken by the Head of the office for the refixation of pay, and making the necessary adjustments. The amount, if any that has been over drawn by the Government servant should be recovered from the arrears of pay, leave salary or pension due to him, and in cases where leave salary or pension is drawn in India, intimation should be sent to the Accounts Officer concerned to authorise the Treasury Officer to make the necessary recovery. If the leave salary or pension is not drawn in India, the overpayments will be recovered in suitable monthly instalments by deduction from the pay to be drawn by the Government servant.

(*b*) In cases falling under categories (*iii*) and (*iv*) the Government servant should inform his Head of the Office as soon as the leave salary or pension has been sanctioned by the Government concerned in Pakistan. If the leave salary or pension is drawn in Pakistan, the amount overdrawn. If any, by Government servant should be intimated for recovery from the Government servant's pay. If the leave salary or pension is drawn in India, the Accounts Officer, on the basis of the undertaking by the Government servant should, at the time of issue of the authority to pay, leave salary or issue of the pension payment order instruct the Head of the Office of the Treasury Officer concerned to make the deduction from the arrears of leave salary or pension.

3. All Ministries are requested to take immediate action to obtain the necessary undertaking from such of the employees as fall under the categories mentioned in para 1 above, and also to take steps to refix the pay and effect recoveries in accordance with para 2 in the case of employees falling under categoties (*i*), (*ii*), (*iv*) and (*v*).

[G I. M. F. Memo : No. F.14(4)-Est- III/50, dated the 21st July 1950.]

Note—This decision as well as decisions Nos (3) and (5) apply, also to the Corresponding Civilians paid from Defence Services Estimates *vide* Army Instructions Nos. 54 and 69 of 1951

(6-A) *Omitted.*

(6-B) The Government of India have entered into an agreement with the Government of Pakistan under which the employees of the undivided provinces, centrally administered areas and former Princely States who had before migration completed service or age entitling them to a retiring or superannuation pension under the normal rules but who migrated without having put in formal application for retirement or whose application for retirement were not admitted by authorities concerned in either country will be allowed the pension which would have been admissible under the rules if they had been permitted to retire. The pay fixed of such Government servants on apaointment in India will, therefore, require revision on their getting pension under this agreement. Accordingly undertakings in the form enclosed may be taken from all such officials including those who have already furnished an undertaking in the previous form.

[G. I. M. F. Memo : No. 8 (92)-Estt.III/58, dated the 14th July 1959.]

Note :—The Ministries and Heads of offices, should furnish to the Audit office concerned within a period of two months from the date of issue of these orders a certificate to the effect that all the displaced Government servants (including Gazetted officers if any) serving under them have given the required undertaking. Where the displaced Government servant is himself the Head of office, the undertaking will be obtained and the certificate furnished by the next higher administrative authority.

[G.I M.F. Memo : No. F. 8(92)-E-III/58, dated the 12th January 1960].

From
To

The President of India
through.....

Sir,

I was on leave preparatory to retirement
I had retired/applied for retirement from the service of the Government of.....
.....

I had completed service/age entitling me to a retiring/superannuation pension from the Government of.....when after migration to India I was re-employed by the Government of India as..... on ..... As my leave salary and pension / pension was were not then sanctioned by the Government of..... my pay on re-employment by the Government of India was provisionally fixed without taking into account the leave salarly and pension / pension admissible to me from the Government of.....and my pay was to be refixed from the date of my re-employment by the Government of India after making such adjustments as they considered necessary after such leave salary and pension were / pension was sanctioned.

2. In consideration of the Government of India having provisionally fixed my pay on re-employment as aforesaid without taking into account the leave salary and pension/ admissible to me from the Government of.....I do hereby undertake to pay to the Government of India forthwith and without demur such sum as may be determined by them on such refixaction of my pay, whether or not I am in the service of the Government of India at the time the said sum is determined and demanded. Without prejudice to the right of the Government of India to recover the said sum in other ways, I do hereby also authorise the Government of India to recoup from the amount of my leave salary and pension / pension due to me from the Government of.....the necessary pension amount towards payment of such sum.

3. I further undertake to inform the Head of Office the paraticulars regarding my leave salary and pension / pension as soon as they are / it is sanctioned.

Yours faithfully,

(7) to (9) *Not-printed*

(10) The Government of India have decided that a re-employed pensioner may be permitted to subscribe afresh to the General Provident Fund (Central Service) from the date of commencement of re-employmeet provided he is re-employed *ab initio* for more than a year. Pensioners re-employed on a year to year basis will, however, be permitted to subscribe to the Fund only after one year's service as heretofore.

A Government servant who is re-employed during leave preparatary to retirement may continue to subscribe to his old Provident Fund Account in accordance with rules and orders for the time being in force, and can subscribe afresh to the General Provident Fund (Central Services) only from the date of retirement from his previous appointment.

[G. I. M. F. Memo : No. F, 28(18)-EV/56, dated the 1st November 1956]

(11) A question has been raised whether the orders contained in decision No : (1-A) below Article 509A C.S.R. regarding the fixation of pay of re-em ployed pensioners should be applicable to the persons who are re-employed after obtaining compensation or invalid pension. At present, the conditions of their re-employment are governed by Articles 514 and 519 of C.S.R. It has been decided that for the purpose of the initial fixation of pay on re-employment and the drawal of increments the orders contained in decision No. (1-A) should be made applicable to such persons subject to the following conditions :—

(*i*) The concession provided in Art. 514(*b*) C.S.R. should continue to be applicable to them. In case the pensioners elect to count their previous service for pension by foregoing their entire pension, their pay under decision No. 1-A above would be fixed by treating them as if they are not in receipt of any pension.

(*ii*) The special provision contained in sub-paragraphs (*h*) and (*i*) of paragraph 1 of the decision (1-A) above regarding grant of Contributory Provident Fund benefits during the period of re-employement and the grant on termination of the period of re-employment of the

unutilised portion of the refused leave in respect of the previous service should not be extended to them in view of (1) above.

2. These orders will apply to cases of re-employment of the kind mentioned in the preceding paragraph which commence on or after the date of issue of these orders. In respect of officers already on re-employment for specified periods the orders will apply from the date of commencement of the further period of re-employment if the existing period of re-employment is extended. Further in the case of officers who have been re-employed from a date prior to the issue of these orders for an unspecified period or for a period which extends beyond the date of issue of these orders, these orders may apply with immediate effect subject to their option which should be exercised in writing within a period of 3 months from the date of issue of these orders. The option once exercised shall be final.

[G. I. M. F. Memo : No. 8 (32)-Est III/60, dated the 13th July 1960].

(12) It was, *inter alia*, provided in decision No. (6) below Article 509A that the pay of displaced Government pensioners will be provisionally fixed without taking into account the leave salary or pension that might be admissible to them from the Government of Pakistan and that such pay would be fixed in the same manner as for an employee of a State in India in receipt of leave salary or pension when re-employed under the Government of India. The manner of fixing the pay finally, as and when one's leave salary and pension are sanctioned by the Government of Pakistan has since been considered and it has been decided, in consultation with the Ministry of Home Affairs, that the pay should be fixed finally in the following manner :—

(*i*) If the re-employment is in respect of a period during which the officer is treated by the Government in Pakistan as having retired from their service, the pay provisionally fixed, as provided in paragraph 1 of Finance Ministry's Memo : cited above, should be refixed after taking into account the pension and pension equivalent of other retirement benefits, if any, sanctioned by the Government of Pakistan in the same manner as for a State Government pensioner re-emplyed under the Government of India. Normally, the pay drawn from the Government of India should be reduced by the amount of pension and/or pension equivalent of any other form of retirement benefit which should be drawn separately from the Government of Pakistan. As however, the pay in full has already been drawn so far such part of the pay as represents the amount of pension and or pension equivalent of any other form of retirement benefit for this period should be credited to the Government of India by the Accounts Officer concerned in India in consultation with the Central Claims Organisation, by recoupment on the basis of and in accordance with the undertaking already taken from the Government servants. For the future, the provisional pay already fixed should be refixed by reducing it by the amount of pension and/or pension equivalent of any other form of retirement benefit to be drawn separately and paid to the Government servant.

(*ii*) The annual increments in the time-scale of pay in which the pay was fixed will be drawn as usual.

(*iii*) If the re-employment under the Government of India was made during leave preparatory to retirement full leave salary as authorised by Pakistan authoritities will be allowed to be drawn by the Government servant concerned after obtaining proper quittance. But the pay originally fixed provisionally should be reduced to the extent of leave salary paid to the individuals by Pakistan authorities if it is in excess of the leave on half average pay as admissible under orders of the Government of India in respect of leave salary paid in India *vide* clause (2) of paragraph 1 of Finance Ministry's O.M. No.F. 7(5)-Est.IV/52, dated the 28th March, 1952 as ammend-

ed in Finance Ministry's O. M. No. F. 7(9)-Est. IV/58, dated the 21st February. 1958: The excess amount of pay overdrawn should be recouped by adjustment in accordance with the terms of undertaking referred to in sub-para (*i*) above.

(*iv*) The dearness and other Compensatory allowances will continue to be regulated in accordance with Finance Ministry's O. M. No. 2 (43)-Est. II(S)/47, dated the 11th September. 1948 and O. M. No. F. 5(26)-Bst. (Spl)/48 dated the 8th April, 1949.

These however will be subject to retrospective re-fixation following re-fixation of pay as proposed in paragraph 1(*i*).

2. (*a*) The overpayments, if any casued as a result of fixation of pay in the manner explained in paragraph 1 above, will, to the extent possible be adjusted in the manner prescribed in paragraph 2 of decision No. (6) above, and any net overpayment remaining unadjusted will be written off.

(*b*) The dispalced Government servants electing Pakistan pension will get dearness, Compensatory (city) and house rent allowances in accordance with paragraph 1 (XVI) of Finance Ministry's O. M. No. 2(43)-E. II (S)/47 dated the 11th September, 1948 and O. M. No. 5 (26)-Est. (spl)/48 dated the 8th April, 1949. But, the overpayment representing the difference between the allowances already drawn by them on the basis of provisional pay and those admissible in accordance with the above two office Memoranda, on the retrospective re-fixation of their pay, need not be recovered.

3. In cases where the pensions etc., sanctioned by the Government of Pakistan are being drawn separately from that Government and the pay of the Government servant concerned has been fixed after taking into account the amount of pension and/or pension equivalent of any other form of retirement benefit, he will continue to draw his pay as already fixed.

4. The pay will also be refixed in cases where pension has been transferred to the Accounts Officers in India direct before the Central Claims Organisation was set-up. The Ministry/Department etc., may take necessary action in respect of displaced persons who migrated to India before 30-6-55 but did not register their claims of pension with the Central Claims Organisation and those who migrated after the target date so that their pay is refixed in case they get pension direct from Pakistan as and when remittances facilities are restored by the two countries.

[G.I.M.F. Memo : No. F. 7(44) E. III/60, dated the 15th July 1960].

(12-A) According to note 2 below paragraph 1(*c*) of the Government of India's decision No : (1-A) below Article 509-A pay last drawn before retirement for the purpose of fixation of pay on re-employment will be taken to be the substantive pay *plus* special pay, if any; pay drawn in an officiating appointment may be taken into account if it was drawn continuously for at least one year before retirement.

The question of the treatment to be accorded to pay drawn in tenure post before retirement with reference to this Note has been under consideration. It has been decided that, as in the case of pay drawn in officiating appointment, pay drawn in a tenure post may also be treated as pay last drawn before retirement provided that it was drawn continuosly for at least one year immediately before retirement.

[G. I. M. F. Memo : No. 8 (35)-Est. III/60, dated the 28th October 1960].

(13) For the purpose of sub-para of paragraph 1(*b*) of the Government of India's decision No : 1-A below Article 509-A a military pensioner who retired as a JCO, NCO or OR in the Army corresponding ranks in the Navy or Air Force will be deemed to have held a post not lower than that in which he is re-employed if the pay of the military post comprising of the emoluments mentioned below is equal to more than the minimum of the scale of pay applicable to the civil post.

Army (J. C. O., N. C. O., or O.R.)	
Old Pay Code	*New Pay Code*
Basic Pay.	Pay (including deferred pay).
Grade/trade/	

technical/corps pay.	Rank Appointment pay.
Good Service/Good Conduct pay.	Increments of pay for length of service.
Proficiency pay.	
Special proficiency pay-	Good Service pay.
War Service Increments.	
Deferred pay.	
Personal Allowance	
(Ris/Sub Major).	
Extra Duty pay.	

Navy

Basic pay.	Pay (including deferred pay)
Non substantive pay.	
Good Conduct pay.	Good Conduct pay.
War Service	Higher Pt. II.
Increment.	Qualification pay.
Deferred pay.	

Air Force

Basic pay,	pay(including deferred pay)
Good Service/	
Good Conduct pay	
Air Proficiency pay.	Badge pay.
War Service	
Increments	
Deferred pay.	

[G. I. M. F. Memo : No : 8 (44)-Est III/60, dated the 14th November 1960.]

(14) The following questions have been raised with reference to Government of India's decision No. 1-A below Article 509A.

(*i*) whether that decision is applicable to officials who have retired/ retire from Muncipal Corporations ; and

(*ii*) whether the pay of persons who have retired/retire without earning any pension, gratuity or other retirement benefits and are re-employed may be fixed in accordance with the provisions of that decision.

As regards (*i*) above, it has been decided that the expression "administered by Government" occurring in the 5th line of the decision should have the significance indicated in Audit Instruction (2) under Fundamental Rule 128 in Chaudri's Compilation of Fundamental and Supplementary Rules. Accordingly the employees of the Municipal Corporations should be excluded from the purview of the orders contained in that decision.

As regards (*ii*) it has been decided that except in the case of re-employment after resignation, removal or dismissal, the pay of persons re-employed in Government service after retirement without earning any pension or gratuity or other retirement benefits should be fixed on the analogy of the orders contained in decision No. 1-A above the pension and/or pension equivalent of other retirement benefits being treated as *nil*. The provisions of this decision pertaining to Contributory Provident Fund benefits would not however, apply to such persons. The power to fix the pay in such cases is delegated to the Ministries of the Government of India and the Comptroller and Auditor General of India. Other authorities referred to in decision No. 1-B above may also exercise this power subject to the conditions laid down in that decision.

[G. I. M. F. Memo : No. 8 (47)-Est III/60, dated the 29th November 1960.]

(15) The pay of a person who is re-employed while he is on refused leave should be fixed in terms of paragraph 1 (*b*) of decision No. (I-A) above on the expiry of the refused leave the restriction prescribed in paragraph 1(*c*) of the decision would become applicable and the effective pay should be adjusted suitably. The pay originally fixed will become notional from the date of expiry of the refused leave.

The service rendered during refused leave will count for increment in terms of paragraph 1(*g*) read with the second clause of Note 1 below para 1(*c*) of the decision referred to above.

[G. I. M. F. Memo : No. 1(48) Est. III/60, dated the 12th December 1960].

(16) A question has been raised whether comparison of posts for purposes of giving a higher start under paragraph 1(*b*) of Government of India's

decision No. (1-A) below Article 509A should be on the basis of both responsibilities and pay scale or one of them.

It has been decided that the comparison of posts should normally be made on the basis of scales of pay. However, as the scales of pay under the State Governments are generally lower than those under the Central Government and a comparison on the basis of scales of pay alone may sometimes result in hardship, comparison in such cases may be made with reference to the duties and responsibilities attached to the posts. For example Superintending and Executive Engineers in a State may be treated as equivalent to Superintending and Executive Engineers respectively in the Centre, irrespective of the scale of pay of the posts. Cases of doubt may be referred to the Ministry of Finance for decision.

The above decision will apply to cases of re-employment occurring on or after the date of issue of these orders. Past cases will not be re-opened.

[G. I. M. F. Memo : No. F. 8 (62)-Est. III/60, dated the 27th December 1960].

(17) Decision No. I-A below Article 509-A authorising Ministries to fix the pay of a re-employed officer in accordance with the provisions contained there in. Delays in determining the pension and other pensionary benefits sometimes result in delayed determination of pay, and the officer has to be paid meanwhile only on a provisional basis. At present, the authority competent to determine the provisional pay of a re-employed pensioner is the Government of India in the Ministry of Finance. In order to facilitate work, it has been decided that the Administrative Ministries may henceforth make or authorise provisional payment for a maximum period of six months to re-employed pensioners pending fixation of the final pay. The sanctioning authorities would be responsible for ensuring that the provisional pay authorised is not likely to exceed the correct pay that may become admissible. For this purpose, they should take the maximum pension and gratuity that might be admissible on the basis of last pay drawn and, for purposes of calculating the pension equivalent of the gratuity, the Commutation Table in appendix 38 to Chaudri's Compilation of C.S.R. Vol II should be followed.

2. Usual undertaking for refunding any amount that might be overpaid as a result of provisional fixation of pay should be obtained from the re-employed pensioners.

3. To enable Audit to check that *prima facie* the rate of provisional pay has been correctly fixed, the Administrative Ministries while issuing sanction for provisional payments of pay etc. to re-employed personnel should furnish the following information to the Audit/Pay and Accouuts Officer concerned :—

(*i*) Last pay drawn, including scale and the date from which it has been drawn.

(*ii*) Pension and pension equivalent of death-cum-retirement gratuity and other forms of retiring benefit *viz.* C.P. Fund etc.

(*iii*) Office/Department where the officer was employed including name of Audit Officer prior to retirement from service.

4. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, the orders are issued in consultation with the Comptroller and Auditor General of India who will exercise the powers of an Administrative Ministry for the purpose of these orders in respect of persons re-employed in the Indian Audit and Accounts Department.

[G. I. M. F. Memo : No. 8(63)-EST.III/60, dated the 12th January 1961 as amended by Memo : of 14th March. 1961, even number dated the 15th May, 1961 and 16th November 1961].

(18) The following clarifications are issued in respect of Government of India's decision No. 1-A above in regard to certain points which have been raised.

Points raised	*Clarification*
1. Whether the concession of grant of refused leave after termination of re-employment under para. 1 (*i*) of the decision is	The concession regarding deferment of refused leave is applicable in the case of (*i*) Central Civil Government servants,

admissible only to the civil officers (excluding Railway Department) in the employ of the Central Government, prior to retirement, or it would apply to cases of Officers of the Railway Department, State Government, Local Bodies, Port Trust, etc. administered by Government and officers paid from Defence service estimates.

2. Whether in a case in which the amount of refused leave consists of both leave on average pay and leave on half average pay and when the leave salary is less than the pensionary benefits, the Government servant may be allowed to draw pension only during such period.

3. How the carried forward refused leave and the leave earned during re-employment should be availed of in combination.

4. How the leave salary for the period of leave earned during re-employment should be calculated, namely, whether with reference to the unreduced pay or with reference to the pay with reduction on account of pension, and whether the leave salary so determined will have to be reduced by the pensionary benefit as in the case of refused leave.

including Government servants under the P & T., re-employed under State Government or Railway Department or a Defence Department or a P.&T. Department.

(*ii*) The Government servants of P.& T-Department re-employed under Central Civil Department (*vide* Finance Ministry's O. M. No F. 7 (38) E.1V/59, dated the 29th April, 1960).

An appllication for leave is a prerequisite to the sanctioning of leave *vide* S. R. 216 and the leave to be availed of on termination of the period of re-employment has also to be applied for by the Government servant. Where the leave salary on half average pay is less than the pension it is open to the Government servant not to apply for and avail himself of such leave but to draw the full pension instead.

The combination of the carried forward refused leave and the leave earned during re-employment should be so regulated that the total period of leave on average pay and the earned leave does not exceed the limit up to which leave on average pay/earned leave would have been permissible under the pre-retirement leave rules.

The leave salary will be regulated as indicated in Finance Ministry's O.M. No. 7 (84)-E. IV/58, dated the 15th September, 1958.

2. The above clarifications will take effect from 25-11-58.

[G.I.M.F. Memo : No. F. 7(189)-Est. IV/A/60, dated the 2nd December 1960].

(19) A question has been raised whether the deputation allowance drawn by a re-employed pensioner before retirement should be taken into account in determining the last pay drawn before retirement (pre-retirement pay) referred to in paragraph 1 (*c*) of decision No. (1A) above. It has been decided that only such portion of the deputation allowance as has been taken into account for pension purposes should be taken into account in determining the last pay drawn before retirement provided the deputation allowance was drawn continuously for at least one year before retirement.

[G.I,M.F. Memo : No : 8 (62)-Est. III/60, dated the 10th August 1961].

(20) Doubts have been raised as to whether a Government servant can be permitted to avail of the refused leave under Fundamental Rule 86 (or any other corresponding rule) during the period of his re-employment also.

It is hereby clarified that a Government servant may be permitted to avail of the refused leave either in whole or in part at any time during the period of re-employment even though leave earned during the period of re-employment is at his credit, if such course is to his advantage. The leave salary will be the same as admissible under paragraph 1 (*i*) (*ii*) of decision No. (1A) above. But he will. not be entitled to draw his re-emplogment pay in addition to leave salary during, the period of refused leave so availed of.

The grant of such leave during the period of re-employment will, however, be conditional on the re-employing authority being able to grant any part of the refused leave during the period of re-employment.

These orders will take effect from the 25th November, 1958.

[G.I-M.F. Memo : No : F. 7 (189)-E. IV (A)/60, dated the 31st August 1961].

(21) Doubts have been felt whether refused leave availed of during re-employment—

(*i*) Causes a break in the continuity of re-employment ;

(*ii*) Counts for reckoning the minimum period of one year for eligibility to the benefits of C. P. F.
(*iii*) Counts for contribution of Contributory Provident Fund ;
(*iv*) Counts for increments ;
(*v*) Counts for earning leave of any kind.

It has been decided that—

(*i*) refused leave availed of during a period of re-employment will not break the continuity of re-employment ;
(*ii*) it will not be taken into account for reckoning the minimum period of one year for eligility to C. P. F. benefits ;
(*iii*) no contributions will be made to the C. P. F. during the period of refused leave and no subscription will be recovered from the re-employed officer during that period ;
(*iv*) It will not count for earning increments ;
(*v*) It will not count for earning leave of any kind under the Revised Leave Rules, 1933.

The question whether refused leave taken during re-employment should automatically extend the period of re-employment by a corresponding period has also been considered. As extension of the period of re-employment is independent of the grant of refused leave, it has been decided that an extension of the period of re-employment may be left to be decided by the re-employing authority itself.

[G.I.M.F. Memo : No, 7 (189)-Est-IV/A/60, dated the 24th May 1962.]

(22) The benefits of revised scale of pay under the C.C.S. (Revised Pay) Rules 1960 have been extended to certain categories of re-employed pensioners, the pay of the persons who opt for the C.C.S. (R.P.) Rules, 1960 will have to be fixed in the revised scales in accordance with Rule 10 (1) (1) *ibid* where an existing scale is replaced by another.

2. The following instructions are issued in amplification of earlier orders :

(*a*) *In case of persons whose pay had been fixed under decision No. (1—A) below Article 509 A.* The fixation of pay in the revised scale of pay will have to be made with reference to the pay due in the prescribed scale on the date of election of the revised scale and not with reference to the pay actually allowed under the Note 1 below sub-para. (*c*) of para. 1 of decision No. (1—A) on account of the adjustment contemplated in that sub-para. There is no need to apply the limit laid down in para. 1 (*c*) of decisions No. (1—A) afresh but reduction in the pay fixed in the revised time scale should be made to the same extent as was made in the pay in the pre-revised scale at the time of fixation of pay initially in the prescribed scale.

(*b*) *In the case of persons re-employed prior to 25-11-58 whose pay has been fixed under the orders in force prior to the issue of decision No. 1—A below Article 509A.* In such cases the pay previously fixed might not always be a stage in the existing scale and could also be an amount below the minimum of the time scale. Where pay in the existing scale was a definite stage therein, pay in the revised scale will be the corresponding stage. In other cases pay should be fixed as follows :

(*i*) Where the pay fixed is above the minimum of the existing scale (but not a stage in it) :—Pay should be fixed with reference to the stage next below the pay actually due in the existing scale. In addition the employee will be entitled to the difference between his actual pay in the existing scale and the stage next below it.
(*ii*) Where the pay fixed is below the minimum of the time scale : It should first be seen by how much amount of the pay in the existing scale is below the minimum and the pay in the revised scale should be fixed below the minimum of the revised scale by the same amount.

In these cases the grant of increments will be subject to any restriction that might have been imposed at the time of original fixation of pay when the

re-employment commenced, *e. g.* that pay plus gross pension and pensionary benefits should not exceed the pre-retirement pay at any stage.

[G. I. M. F. Memo No, 7 (47)-E III/62, dated the 4th February 1963.]

(23) It has been provided in para 1 (*i*) of decision No. (11) above that if a re-employed pensioner elects to count his previous service for pension by foregoing the pension sanctioned to him for the earlier spell of his service, his pay on re-employment would be fixed in accordance with the provisions of decision No. 1—A assuming that he is in receipt of any pension. A doubt has arisen whether the term pension used in the context includes Death-cum-retirement gratuity and if so as to how the amount of Death-cum-retire ment gratuity has to be recovered.

It is clarified that the term pension as used in para 1 (*i*) of decision No. (11) above referred to above includes gratuity/Death-cum-retirement gratuity. The entire amount of Death-cum-retirement gratuity granted will have to be refunded by the re-employed pensioner. There shall however be no objection to the recovery of Death-cum-retriement gratuity being made in the manner-provided under Art. 512 of CSRs.

[G. I. M. F. Memo No. F. 7 (46)-E. III/62, dated the 27th December 1962.]

(24) Army Medical Officers are not entitled to any non-practising allowance. If private practice can be secured there is no objection to their keeping the benefits of such practice. Posts of civilian Medical Officers generally carry some non-practising allowance which is now treated as special pay.

A question has been raised as to whether the pay of the ex-Army Medical Corps officers on re-employment in civil posts may be fixed under G. I. decision No. (1—A) above without taking into account the non-practising allowance and they may be allowed the non-practising allowance in addition. It has been decided that non-practising allowance may be allowed in addition to re-employed pay but to avoid any undue benefit that the ex-army Medical Officers may get if their re-employment pay is fixed under para 1(*b*) of decision No. (1-A) above, at a level higher than the minimum of the civil post, the Administrative Ministries are expected to exercise their judgment in the matter of granting such higher pay on the merits of each individual case, In other words, the plea of hardship which is the basis for the grant of the higher initial pay should be scrutinised with special care in view of the fact that in addition to pay so fixed the officers will also be entitled to non-practising allowance under the civil orders.

[G. I. M. F. Memo No. 7(43)-Est III/62, dated the 21st August 1963.]

Auditor General's decision :—See decisions below Article 510.

Audit Instruction :—F. R. 56 [clauses (*a*) and (*b*)] is generally applicable to re-employed personnel, and the rules in Chapter XXI of the Civil Service Regulations are subject to the conditions laid down in F.R. 56. Article 520, Civil Service Regulations, however, from the nature of its concession and conditions, puts the re-employment of a person in receipt of a superannuation or retiring pension in a special class, outside F.R. 56 and subject to the conditions stated in the Article itself which must be observed with every renewal of sanction.

[Para., 3 Chap IX Sec. I of Manual of Audit Instructions (Reprint).]

510. When a person who was formerly in the civil or military employment of any Government in India obtains re-employment, whether temporarily or permanently, in Government service or in the service of a local Fund, it shall be incumbent on him to declare to the appointing authority the amount of any gratuity, bonus or pension granted to him in respect of the previous employment. The authority re-appointing him shall specifically state in the order of re-appointment whether any deduction is to be made from pension or salary as required by the rules of this Chapter and shall communicate a copy of the order to the Audit Officer.

Note—The principle of this article applies in the case of continued employment on retirement from Government service. The amount of the pension to be declared is that

sanctioned originally, *i.e.* it shall be inclusive of any amount that may have been commuted (*vide* Article 524-B and 524-C.)

Government of India's decisions :—(1) A compassionate allawance is, to all intents and purposes, a pension; and the rules regarding re-employment of pensioners are therefore equally applicable to the case of persons in receipt of a compassionate allowance.

[G I F.D, No. 104 dated 6-1-1883.]

Note—For purposes of re-employment, a compassionate allowance is the equivalent of a compensation or invalid pension and that the recipient of allowance re-employed in the same position in respect of his title to draw his allowance during re-employment as the re-employed recipient of a compensation or invalid pension.

[G.I.I. & C. Dept No. 1063, dated 26-8-1883].

(2) The rules regarding re-employment of pensioners do not apply to Government pensioners re-employed under the Court of Wards.

Government of India, F. D. No. 3980-P, dated the 22nd June, 1904.]

(3) *Not printed.*

(4) If any temporary employee who has received the bonus under the *unified* scale of pay scheme is subsequently allowed to count such service for pension, he is required to refund the entire amount of the bonus. A question has arisen whether the entire amount of bonus is refundable even if the Government servant is allowed to count only a portion of his temporary service and not the whole of it for pension, or whether in such cases, the recovery may be effected on a proportional basis. It has been decided that the entire amount of bonus should be recovered even in cases where the Government servant is allowed to count only, a portion of his temporary service for pension. Such recoveries may be made in easy instalments of Rs. 5 per month.

[G.I.M.F. No. F, 10(10)—EII/51 dated the 1st November 1951.]

(5) Wound or extra-ordinary pension should be reduced or terminated by virtue of the condition of its award and should not be effected by the pensioner's re-employment in Government service.

[G.I F.D. Memo No. F/1-IR-II/1928 dated 26-9-1928.]

(6) Government servant re-employed during leave preparatory to retirement continues in service in his *old pos* up to the date of retirement and is treated as a temporary Government servant, for the purpose of Revised Leave Rules 1933, only after the date he actually retires from permanent service. As such the first year of his service in the re-employed post for the purpose of rule 11 (*a*) *ibid* should commence from the date following the date of his retirement from permanent service.

[G. I. M. F. letter No. F. 7(46) E-IV/54, dated the 1st September 1954.]

(7) The method to be adopted for the purpose of calculating the pension equivalent of the retiring gratuity to an officer is the same as applied in the case of death-cum-retirement gratuity *i. e.* the pension equivalent is to be determined by applying the Table of Commutations of pensions applicable to him at the time of retirement, his age being, taken as the age-next-birthday after retirement from Government service.

[G. I. M. F. letter No. F. 7(125)-E. V/58, dated the 19th November, 1958 to the address of Accountant General, Assam.]

Auditor General's decisions :—(1) The rules in Chapter XXI, C. S. R. regarding re-employment of pensioners apply, as the wording of Article 513 shows, in the case of a person who was formerly in the Civil or Military employment of any Government *in India*. Burma, after her separation from India, is treated as a foreign country and a pensioner of the Government of Burma whose pension is wholly debitable to the revenues of Burma need not be treated as having formerly been in the employment of a Government in India for the purpose of the above mentioned rules, even though technically he was *formerly* in the employment of a Government in India before the separation, when Burma was a part of India.

The rules in the C. S. R. applied in such cases in pre-separation days because Barma was even an integral part of India and consequently "Government of Burma" came within the orbit of the expression "Any Government in India". But that is no reason why the same rules, unless specifically so

worded, should apply in the same manner after the separation.

Technically, therefore, the restriction imposed by Article 514(*a*), C. S. R. will not apply in such cases. The employing authority will, however, in any event have a liberty to fix with proper sanction the pay of the re-employed person in such manner as will take into account the pension drawn by him from the Burma Government.

The case of a Government servant transferred from India to Burma on or after the 1st April, 1937, who after being pensioned off by the Burma Government obtains re-employment in India, is, however, different. Such transfers are generally made under foreign service conditions and in such cases the question under consideration will not arise. But in cases where no such arrangement is made, the transfers are treated as between two Governments in India ; and the pension granted to an officer so transferred on his retirement from serviee under the Government of Burma has to be allocated between the employing Governments in proportion to the length of service (*vide* Note 2 to Rule 8 of the Pension Incidence Rules), and a portion of his pension is debited to the Indian Revenues. Such cases therefore come within the scope of Chapter XXI, C. S. R. to the extent of the Indian portion of the divisible pension.

The views expressed above have the concurrence of the Government of India.

[Auditor General's letter No. T. 791-A/168-41 dated the 28th August, 1941.]

(2) The question whether the pension of a person appointed as Minister should or should not remain in abeyance, should be decided with reference to the rules in the Government of India Act [*now Constitution*] and not with reference to those in the Civil Service Regulations. In the absence of any such provision in the Act [*Constitution*] a Government pensioner employed as a Minister is entitled to draw his pension in addition to salary.

[Auditor General's No. 103,-508-23, dated 30-1-24.]

510A. The attention of every officer who is re-employed should be specially called to the provisions of this Chapter by the authority re-employing him, and whenever he becomes aware of such an appointment by the Audit Officer ; but the failure of such authority to do this will not be admitted as a ground for condoning any breach of the regulations contained in this Chapter.

510B. Notwithstanding anything contained in the rules in this Chapter, a wound or other extra-ordinary pension sanctioned under Chapter XXXVIII of these Regulations and a wound or injury or disability pension or a disability addition to pension awarded under the military rules shall continue to be drawn by a retired Government servant, civil or military, during re-employment or continued employment, and shall be subject only to the conditions of its award. The amount of such pension or addition to pension shall not be taken into account when fixing the pay during re-employment or continued employment.

Note.—Where the military pension is consolidated and service and disability elements are not explicitly differentiated, the total pension may be split up in the following manner. The service portion of the pension will be represented by the service pension earned or, if no service pension has been earned, by the proportionate service pension calculated with reference to the minimum ordinary pension admissible for the actual length of service rendered. In calculating this service element an amount of fifty Naye Paise and over shall be taken as a whole rupee, amounts of less than fifty Naye Paise being ignored. The disability portion of the pension will be the balance.

Government of India's decision. Article 510-B of the C. S. R. clearly provides that an extraordinary pension sanctioned under the civil rules and a wound or injury or disability pension or a disability addition to pension awarded under the military rules will continue to be drawn by an officer during re-employment or continued employment and shall be subject only to the conditions of its award and that the amount of such pension or addition to pension shall not be taken into account when fixing the pay during re-employment or

continued employment. It is, therefore, implied that in such a case the pay on re-employment or continued employment will be fixed under the normal rules and that the officer concerned will be entitled to receive the benefits of increments. Specific clarificatory provision in regard to drawal of increments has been included in Article 514 of the C. S. R. because of the restriction imposed in that the initial pay on re-employment plus the pension should not exceed the substantive pay of the officer at the time of his discharge. When a disability pension is not taken into account even for fixation of initial pay of an officer on re-employment there is no question of denying him the benefits of increments which he may earn thereafter.

[G. I. M. F. letter No. 10(1)-EV/56 dated 20-6-1956 to the Secretary to the Government of Uttar Pradesh, Finance Department.]

SECTION II.—CIVIL PENSIONERS.

Re-employment after Compensation Gratuity.

511. An officer who has obtained a Compensation gratuity, if re-employed in qualifying service, may either retain his gratuity, in which case his former service will not count for future pensions, or refund it and count his former service.

Government of India decisions :—(1) A person who was retrenched under the General Retrenchment Orders and has been re-employed. is governed by the Re-employed Personnel (Conditions of Service) Rules, 1932, issued under Government of India, Finance Department Notification No. 6 XXIV R. II/32 ; dated the 9th September 1932. The re-employed service should, in such a case be regulated by rules 4 and 5 of those rules and not by Article 511 of the C.S.R. Service rendered prior to retrenchment cannot, therefore, be combined with the re-employed service by refunding the gratuity or pension received in respect of the former service.

[G. I. F. & P. D. No. D, 1624/E/36, dated 25-5-1936]

(2) A man discharged on gratuity owing to incapacity for further service and re-employed the day, after is not ordinarily entitled to anything for his second service as the case falls under Article, 455, Civil Service Regulations. If the entire service be treated as one continuous service, then the previous gratuity should be recovered from that admissible for the combined service.

[Paragraph 346, India Supplement to C. S. R. (5th Edition).]

512. The intention to refund must be stated immediately on re-employment ; but the refund may be made by monthly instalments of not less than one-third of the officer's salary, and also not less than the whole gratuity divided by the number of months which have elapsed since the end of the service for which the gratuity was given. The right to count previous service does not revive till the whole amount is refunded.

Note.—The equity of this rule is based upon the consideration that so long as the refund of the gratuity is postponed, the officer avoids the risks and the State losses to possibility of the gratuity lapsing absolutely to the public treasury by the death or dismissal of the officer. As subsequent refund of a gratuity, even with compound interest does not compensate the State for the loss of this possibility meanwhile.

513. (*See* **Article 510 A**).

After Compensation Pension.

514. *(*a*) An officer who obtained a compensation pension, if re-employed, may retain his pension in addition to his pay, provided that if he is re-employed in a post paid from General Revenues, the pension shall remain wholly or partly in abeyance if the sum of the pension and the initial pay on re-employment exceeds his substantive pay at the time of his discharge that is an officer can draw so much of pension only as will make his initial pay *plus* pension equal to his substantive pay at the time of his discharge. Once the amount of pension has been fixed in conformity with the above condition the officer shall be entitled

*The clause applies to officer under the rule-making control of the Secretary of State and takes effect from the 9th June 1937.

to receive the benefits of increments in his new scale or promotion to another scale or post without a further corresponding reduction in pension nor shall the amount of pension so fixed be varied during leave. In the case, however, of a pensioner re-employed in either a permanent or a temporary appointment, for *bona fide* temporary duty lasting for not more than a year, the Local Government may allow the pension to be drawn in whole or in part even though the sum total of pay and pension exceeds his substantive pay at the time of his discharge.

†**(*a*) An officer who has obtained a compensation pension, if re-employed, may retain his pension in addition to his pay, provided that if he is re-employed in a post paid from General Revenues, the pension shall remain wholly or partly in abeyance if the sum of the pension and the initial pay on re-employment exceeds his substantive pay at the time of his discharge, that is, an officer can draw so much of pension only as will make his intial pay *plus* pension equal to his substantive pay at the time of his discharge. Once the amount of the pension has been fixed in conformity with the above condition the officer shall be entitled to receive the benefits of increments in his new scale or promotion to another scale or post without a future corresponding reduction in pension, nor shall the amount of pension so fixed be varied during leave. In the case, however, of a pensioner re-employed in either a permanent or a temporary appointment for *bonafide* temporary duty lasting for not more than a year, the Local Government or, in cases where the pension does not exceed Rs. 10 a month, the officer who controls the establishment on which the pensioner is to be employed, may allow the pension to be drawn in whole or in part even though the sum total of pay and pension exceeds his substantive pay at the time of his discharge.**

Note 1. This rule applies to the re-employment on all establishments paid from the General Revenues, whether paid by fixed salary or by fluctuating monthly allowances ; but it does not apply to pensioners employed on work as coolies and paid daily hire

Note 2. In the case of re-employment under a Local Fund, no deduction is made from a compensation pension.

Note 3. The Government of India may permit an officer who has obtained a compensation pension and afterwards re-employed in a permanent or temporary appointment duly sanctioned by competent authority, to draw his full pension in addition to the pay and allowances of the appointment irrespective of the period of such re-employment

Note 4. The Local Government may delegate its power under this Article to Heads of Departments in respect of pensioners whose re-employment they are authorised to order.

Note 5. The restrictions in the Article do not apply to ex-policemen whose pension does not exceed Rs. 10 a month.

(*b*) If his re-employment is in qualifying service, he may either retain his pension (subject to the proviso above stated), in which case his former service will not count for future pension, or cease to draw any part of his pension and count his previous service. Pension intermediately drawn need not be refunded.

Note. An officer counts his previous service under clause (*b*) if on re-employment his pension remains wholly in abeyance under proviso to clause (*a*).

Government of India's decision :—(1) The restrictions in Article 514. C. S. R. apply to a Government pensioner re-employed in a temporary establishment which is paid from General revenues whether he is paid by a fixed salary or by fluctuating monthly allowances.

[G. I. F. D. No. 753 C. S. R., dated 10-12-1911.]

(2) *Not printed.*

(3) The restrictions contained in Article 514(*a*) of the C. S. R. are applicable also to a Government pensioner who is re-employed in a post paid from the contingent grant.

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†This clause applies to officers under the rule-making control of the Governor-General in Council and takes effect from the 9th June 1937.

[Government of India, Finance Department, No. 1088-C. S. R., dated the 22nd October, 1914.]

(4) The Auditor-General has been delegated with the powers of a Local Government under Article 514 (*a*) of the C.S. R. in respect of pensioners whose re-employment he is authorised to order.

[Government of India, Finance Department, No. 266—F. E. dated the 9th Feqruary 1919].

(5) See Government of India's decisions Nos. (1) and (2) below Article 510.

(6) *Not printed*

(7) A re-employed officer is a new entrant and is therefore not entitled to sterling overseas pay, unless it is admissible in similar circumstances if a new entrant is recruited. As regards the fixation of initial pay on re-employment there are two limiting conditions :—

(*a*) The pay of the post in which an officer is at the time of retirement.

(*b*) the substantive pay of the officer at the of retirement.

Substantive pay has to be interpretted in terms of F. R. 9 (28). While there is no obligation to give an officer re-employed, pay, (including pension) equal to the substantive pay (including overseas pay) drawn by him before retirement the rules permit an officer being allowed so much of pension as will, with initial pay equal to his substantive pay, the fixation of pay being a matter fully within the discretion of the competent authority.

[G. I. F. D. U. O. 3601-R11/44, dated 14-1-1944.]

Note.—See Government of India's order below Article 509A.

(8) A question having been raised whether in fixing the pay of an *ex*-Burma Government employee the Contributory Provident Fund and Gratuity benefits received by him from Burma Government in lieu of pension should be taken into account. It has been decided that on the analogy of the practice followed in the case of re-employed Central Government servants similarly placed, such benefits should be taken into account while fixing pay. The pension equivalent of the benefits referred to will be determined by taking the sum total of Government contributions (*i. e.* bouns and interest thereon) plus special contribution or gratuity and applying the commutation tables laid down in Annexures I and II of Appendix XL of the State Railway Establishment Code, Volume II, the age of the pensioner concerned being taken as the age at the next birthday after retirement from previous service under the Burma Government.

[G.I M.F. Memo F. 5 (138)—Est. III/48, dated the 13th November, 1950].

Auditor General's decision.—See Auditor General decision below Article 510.

515. In the case of a Section-writer whose service had been allowed to qualify to a pension under special orders of the Government of India, or of a press servant (*see* **Article 380) re-employed, the substantive pay at the time of discharge is taken at the average earning of the last six months of employment.**

516. If an officer does not, within three months from the date of his re-employment, exercise the option conceded by Article 514, of ceasing to draw pension and counting his former service, he may not thereafter do so without the permission of the local Government.

517. *Cancelled.*

518. *Cancelled.*

After Invalid pension.

519. There is no bar to the re-employment of an officer who has regained health after obtaining Invalid pension or if an officer is invalided as being incapacitated for employment in a particular branch of the service, to his re-employment in some other branch of the service. The Rules in such a case as to refunding gratuity, drawing pension, and counting service, are the same as in the case of re-employment after Compensation pension.

After Superannuation or Retiring Pension.

520. An officar who is in receipt of a superannuation or retiring pension shall not be re-employed or continue to be employed in service paid from general revenues or from a local fund, except on public grounds. Sanction to re-employment or extension of the term of employment may be given as follows :—

(*i*) By the Government of India in the Administrative Department concerned, when the pensioner served befor retirement in a gazetted appointment directly under the Government of India or belonged to an Imperial Service or Imperial Branch of any Service, or was an officer who, before retirement, held a post usually filled by officers of an Imperial Service or Branch ;

(*ii*) In other cases, by the Local Government under whose administration the pensioner is re-employed ;

(*iii*) By any authority subordinate to a Local Government to whom the local Government may delegate its powers under this Article in respect of pensioners re-employed in establishments under the control of such authority.

Note 1—Local Government may declare that the restrictions contained in this Article shall not apply to any particular local fund or to local funds of any particular class in its territories, or that they shall apply subject to such modifications as it may direct.

Note 2—The re-employment of any Class 1 or Class 11 officer after he has attaind the age of 60 years, shall be subject to the prior approval of the Ministry of Home Affairs.

Secretary of State's decision—Article 520 of Civil Service Regulation, in so far as it purposes to restrict the exercise by the Provincial Government of the powers conferred by section 241 (1) of the Government of India Act, 1935, is no longer operative,and Provincial Governments are in consequence competent to sanction the re-employment of retired officers, including those previously under the rule making control of the Secretary of State, to posts created by them under their own powers.

[Government of India, Finance Department, endorsement No. D-2023-RII/41, dated the 3rd December, 1941 and Auditor General's endorsement No. 466-A, 278-41 dated the 29th November 1941]

Government of India's decisions—(1) In view of the powers possessed by an administrative Department of Government India under clause (*i*) of Article 520, Civil Service Regulations, the extension of the term of employment, of a pensioner who served before retirement in a non-gazetted capacity under the Government of India, may be accepted in Audit, although a Department of the Government of India has not been invested with the power of a Local Government under clause (*ii*) of Article 520, Civil Service Regulations.

[G. I. F. D. U. O. No 5675 C. S. R-dated 18-11-1926.]

(2) The Government of India have delegated to the Central Board of Revenue under Article 520 (*iii*) Civil Service Regulations the power to re-employ pensioners in appointments under their control which are filled by officers not pensioners in appointments under their control which are filled by officers not appointed directly by the Government of India. This power will be subject to the limitation laid down in Article 526, Civil Service Regulations.

[G.I.F.D. No. F/53/C. S. R./26, dated 12-2-1926.]

(3) Under the powers conferred by the Note to Article 520 C.S.R. the Chief Commissioner, Delhi has declared that the restrictions contained in that Article shall not apply in regard to the re-employment of pensioners by Local Bodies within the territory of Delhi Administration.

[C. C., Delhi's No 1390, dated 24-2-1928.]

(4) When in special and exceptional circumstances, it is considered desirable to re-employ an officer who has been permitted to retire on proportionate pension in a post under the Government the pay of the post should be reduced by the full amount of his pension. In case where rule 9 of the

Rules for Premature Retirement on Proportionate Pension is applicable, an alternative course might be to move the Secretary of State to suspend the payment of the pension while the officers continues to be employed under the Crown.

[G.I.F.D. Memo F. 12-1-R. 11/1929, dated 5-8-1929].

(5) See Government of India's decision No ; (7) below Article 514.

(5-A) See Government of India's decision below Article 33.

(6) The Provincial Governments have full powers to re-employ any officer to posts in connection with the affairs of their Provinces. It would therefore not constitutionally, be in order for the Government of India to issue any instructions to them in this regard. It will also not be in order to ask the Provincial Governments to consult this (*Home Affairs*) Ministry or the Federal [Union] Public Service Commission in case of re-employment of officers in posts in the Provincial Services.

[G.I.M. of H. Affairs letter No : 33/17/48-Est. dated 6-12-1949 to the address of Honorary Secretary, Civil Engineer's Association' India and Burma, Kennedy House, Simla.]

(6-A) The restrictions on the provincial Governments under Article 520 C. S. R. requiring them to obtain sanction of the Government of India for the re-employment of retired Central Government Officers ceases to be operative. The modification of the Rule has, however, been deferred till the revision of the C. S. R.

[G.I.M.F. File No. 7(59)-EV/58].

(7) The question whether the Government of India's pensioners re-employed in the State Bank of India may be continued to be paid the temporary increase in pension beyond 1-7-1955 has been considered and it has been decided that for so long as the State Bank of India does not fall within the purview of the 'Local Fund' as defined in Article 33 of the Civil Service Regulations, the principles of Article 520 and 521 *ibid* need not be applied in the case of its staff and that the temporary increase in pension may be allowed to such re-employed pensioners.

[G. I. M. F., letter No. 5934—EV (A)/58, dated the 5th January, 1957].

(8) See Government of India's decision No : 26 below Article 459.

(9) The revenues of the Reserve Bank of India are not considered as Government revenues or local fund for the purposes of Article 520 of the C.S.R. The Reserve Bank is also not treated as commercial employment under article 531—B of C. S. R.

[G. I. M. F. letter No. 1483-EA (1)—59, dated 4-6-1959, to the address of Secretary to Government Punjab, Finance Department, Chandigarh in File No : 7 (1)—EV/59].

(10) There is no Warrant for giving a restricted meaning to the word "appointment" in Article 229 (1) of the Constitution. Accordingly the Chief Justice of a High Court is competent to re-employ a retired Government servant and to fix his emoluments without any delegation to him of the powers under article 520 of the Civil Service Regulations.

[G.I.M.F. letter No. 26(1)-EV/60, dated the 25th February 1961 to the Secretary to the Government of U.P.F.D. (CII) Lucknow.

(11) There are no orders putting any restrictions on pay or pension in the case of persons after retirement from Government of India to take up employment in the United Nations Organisation.

[Shri Devi Dayal Bhatia's D.O. No. F. 26 (5)-EV/90 dated the 23rd November 1960 to Shri Ranjetha Deputy Accountant, General, Central Revenues, New Delhi.]

Government of India's Instructions. All cases of the grant of extensions of service to and re-employment of, superannuated persons are required to be referred to Ministry of Home Affairs *at least three months in advance of the crucial date.* It is, however, observed that such cases are generally sent after the expiry of crucial date or just a few days before that date. Apart from the fact that this practice results in the retention in service of superannuated persons without the appropriate sanctions, it precludes proper consideration of the cases. Attention is again drawn to the provision that the Home Ministry are as a matter of policy averse to the grant of extensions of service to, or re-employment of superannuated officers save in cases of the most exceptional nature. If, however,

such proposals *must* be made, it should be noted that they require to be examined closely, and are decided at a high level. It is accordingly requested that in future *they should be referred to Ministry of Home Affairs at least six months in advance of crucial date* failing which that Ministry would ordinarily decline to entertain any such proposals.

[G.I.M.F. Affairs Memo No. 23/815/51-CS.; dated the 16th November 1951.]

Audit Instruction. See Audit Instruction below Article 509A.

521. The authority competent to fix the pay and Allowances of the appointment in which the pensioner is employed shall determine whether the pension shall be held wholly or partly in abeyance. If the pension is drawn wholly or in part such authority shall take the fact into account in fixing the pay to be allowed to them ; provided that (*i*) where a Local Government has delegated its power under clause (*iii*) of Article 520 to the Head of a Department, the latter may not allow the pensioner to draw full pension in addition to the full pay of the post except when the re-employment or continued employment is for the *bona fide* temporary duty lasting for not more than a year or the pension does not exceed Rs. 10 a month, and (*ii*) where the Local Government has delegated its power to any other authority subordinate to itself, such authority may not allow the pensioner to draw in full a pension of more than Rs. 10 a month in addition to the full pay of the post.

Note 1—Where the employment is in service paid from a local fund, the authority determining whether the pension shall be wholly or partly held in abeyance shall be either—

(*i*) the authority administering the local fund, if so empowered by the Local Government by special or general orders in this behalf or

(*ii*) in any other case, the Local Government or such other authority as the Local Government may prescribe.

Note 2—The restrictions in this Article do not apply to ex-policemen whose pension does not exceed Rs. 10 a month.

Chief Commissioner Delhi's order :—Under note 1 to this Article, the Chief Commissioner. Delhi, has declared that the authority administering a Local Fund shall be the authority competent to fix the pay and allowances of an appointment in which a pensioner is re-employed and to determine whether his pension shall be wholly or party held in abeyance.

Note.—This delegation is subject to the restriction in Article 521 (*ii*) that the said authority may not allow the pensioner to draw in full, a pension of more than Rs. 10 p.m. in addition to the full pay of the post.

[G C Delhi's No. 1389, dated 24-2-1928].

Government of India's decisions (1) See Government of India's decision No. (7) below Article 514.

(1—A) The provisions of Article 510 and 521 Civil Service Regulations do not apply to High Court Judges. Consequently when offering a post to a retired Judge the authority fixing the pay of the post, may, but is not bound to, take into the consideration the pension already drawn by him and an audit officer is not required to enquire whether the pension has been taken into consideration. A retired High Court Judge may, therefore, be permitted to draw the full pay of the post, in which he is re-employed, in addition to his full pension.

[G I.F.D. endorsement No. F./204-C.S.R /25 dated 25th January, 1927.]

(1—B). Class IV employees on re-employment are governed by the provisions of Chapter XXI of the Civil Service Regulations and therefore, the principles of pay fixation on re-employment as laid down in article 521 of the Civil Service Regulations apply in their case.

[G I M.F. letter No F. 10(10)E. V/58, dated the 25th February 1958].

(2) The Government of India find from certain references recently received that some authorities are in doubt about the significance of the term "the authority competent to fix the pay and allowances of the appointment in which the pensioner is employed... ....." in Article 521, Civil Service Regulations. These doubts seem to have arisen because some powers have been delegated to different authorities both for the creation of posts and for

re-employing pensioners. But the delegation of power to create posts is usually subject to the condition that the posts should be on sanctioned scale of pay, and the power of fixing the pay and allowances of any post under the Central Government has not been delegated to any authority. In all cases of re-employment, therefore the authority competent to determine whether a civil pension shall be held wholly or partly in abeyance under Article 521, Civil Service Regulations, is therefore the Government of India, in the Ministry of Finance, except to the extent indicated in the Article.

[G. I. M. F. No. 10 (5)-E. V/30 dated 6-6-1950.]

Note. This decision is applicable in case of re-employment of pensioner who retires on superannuation or retireing pension and does not apply to those who retired on invalid pension.

[G. I. M. F. File No. F. 7 (34)-EV/54.]

(3) The retirement gratuity admissible under the revised pension rules is in lieu of a portion of the pension admissible under the old rules. It will be noticed that in case of officers who opt for the benefit of the modified pension rules under para 2 (*c*) of the Government of India, Ministry of Finance Office Memorandum [incorporated as Government of India's decision below paragraph 13 in appendix 41] the pension including additional pension, under the rules applicable before the introduction of the new scheme, is to be reduced by the pension equivalent of the gratuity admissible under the new pension rules, and the officer is allowed to receive in lieu of this reduction the death-cum-retirement gratuity. The new scheme was not intended to liberalise the provisions relating to the fixation of pay of pensioners on re-employment as contained in Article 521 *et. seq.* Civil Service Regulations. or any other executive orders of Government issued from time to time. Under Article 41, Civil Service Rugulations the term 'pension' except one used in contradiction to gratuity, includes 'gratuity'. There can therefore be no doubt that the pension equivalent of the gratuity which an officer receives on retirement under the new pension scheme should be taken into account for the purpose of determining his pay during re-employment. As to how the monthly value of the lump-sum gratuity is to be reckoned it has been decided that the pension equivalent of the gratuity which an officer receives on retirement under the new pension scheme should be determined by applying the current Table of Commutation of Pensions, the age of the person concerned being taken as the age next birth-day after retirement from Government service. In respect of Government servants opting for the modified rules in para 2(*c*) of the Government of India. Memorandum referred to above, it has already been provided that the pension equivalent of the gratuity will be determined on the basis of the Commutation Table applicable to the Government servant at the time of retirement.

In the past it happened in certain cases that re-employment commenced at a time when the Government servants concerned had as yet no opportunity of coming under the revised pension rules, and when subsequently they did so and became eligible for retirement gratuity, their pay from the date they came under these rules was not reduced by the pension equivalent of the gratuity as it should have been. In all cases it is necessary that further payment should be correctly regulated in accordance with the above principles. In cases where re-employment has already been terminated. any over issue of pay due to ignoring the pension equivalent of gratuity may be regarded as waived. All remaining cases of this type as well as all other cases including cases where officers have opted for the alternative in para 2 (c) of the Memorandum referred to above where overpayment of pay has been made ignoring the pension equivalent of gratuity should be reported to Government for orders.

Another question that has arisen is whether a re-employed pensioner whose pension is held in abeyance can be allowed to commute a portion thereof. The existing position under the rules is that when pension is not held in abeyance or when it is held only partly in abeyancee during the period of

re-employment, it is permissible to commute, within admissible limits, the portion of pension actually drawn. The Government of India consider that the right to commutation is an important right and that it should not be reduced or taken away merely by the fact and the terms of re-employment. Accordingly they have decided to allow commutation of a portion of pension, within admissible limits, even when the pension is held wholly in abeyance, and even if, in cases where it is held partly in abeyance. the amount of pension desired to be commuted exceeds the amount of pension actually drawn. At the same time it has been decided that if a pensioner whose pension is held wholly in abeyance commutes his pension, his pay during the re-employment will be reduced from the date the commutation becomes effective, by the amount of pension commuted. If, however, the commutation is in respect of a pension partly held in abeyance, that portion of the pension which is actually drawn during re-employment will first be set off against commutation and if the pension drawn is not sufficient to cover the amount to be commuted, the difference will be set off against the portion held in abeyance, a corresponding reduction being made in the pay during re-employment with effect from the date the commutation becomes effective.

[G. I. M. F. Memo No. F. 2 (17) E. V./50, dated the 31st July, 1951.]

Note. The provisions of this decision also apply to corresponding personnel paid from the Defence Service Estimates vide Army Instruction No. 485 of 1951.

(4) It has come to the notice of the Government of India that the instructions contained in decision No. (3) above were not followed by some authorities in fixing the pay of re-employed pensioner. The element of pension equivalent of death-cum-retirement gratuity not having been taken into account the re-employed officer was erroneously allowed to draw more pay than what he was entitled to under the rules, thereby resulting in over payment. It has also been noticed that this over issue of pay was to some extent attributable to incomplete information furnished by the authorities concerned. In order, therefore, to obviate the possibility of such an omission it has been decided that in the orders sanctioning re-employment it should be made clear that :—

(*i*) In cases where pay on re-employment is fixed by keeping pension in abeyance the pension equivalent of retirement gratuity, if any should also be reduced from that pay, and

(*ii*) In cases where pay is fixed after taking into account the element of pension, the pension equivalent of retirement gratuity, if any has also been taken into account.

[G. I. M. F. Memo No. F. 19(12) E. V /55, dated the 7th June 1955.]

(5) The grade of a re-employed pensioner. in the following cases, shall be determined on the basis of pay alone :—

(*a*) Re-employed military ponsioner, whose pay on re-employment in a civil post is fixed without taking into account the military pension under Note 1 below Article 526 of Civil Service Regulations : and

(*b*) Re-employed civil pensioners, whose pay on re-employment is fixed without taking into account pension up to Rs. 10 per month under the provision of Article 521 of Civil Service Regulations.

The instruction also applies to D. G, O. F. Organisation.

[Army Instruction No. 2, dated the 2nd January, 1960.]

Audit Instructions (1) In the case of an officer who before his retirement was under the rule-making control of Secretary of State, the appropriate authority for fixing his pay or allowances on re-employment is the Governor General (*now President*) or the Governor according as the post in which he is employed is in connection with the affairs of the Central Government or of the Province. Such authority is therefore, competent to decided under this Article whether or not his pension is to be held wholly or partly in abeyance during re-employment.

Para 27-A, Section III of the Manual of Audit Instructions (Reprint).]

(2) To hold the pension of a Secretary of State's officer wholly or partly

in abeyance in lieu of the pay to be granted to him on re-employment under the authority of a rule made or deemed to have been made under Section 247 (1) (*e. g.* Article 521, C.S.R.), is not an award of pension less than the maximum pension allowable under the rules made under Section 247 of the Government of India Act.

[Para 5, Section IV-A of the Manual of Audit Instructions (Reprint).]

(3) A pensioner employed as a Minister is entitled to draw his pension in addition to the salary of a Minister.

[Para 3, Section V of the Manual of Audit Instructions (Reprint)]

Exceptions.

522. The foregoing rules do not apply to pensioners re-employed under the Court of Wards.

523. A pensioner of any class may be employed as an Extra Departmental Agent in the Post Office, or as a Sub-Registrar under the law for the registeration of documents remunerated by fees only.

524. *Cancelled.*

Employment on the Railway Board.

524A. When an officer who is in receipt of a pension from Indian revenues is appointed President or Member of the Railway Board he shall be allowed to draw his pension in addition to salary. If however, an officer still in active service is so appointed, he will be ineligible for admission to pension during his tenure of office on the Board.

In Case of Commutation of Pension.

524B. In the case of a pensioner who is re-employed in Government service or in the service of a Local Fund and who commutes a portion of his pension after such re-employment, the amount of pension which the pensioner is entitled to draw under the rules in this Section shall be the amount to which he would have been entitled had there been no commutation, less the amount commuted.

In the case of a pensioner whose pension is held wholly in abeyance during such re-employment, and who commutes a portion of his pension during this period, his pay during re-employment shall be reduced by the amount of pension commuted with effect from the date on which the commutation becomes absolute. In the case of a pensioner whose pension is held partly in abeyance during such re-employment, and who during this period commutes, a portion of his pension in excess of the portion actually drawn, his pay during re-employment shall be reduced with effect from the date on which the commutatien becomes absolute, by an amount representing the difference between the portion of pension commuted and the portion of pension drawn until the commutation.

524C. In the case of a pensioner a portion of whose pension has been commuted before re-employment, the original amount of the pension should be taken into consideration in fixing the total receipts during re-employment or continued employment and not merely the uncommuted pension.

SECTION III.—MILITARY PENSIONERS

525. Except where it is otherwise expressly provided, the rules in Section II of this Chapter do not apply to a military officer, departmental officer, warrant or non-commissisned officer or soldier who is taken into or allowed to continue in civil employ after he has been granted a pension under military rules. The claims of such an officer to salary in the Civil Department are governed by Articles 526 to 528. His pension for service in the Civil Department will not be affected by his military pension.

Government of India's decision :—Article 525, Civil Service Regulations does not apply to the case of a Non-Commissioned Military Officer in receipt of an invalid pension under military rules; his pension cannot be affected on re-employment in Civil Department.

[Para 368 of the India Supplement to C. S. R. (5th Edition).]

526. (*a*) **When a pensioner formerly in military service obtains employment in the civil department after having been granted a military pension he shall continue to draw his military pension, but the authority competent to fix the pay and allowances of the post in which he is re-employed shall have in fixing his pay and allowances in the post in which he is re-employed, the power to take into account the amount of pension, including such portion of it as may have been commuted.**

(*b*) **A military officer, departmental officer, warrant or non-commissioned officer or soldier who is granted a pension under military rules while he is in civil employ, shall draw such pension while he is in civil employ, but the authority competent to fix the pay and allowances of the post in civil employ, may with effect from the date from which the pension is granted, reduce such pay and allowances with reference to such officer or soldier by any amount not exceeding the amount of such pension.**

Note 1. If the military pension of a person does not exceed Rs. 15 a month, it shall not be taken into account in fixing his pay and allowances in the Civil Department and where such pay and allowances have been fixed after taking such pension into account they shall be refixed with effect from 1st Feburary, 1942 as if the person is not in receipt of any military pension.

Note 2. Clause (*b*) of this articls does not apply to a military officer of the Indian Political Service.

Note 3.—In the case of all military officers in civil employ granted leave under Funamental Rule 86 the payment to military pension shall be suspended until the officer is finally retired from civil employ.

Government of India's orders :—(1) The orders contained in this Article do not apply to salaries regulated by Acts of Parliament.

[G.I. No. 2455 dated 27-8-1959].

(2) Article 526 (*a*) and 526 (*b*) will govern all cases in which re-employment or continued employment begins after the 30th May, 1933, the date on which the Article was revised. The emoluments of military pensioners already in service on 30th May, 1933 will continue to be regulated according to the rules applicable to them before revision

[G. I. F. D. Despatch to H M's Secretary of State No. 9, dated 22-5-1892].

(3) Wound or extraordinary pension should be reduced or terminated only in virtue or the conditions of its award and should not be affected by the pensioner's re-employment in Government service.

[Paragraph 2 of G. I. F D Memo No F/I. I. R. 1928, dated the 26th September, 1928].

(4) See Government of India's decision No. (18) below Article 356.

(5) Article 526 (*a*) gives the authority *competent to fix the pay and allowances of a civil post* in which it is proposed to re-employ a military pensioner, the power to take the military pension of such an officer (*i.e.* one appointed to a civil post after the 30th May, 1933). into account including any portion that might have been commuted, in fixing the pay and allowances of such an officer in the civil post.

Article 526 (*b*) while allowing the military pension to be drawn from the date from which it is granted by the military employer, gives the authority competent to fix the pay and allowances of the post in civil employ, the discretion which must be duly exercised in each case, to take into account the military pension and to reduce the pay and allowances of such an officer from the date, the military pension is granted if it thinks fit.

The authority competent to fill the particular post should approach, with his recommendation, the authority competent to fix the pay in each case in which a military pensioner has been entertained in a civil post or in which a military officer has been granted a military pension while employed in civil post after the 30th May, 1933.

A reservist while still a reservist is not a pensioner. As reserve pay is not pension, it is not affected by any of the restrictions laid down in Article

526 of the Civil Service Regulations.

[G I.F.D. No. 9 (11) R.. II/37, dated 30-7-1937].

(6) The Government of India have had under consideration the questions (*i*) whether the pension sanctioned to personnel of the former Indian State Forces should be treated as military pension for the purposes of Article 526 of the Civil Service Regulations and (*ii*) whether such pensions should be taken into account in fixing their pay on re-employment in a civil capacity under the Government of India. The President has been pleased to decide that (*i*) the pension sanctioned to the personnel of the ex-State Forces should be treated as military pension for the purposes of Article 526 of the Civil Service Regulations and that (*ii*) the pensions of such personnel should be taken into account for the purpose of fixation of pay on their re-employment under the Government of India to the extent indicated in Article 526 of the Civil Service Regulations. The cases of fixation of pay of re-employed pensioners under this Article will, of course, be referred to the Government of India on the analogy of cases falling under Article 521 of the Civil Service Regulations.

[G.I M F. Memo No. F. 16 (21)—Est. III/52 dated the 9th December 1952].

Note—This order will apply to the past cases only to the limited extent that any reduction in re-employed pay should be effective only from the date of issue of the said orders.

[G.I.M F. letter No. F. 16(21)—Est. III/53 dated the 8th May 1953.]

(7) A question has been raised whether re-employed Military Pensioners whose pay on re-employment in a Civil post is fixed without taking into account the Military Pension under Note below article 526 of the Civil Service Regulations, should be allowed Dearness, Compensatory (City) and House Rent Allowances on the basis of pay alone or on the basis of pay *plus* pensions. After careful consideration, it has been decided that in the case of such re-employed Military Pensioners the above allowances shall be granted on the basis of pay alone. This procedure should also be adopted in the case of re-employed Civil Pensioners whose pay on re-employment is fixed without taking into account pension upto Rs. 10 per month under the provisions of Article 521 of the Civil Service Regulations.

The orders will take effect from the date of issue and past cases decided otherwise shall not be re-opened.

[G. I. M. of Defence Memo No. 5(24)(58)-12533-D(Civ-1) dated the 12th December 1958].

(8) According to Note I below Article 526(*b*) of Civil Service Regulations if the military pension of a person does not exceed Rs. 15 a month it shall not be taken into account in fixing his pay and allowances in the Civil Department. A question has been raised whether in a case where the military pension exceeds Rs. 15 a month the whole amount of pension or only the amount over and above Rs. 15 should be taken into account in fixing the pay of the individual concerned. It is clarified that the authority competent to fix the pay and allowances of a military pensioner is vested with the discretion to take into account either the full amount of pension or ignore any part of it upto Rs. 15 in fixing the pay of the pensioner.

Cases already finally decided will not, however, be re-opened.

The provisions of Article 526(*b*) of the Civil Service Regulations will continue to remain applicable even in the cases of re-employment regulated under Government of India's decision No. (I—A) below Article 509-A.

[G.I.M.F. Memo : No. 7 (17)-Est-III/62, dated the 24th May 1962.]

(9) A doubt has been raised whether in the case of re-employed pensioner in receipt of pension upto Rs. 10 p.m. (Upto Rs. 15 p m. in the case of a military pensioner), which is not taken into account for fixation of pay on re-employment, temporary increase should be allowed on such pensions.

The position is that so long as a pensioner remains re-employed, he should not be eligible for any temporary increase on his pension.

The cases which have been decided prior to the issue of these orders need not be re-opened except that they may here after be regulated in accordance

with the position now explained.

[G. I. M. F. Memo : No. 15 (1) EV (A) 61 dated the 18th February 1961].

Audit rulings : – (1) The determining event for the application of clause (*b*) old or new, as the case may be, of Article 526, C. S. R. is the date when a person is granted his military pension and not the date when he originally obtained employment in the Civil Department.

[Auditor General's No. 90-A/216-37, dated the 14th February, 1938].

Note.—This date of discharge from the Military Department in respect of military pensioners who are granted military pensions while in civil employ under Article 526 (*b*), C, S. R. will be communicated by the C. M. A. [Now Controller of Defence Accounts] to the Accountant General concerned and to head of the office in the Civil Department in which the pensioner concerned is employed.

[Letter No. A/3179-4, dated 28th January, 1938 from the Controller of Military Accounts and Pensions, Lahore.]

(2) Military pensioners obtaining employment in the Civil Department while on leave pending discharge from the Military should be dealt with under Article 526 (*b*) of the Civil Service Regulations.

[Auditor General's letter No. 142-A/72-36, dated 10th April 1937.]

527, 528 and 528A. *Cancelled.*

528B. The pension of the heir of an Indian Military officer or Non-Commissioned officer or soldier, or the heir of the Medical subordinate, will during employment in any Civil Department, merge in his salary.

SECTION IV.—PENSION FOR NEW SERVICE.

529. Except as provided in Articles 523 to 528B, an officer who, having been discharged with a pension, is subsequently re-employed, may not count his new service for a separate pension. Pension (if any) is admissible only for the new service combined with the old, the whole being counted as one service.

530. If an officer who has obtained a Compensation or Invalid pension is re-employed in pensionable service and retains the pension (*See* Article 514), the pension or gratuity admissible for his subsequent service is subject to the following limitation, namely, that the gratuity or the capital value of pension shall not be greater than the difference between the value of the pension that would be admissible at the time of the officer's final retirement, if the two periods of service were combined, and the value of the pension already granted for the previous service.

Government of India's decisions—(1) The capital value of the pension granted for the previous service should be calculated on the basis of the age of the officer on the date of final retirement from service.

[G. I. F. D. No. F. 6(4)-R, II/34, dated January 1934].

(2) A doubt has been raised as to whether in the case of re-employed Government servants who had obtained invalid or compensation gratuity or pension, the restrictions prescribed in articles 530 and 531, C. S. R, should apply to death/residuary gratuity, payable under Section II of the New Pension Scheme. The question has been carefully considered and it has been decided that the restrictions in articles 530 and 531 C. S. R. should appropriately apply to the payment of death/residuary gratuity in the case of a re-employed Government servant who had obtained invalid compensation pension or gratuity in respect of earlier service and in whose case death/residuary gratuity becomes payable in respect of re-employed service. In other words, if a re-employed Government servant dies while in service after completing 5 year's qualifying service, the amount of gratuity payable to his family under sub-rule (3) of rule 3 of Section II of the New Pension Scheme should be reduced by the amount of gratuity or pension actually drawn by him in respect of his first spell of service. Similarly, if an officer, dies after final retirement from service, the residuary gratuity, if any, due to him under sub-rule (4) *ibid* should be further reduced, where possible, by the total of gratuity/pension actually drawn for the first spell of service.

[G.I.M.F. Memo]No. F. 19 (29)-EV/55, dated the 16th October, 1956.]

(3) Decision No. 2 was based on the consideration that a Government servant by virtue of his having served a second spell of service after having previously retired on compensation or invalid pension should not be placed in a more advantageous position than one who completes an equivalent period of service in one spell. The amount already received by late * * * by way of pension from the Government of Bombay far exceeds the maximum amount of family pension which could be admissible in the case of any other Government servant with an equivalent period of service rendered in one spell and as such the pension sanctioned by the Government of Bombay should not be further taken into account in determining the amount of family pension admissible now for the service under the Government of India. The family pension in such cases should accrue by virtue of second spell of service which should be determined with reference to the pension sanctioned for that spell only and the pension for the first spell which is drawn separately by the Officer concerned has nothing to do with it.

[G. I. M. F. Memo : No : 989-EV (A)/59 dated the 27th April, 1959.]

531. (*a*) If a gratuity received for the earlier service has not been refunded, gratuity or pension (as the case may be) may be allowed for the subsequent service, on condition that the amount of such gratuity or the present value of such pension *plus* the amount of the previous gratuity shall not exceed the amount of gratuity or the present value of the pension that would have been admissible had the gratuity received for the earlier service been refunded.

(*b*) If the amount of such gratuity or the present value of such pension, plus the amount of the previous gratuity, exceed the amount of gratuity or the present value of the pension that would have been admissible if the gratuity received for the earlier service had been refunded, the excess must be disallowed.

531A. For the purposes of Articles 530 and 531, the capital or present value of a pension shall be calculated in accordance with the table prescribed by the Governor-General in Council under the "Civil Pensions Commutation Rules."

SECTION V.—COMMERCIAL EMPLOYMENT AFTER RETIREMENT.

531B. (*a*) If a pensioner to whom this Article applies wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he should obtain the previous sanction of the Governor-General to such acceptance. No pension shall be payable to a pensioner who accepts a commercial employment without such sanction, in respect of any period for which he is so employed or such longer period as the Governor-General may direct.

Provided that a Government servant permitted by the appropriate authority to take up a particular form of commercial employment during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

(*b*) This article shall apply to every pensioner who immediately before retirement was a member of an All-India Service or a Central Service, Class I, but shall not apply in relation to any commercial employment accepted by such pensioner before the 1st January, 1948.

(*c*) In this Article, "Commercial employment" means employment in any capacity including that of an agent, under a company, co-operative society firm or individual engaged in trading, commercial, industrial, financial or professional business, and includes also a directorship of such company and a partnership of such firm but shall not include employment under a body corporate owned or controlled by

* See appendix 38 to this Compilation.

Government.

Explanation I **For the purpose of clause (*a*) of this Article, the expression "the date of retirement", in relation to a Government servant re-employed after retirement, without any break, either in the same or in another Class I post under the Central Government in any other equivalent post under a State Government, shall mean the date on which such Government servant finally ceases to be so re-employed in Government service.**

Explantion II—**For the purpose of this Article, employment under a co-operative society shall include the holding of any office. whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like, but whatever name called in such a society.**

Government of India's decisions. (1) It has been decided in relaxation of Article 531B of the Civil Service Regulations, that officers appointed by the late Secretary of State, who proceeded on leave preparatory to retirement due to constitutional changes and took up private, commercial, or other employment outside the Indian Dominion during such leave, shall not be required to obtain Government permission to continuing in such employment or taking up other employment outside the Indian Dominion, after retirement. This relaxation shall also be applicable to the case of officers, referred to above, who did not take up any other employment outside the Indian Dominion during leave preparatory to retirement but may wish to do so after retirement.

[G. I. M. F. Affairs letter No. 29/20/48 Est. dated the 25th September 1948.]

(2) *Omitted.*

(3) Under article 531B of the Civil Service Regulations, retired Government servants who belonged to All-India Services or Central Service, Class I, are required to obtain the permission of Government before taking up any commercial employment within two years of their retirement.

According to the existing intructions, retired Engineers of the Central Public Works Department are debarrred from working for the department either as contractors or as employees of contractors. It has now been decided that such a ban should be removed and that, as in the case of retired officers of All India Services and Central Services Class I, taking up commercial employment retired Engineers should be required to obtain prior permission of Government, if they seek employment as contractors or under such contractors within two years of retirement-

It has also been decided that the principle should be adopted uniformly in respect of all Engineers of gazetted rank and other gazetted officers employed on engineering or administrative duties in the engineering departments of the Government of India, who after retirement, seek employment as contractors for or in connection with the execution of Public Works (including Railway and Defence Works) or as employees of such contractors, within two years of their retirement. Such permission within two years of such an officer's retirement will be given very rarely and only in special circumstances.

No person who is covered by these orders and has not obtained the necessary permission should be given any such contract and a condition should be incorporated in the terms of the contract that it is liable to cancellation if either the contractor himself or any of his employees is found to be a person to whom these orders applied and he had not obtained the necessary pern ission.

As a further safeguard, it has also been decided that at the time of sanctioning pension, officers of these categories should be required to sign an undertaking that they would not seek such employment within two years of retirement without the prior permission of Government. In the case of non-pensionable officers, the officers should be required to sign a similar under taking at the time they are paid the gratuity.

[G. I. M. H. Affairs Memo. No. 29/1/55, Est, dated 29th June 1956.]

*Inserted vide G. I, M.F. Notification No. F. 4(35)-EV(C)/61, dated the 12th June 1961.

(4) See Government of India's decision No. (2—C) below Rule 15 of Central Civil Services (Conduct) Rules, 1955 in appendix 47.

(5) Employment under a Co-operative Marketting Society will also amount to "Commercial employment" for the purposes of Article 531-B Civil Service Regulations.

[G. I M. F. U. O, No. 3493-Est V(A) date the 12th May 1960 in file No. F. 24 (74)-EV/60.]

(6) Para 3 of the Home Ministry's Office Memorandum No. 25/2/59-Ests (A) dated the 7th February, 1959 provides *inter alia* that in respect of services controlled by the Ministry of Home Affairs (All India Services, Central Secretariat Service, etc.) no reference to Home Ministry is necessary for giving permission. under Articlc 531-B of the Civil Service Regulations to retired officers for taking up commercial employment within two years of retirement. On reconsideration, it has been decided that, in the interests of uniformity, such cases, in so far as they relate to retired officers of the All-India Services and officers of the Central Secretariat Service of the rank of Under Secretary and above should hereafter be referred to the Ministry of Home Affairs for decision.

[G.I.M.H. Affairs Memo. No. F. 29/2/63, Ests (A), dated the, 17th April 1963]

Auditor General's decision—The Auditor General has decided that officers disbursing pensions should obtain monthly certificates from the pensioners in the following form if suitable certificates have not already been prescribed by the Accountant General or Comptrollers as the case may be.

CERTIFICATES.

(1) I declare that I have not accepted any commercial employment

or

I declare that I have accepted commercial employment after obtaining the previous sanction of the Governor General.

Note 1.—The certificate is required to be given for a period of two years from the date of of retirement by every pensioner who immediately before retirement was a member an All-India Service or of a Central Service, Class I,

Note 2—The certificate refers to the acceptance of commercial employment on or after the 1st January, 1948.

Note—3 "Commercial employment" means employment in any capacity including that of agent, under a company, firm or individual engaged in trading, commercial industrial, financial or professional business and includes also a directorship of such company and partnership of such firm.

(2) I declare that I have not accepted any employment under a Government outside India.

or

I declare that I have accepted employment under a Government outside India after obtaining the previous sanction of the Governor General.

Note 1—This certificate is required to be given by every pensioner who immediately before retirement was a member of an All India Service or of a Central Service, Class I-

Note 2—The certificate refers to the acceptance of such employment on or after the 26th July 1949

Note 3—"Employment under a Government Outside India" includes employment under a local authority or Corporation or any other institution or organisation which functions under the supervision or control of a Government outside India.

[Auditor General's letter No. 2060, Admn 452/49, dated 10-11-49].

SECTION VI—EMPLOYMENT UNDER A GOVERNMENT OUTSIDE INDIA AFTER RETIREMENT.

531C. (*a*) **If a pensioner to whom this Article applies wishes to accept any employment under a Government outside India, he should obtain the previous sanction of the Governor-General to such acceptance. No pension shall be payable to a pensioner who accepts such an employment without proper permission. in respect of any period for which he is so employed or such a longer period as the Governor-General may direct.**

Provided that a Government servant permitted by the appropriate authority to take up a particular form of employment under a Government outside India during his leave preparatory to retirement shall not

be required to obtain subsequent permission for his continuance in such employment after retirement.

(*b*) **This Article shall apply to every pensioner who immediately before retirement was a member of an All India Service or of a Central Service, Class I, but shall not apply in relation to any employment referred to in clause (*a*) above accepted by such pensioner before the 26th July, 1949.**

(*c*) **For the purpose of this Article, "employment under a Government outside India" shall include employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India.**

CHAPTER XXII—THE GOVERNOR GENERAL, GOVERNORS, LIEUTENANT-GOVERNORS AND MEMBERS OF COUNCIL.

SECTION I—EXISTING PENSIONS HOW AFFECTED.

532. *Not-printed.*

533. *Cancelled.*

SECTION II—LIEUTENANT-GOVERNORS.

Leave Rules.

534—542. *Not Printed,*

CHAPTER XXIII—JUDGES OF THE HIGH COURTS

543—545A. *Not Printed*

Note—The Government of India (High Court Judges) Order, 1937, which came into operation on 1st April, 1937 has been incorporated as appendix 40 in Volum 11 to this Compilation.

CHAPTER XXIV—BARRISTER, VAKIL, PLEADER, SOLICITOR OR ATTORNEY APPOINTMENTS.

546. No Civil Officer, whether a member of the India Civil Service or otherwise is entitled to any special privileges by reason of his being a Barrister; Vakil, Pleader, Solicitor or Attorney, unless on his first admission to the service he is appointed to some office in which the Local Government, with the sanction of the Government of India, has declared it to be necessary on public grounds to employ a Barrister, Vakil, Pleader, Solicitor or Attorney.

Note—This Article is intended to debar from the benefit of this Chapter (1) a barrister, vakil, pleader, solicitor or attorney who first enters Government service in an appointment to which it is not certified to be necessary to appoint such an officer, and (2) member of an ordinary Government service who happens also to be a barrister, vakil, pleader, solicitor or attorney.

If, however, there are special circumstances which appear to justify a departure from the geneaal rule in the case of any individual officer, as for example, when a permanant appointment to which the subsequent provisions of this Chapter ordinarily apply, follows a purely temporary incumbency in one which ordinarily disqualify from the benefit of these provisions, the case should, if it is desired for grant any concession be referred to the Government of India before the officer is confirmed in the latter appointment.

547. (*a*) **The following officers, not being members of the Indian Civil Service, are entitled to the special privileges detailed in this Chapter :—**

Barrister and Pleader, Judges of a Chief Court,	
First Judges of Small Cause Courts of Presidency towns,	
Secretary to the Government of India in the Legislative Department.	
Judicial Commissioner or Additional Judicial Commissioner of the Central Provinces,	
Administrator-General and Official Trustee, Bengal	
* * * * *	if Barristers
Administrator-General and Official Trustee, Bombay	
Legal Remembrancer and Secretary to the Legis-	

lative Council. Punjab.
Administrator-General and Official Trustee. Madras,
* * * *

(*b*) **The following officers, not being members of the Indian Civil Service, enjoy the special pensionary concessions mentioned in Article 549 : –**

Chief Judges of Small Cause Courts of Presidency towns, } if Vakil, Pleader, Solicitor or Attorney.
Chief Judge of the Court of Small Cause. Rangoon. } if Vakil, Pleader, Solicitor or Attorney.
Judicial Commissioner or Additional Judicial Commissioner of the Central Provinces. } if Vakil or Pleader
* * * *

Leave Rules

548. (*a*) **Except in the case of the Legal Remembrancer and Secretary to the Legislative Council, Punjab, the Statutory Rules which regulate the furlough and leave of absence of High Court Judges (Article 543, Rules 6 to 26) are also applicable to the officers in the preceding Article.**

(*b*) **The allowances of these officers while on Furlough or Subsidiary leave must not exceed half their salaries at time of proceeding on leave, and are limited also to the rate prescribed in Statutory Rule No. 15, Article 543.**

(*c*) *Deleted.*

Special Pension.

549. (*a*) **Special pensions are admissible on the following scale, but the officers named in Article 547 are otherwise subject to the "Ordinary Pension" Regulations in Part IV :—**

Length of actual service.	Pension Admissible		
	Barrister and Pleader Judges of Chief Court.	Barrister or Pleader Judicial Commissioner or Additional Judicial Commissioner of the Central Provinces * *	Barrister incumbents of the other appointments enumerated in Article 547
	£	£	£
6¾ years but less than 8½ years	500	375	375
8½ years but less than 10 years.	600	450	450
10 years but less than 11½ years.	800	600	600
11½ years and over ...	1,000	750	750

No officer who has attained the age of 60 years shall receive a pension under this Article unless he either retires on medical certificate or has had an actual service of at least 11½ years.

Note.—A Chief Court Judge who renders officiating actual service as a High Court Judge is entitled to count such service as actual service for a pension as a Chief Court Judge. A first Judge of a Small Cause Court in a Presidency town, who is appointed Judge of a Chief Court and does not complete 11½ year's actual service in either of the appointments is entitled to count his actual service in the Chief Court as actual service in the former appointment towards the maximum pension of £750 a year, A Legal Remembrancer and Secretary to the Legislative Council, Punjab, who is appointed a Judge of the High Court and does not complete 11½ year's actual service in either of the appointments is entitled to count his actual service in the High Court towards the maximum pension of £750 a year admissible under this Article.

(*b*) **The actual service of the officers referred to in Article 547 includes, besides time spent on duty, whether in substantive or acting service Privilege leave, subsidiary leave, and periods of vacation during which the officer is not on Furlough or Extraordinary leave;**

Provided that in the case of officers, who are entitled to leave under the High court Judges (India) Rules, 1922, 'actual service' shall

have the same meaning as 'service for pension' as defined in those Rules. Save that in the case of the Secretary to the Goverment of India in Legislative Department all leave on full allowances taken under the High Court Judges (India) Rules, 1922, shall count for pension up to maximum of four months on each occasion in lieu of the one month or the period actually taken whichever is less of each period of leave on full allowances admissible under those rules.

Compulsory Retirement

550. Officers to whom the rules of this Chapter applied on the 25th June 1901 are exempted from the rule in Article 459 regarding retirement at 55 years of age. Officer who after that date become subject to the rules in this Chapter are required to retire on attaining the age of 60 years.

Note.—The rule in the second sentence of this Article applies to officers not being members of the Indian Civil Service, who hold the appointments enumerated in Article 545, but do not fulfil the conditions of Article 546

Secretary of State's orders. The concession of late retirement on attaining the age of 60 years contained in Article 550. C. S. R. has been extended to all incumbents of the posts included in Fundamental Rule 98, irrespective of whether the officers concerned are recruited directly or promoted from subordinate posts.

[Secretary of State's Telegram No. 3735, dated the 18th October 1923.]

CHAPTER XXV.—MEMBERS OF THE INDIAN CIVIL SERVICE.

Date of Arrival in India.

551. The date of an officer's first arrival in India is held to be the date on which he reports his arrival at the capial town of the presidency or province to which he has been posted by the Secretary of State or the Government of India, or at any other station to which he may proceed under the orders of the Local Government.

552. Article 187 in Chapter IX (joining time) provides for the case of an officer being unable from illness to proceed to the seat of Government.

Rules regarding Pay and Allowances

553. Unless there be something repugnant in the subject or context, pay and allowances are governed by the rules in Part II, Acting allowances are calculated in accordance with the rules in Articles 104 to 108.

Leave Rules.

554. The leave rules applicable are the European Service Leave Rules in Part III.

1. The rules applicable to a member of the Indian Civil Service occupying the position of a High Court Judge are laid down in Chapter XXIII.

2. The grant to a member of the Indian Civil Service occupying the position of a Chief Court Judge of privilege leave, and the conditions under which leave may be combined with vacation on full pay are regulated by Rules 17 and 24 (A), Article 543.

555. Except in the case of Judges of Chief Courts ; no leave but privilege leave may be granted to an officer who has completed thirty-five years' service. Any leave other than Privilege leave granted before such date ceases to have effect on the date the officer completes thirty-five years' service.

Four Per-Cent Deductions.

556. Four per cent shall be deducted at the time of payment from every officer's pay, and from such of his other public emoluments as are mentioned below : –

Every allowance excepting—

(1) Minimum furlough allowance.

(2) Subsi-tence allowance while on furlough.

(3) Establishment allowance.

(4) Sumptuary allowance.
(5) Traveling allowance.
(6) Tentage.

The amount so deducted shall be funded for the benefit of the officer himself with effect from the 1st April, 1919. They shall be returned to him on retirement or his legal representative in case of death. with the same interest as is allowed on subscriptions to the General Provident Fund.

Note 1 :—Fees or honoraria paid by Government to Examiners for conducting examinations and rewards for passing examinations in languages are not liable to the deduction prescribed in this Article.

Note 2 :—The deduction prescribed in this Article is not made from the salary of an Ordinary Member of the Council of the Governor-General, or of the Council of the Governor of Madras or Bombay or Bengal, or of the Council of the Lieutenant Governor of any Province

Civil Fund Deductions

557. *Not Printed.*

558 and 559 *Cancelled.*

560. *Not Printed*

Retirement and Annuity

561. An officer who has been twenty-five years in the service counting from the date of his covenant [or from the date of the despatch of the Secretary of State announcing his appointment whichever may have been earlier and who has rendered twentyone years' active service is entitled, on his resignatian of the service being accepted, to †[an annuity of Rs. 13,333-5-4 (Rs. 13,333·33 with effect from the 1st April, 1957), if he is an Indian officer or,being a non-Indian officer, draws his pension in India, and to an annuity of Rs. 10,666-10-8 (Rs, 10,666.66 with effect from the Ist April, 1957), subject to a minimum of †£1,000, if he is a non-Indian, officer and draws his pension through the High Commissioner for India in London.

Government of India's decisions.—(1) During the period of absence on leave without allowances a Covenanted Civil Servant should be considered to be in the service within the meaning of Articles 561 and 564 of the C. S. R.

[Paragraph 337, India Supplement to C. S. R. (5th Edition)]

(2) The Government of India in consultation with the Auditor General have held that Study Leave is not "Active Service" with in the meaning of Article 8 and 9 of the Civil Service Regulations and cannot, therefore count for annuity under Article 561 thereof.

[Government of India,s express letter to the Secretary of State, No. F. 36/3/37 Ests, dated the 12th July, 1937].

(3) Figure 'Rupees and nP' expressed in brackets in Article 561 indicate the exact equivalent of figures 'Rupees and annas' shown outside the brackets according to the conversion table of decimal system of coinage. The annuities admissible under this articles should, however. be treated under Article 468-A. C. S. R. when the actual payment is made.

[G. I. M F. letter No. 2220—EV (C)/59, dated 21-7-59 to the address of A. G. Bihar Ranchi. File No. 5 (74)—EV/59].

562. An officer who resigns the service will by such resignation, vacate any office under the Government which he may then be holding. But this rule does not apply to the offices of Viceroy and Governor-General of India, Governor of Madras, Governor of Bombay and Governor of Bengal.

563. The resignation of the Civil Service by a Lieutenant-Governor, Member of the Council of the Governor General or of the Council of a Governor or of a Lieutenant-Governor, or Judge of a

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*Substituted *vide* G I M. F. Notification No. F. 7 (19)EV/57, dated the 29th June 1957 and shall be deemed to have effect from the 12th June 1956, in its application to members of the Indian Administrative Service, who, before becoming such members, were members of the Indian Civil Service,

High Court, shall not be accepted unless his resignatirn of his office is at the same time tendered and accepted.

564. An officer who is declared by a medical certificate in due form to be incapacitated for further service, and is thereupon permitted to resign the service before he is entitled to an annuity under Article 561, is entitled to an annuity as following :-

Total active service	Annuity	Minimum admissible to non-Indian officers if the annuity is drawn through the High Commissioner for India in the U K.
Not less than 10 years but less than 11 years .	Rs. 4, 266-10-8 (Rs. 4,266·66 with effect from the 1st April 1957).	£ 320
Not less than 11 years but less than 12 years .	Rs. 4,800	£ 360
Not less than 12 years but less than 13 years .	Rs. 5,333-5-4 (Rs. 5,333.33 with effect from the 1st April 1957).	£ 400
Not less than 13 years but less than 14 years .	Rs. 5,866-10-8 (Rs 5,866.66 with effect from the 1st April 1957).	£ 440
Not less than 14 years but less than 15 years .	Rs. 6,400	£ 480
Not less than 15 years but less than 16 years .	Rs. 7,200	£ 540
Not less than 16 years but less than 17 years .	Rs, 8,000	£ 600
Not less than 17 years but less than 18 years .	Rs. 88,00	£ 660
Not less than 18 years but less than 19 years .	Rs. 9600	£ 720
Not less than 19 years but less than 20 years .	Rs. 10,400	£ 780
Not less than 20 years but less than 21 years .	Rs. 11,200	£ 840
Not less than 21 years	Rs. 12,000	£ 900

564A. *Not Printed*

564B The power of withholding or withdrawing the whole or any part of an Annuity under Article 351 shall be exercised only by the Secretary of State in Council (now President.)

Unfitness for further Advancement

564C, The grant of an annuity to an officer of the Indian Civil Service who is proved to be unfit for further advancement and is removed from service by the Secretary of State on the recommendation of the Local Government and the Government of India, is regulated by Article 353A.

Compulsory Retirement.

565. (*a*) **After thirty-five years' service, counting from the date of his arrival in India, an officer shall not, except for special reasons and with the sanction of the Secretary of State, retain his office or be appointed to any new office : Provided that if such an officer has held his office for less than five years, he may, for special reasons, with the sanction of the Government of India, be permitted to retain his office until he has held it for five years. The term "office" in this Article includes an officiating appointment.**

Note :—This rule does not apply to an officer holding the appointment of a Judge of Chief Court. Such an officer is required to vacate his appointment on attaining the age of 60 years.

(*b*) **The period of five years begins to run from the date on which the officer first takes up the office, whether substantively or temporarily, provided that, if temporary, he is confirmed without reverting to his substantive appointment ; but the currency of the period is not interrupted by any subsequent temporary promotion to a higher appointment.**

Note. The term "office" as used in this Article does not include any office held

under direct appointment by His Majesty, the King Emperor of India or by the Governor General with the approval of the King-Emperor, but the retention of such an officer should be subject to the condition prescribed in Article 563

Government of India's decisions : The proviso to Article 565 applies to an officiating Judge of a High Court. The Government of India may sanction, for special reasons always to be recorded, the retention by a member of the Indian Civil Service of his officiating appointment as a Judge, High Court.

[G. I. F. D No. 5151 P. dated the 16th August 1907.]

CHAPTER XXVI—STATUTORY CIVIL SERVANTS

566—*Cancelled.*

CHAPTER XXVII—ECCLESIASTICAL OFFICER.

567.—608. **Not Printed.*

CHAPTER XXVIII—MILITARY OFFICERS.

SECTION I—PAY, ALLOWANCES, AND LEAVE RULES.

604. The acting allowances of Military Officer in Civil employ are governed by the rules in Articles 104 to 108 and the leave of Military Officers subject to the Civil Leave Rules is granted under the European Service Rules in Chapter XIII.

605. The Local Government may grant Furlough or leave under Military Rules, or Special leave under Article 316 as it stood prior to 29th July 1920, to a Military Officer subject to the Military Leave Rules.

Exception.—**A Local Government cannot grant furlough or leave under the Military Leave Rules to a Military officer, who has no substantive appointment in the Civil Department but is holding only a temporary or officiating appointment in that Department unless it is prepared to re-employ him immediately on the expiry of his furlough or leave.**

Note 1.—The grant of furlough other than on medical certificate to a Military Officer in Civil employ is subject to the condition that a period of not less than eighteen months has elapsed since his last return from Privilege leave of over six weeks duration. This condition may, however, be relaxed by the Government of India and Provincial Governments in cases in which its enforcement would in their opinion, cause special hardship to the officer concerned individually or be of material disadvantage to the State.

Note.—2. The grant of furlough or leave, other than Privilege leave, out of India to a Military Officer subject to the Military Leave Rules carries with it the grant of subsidiary leave under the provisions of Article 322 as it stood prior to 29th July, 1920.

606. A Local Government may also grant Short Leave (under Civil or Military rules, as the case may be) to a Military Officer subject to the Military Leave Rules.

Note 1 —This Article also applies to officers of the British Service employed in a Civil Department in India.

Note 2.—Privilege leave in combination with other leave is admissible to a Military Officer in Civil employ under the conditions and limitations in Article 233, as it stood prior to 29th July, 1920, but not under the military rules promulgated with Indian Army Order No. 64, dated 1st February, 1904

Note 3.—A Military Officer employed in the Army Department Secretariat of the Government of India or as Private Secretary to a Lieutenant Governor, or as an A.D.C. appointed from Military employment, is not entitled to privilege leave under Chapter XII of these Regulations.

Note 4.—This Article also applies to Non-Commissioned Officers.

607. No other leave of absence may be granted under the Regulations in Part III to a Military Officer subject to the Military Leave Rules.

1. An officer proceeding on Furlough or leave under Military leave Rules forfeits, *Ipso facto*, his lien on any acting appointment. Consequently, a Military Officer in Civil employ, with no substantive appointment in the Civil Department loses, on proceeding on such furlough or leave, his lien on any temporary or officiating appointment in the Civil Department that he may have held if he has to revert to Military employ in order to obtain the leave.

2. An officer does not lose his lien during subsidiary leave prepratory to furlough taken under Military Leave Rules

608. No leave can be granted, under the rules in Part III, to a Departmental Officer, or Warrant Officer, except under Article 606.

*The Ecclesiastical officers are no longer the concern of Government and as such the rules relating to them which were included in the first edition have not been printed in this Edition.

609. The allowances of a Military Officer subject to the Military Leave Rules during subsidiary leave are regulated as if he were subject to the rules relating to Long Leave contained in Part III as it stood prior to 29th July, 1920 : Provided that—

(*i*) If under the action of the Leave rules such an officer has lost his lien on his appointment, he draws allowances under Military Leave Rules during his Subsidiary leave ;

(*ii*) his allowances on Subsidiary leave must not be less than his allowances during the Furlough to which the leave is subsidiary.

Note. The subsistence allowance of a Military Officer subject to the Military Leave Rules is that prescribed in Article 68B(*b*).

610 Subsidiary leave preparatory to his retirement from the service may be granted to a Military Officer subject to the Military Leave Rules, provided such leave does not vitiate his claim to retire on the date fixed.

611. Whenever the Furlough of a Military Officer subject to the Military Leave Rules begins before embarkation or ends after disembarkation, the Audit Officer should inform the Government of India in the Army Department and the accounts officer in charge of the officer's record of pension service of the date on which it begins or ends.

SECTION II—COMPULSORY RETIREMENT FROM CIVIL EMPLOY.

Ordinary Rules.

612. (*a*) A Military or Naval Officer in Civil employ after attaining the age of fifty five years, shall not, except for special reasons, with the sanction of the Secretary of State, retain his office or be appointed to any new office : Provided that, if such an officer has held his office for less then five years, he may, for special reasons, with the sanction of the Government of India, be premitted to retain his office until he has held it for five years. The term 'office' in the Article includes an officiating appointment, and the currency of this period of five years is not interrupted by any subsequent temporary promotion to a higher appointment.

Note. When the sanction of the Secretary of State is required to the extension of the term of service of a Military Officer in Civil employ after attaining the age of 55 years, it should be obtained previous to the event. Sufficient notice must therefore always be given to the Government of India in such cases to admit of a timely reference being made to the Secretary of State.

(*b*) The period of five years begins from the date on which the officer first takes up office, whether substantively or temporarily : Provided that if temporary, he is confirmed without reverting to his substantive appointment ; but the currency of the period is not interrupted by any subsequent temporary promotion to a higher appointment.

Exception :—**Medical Officer of the administrative grade—namely. Surgeon-Generals and Colonels - are not compelled to retire from the service until they attain the age of 60 years.**

Government of India's decision. Prior to the abolition of the I M. S. (Civil) on the 15th August, 1947, an I.M.S officer on appointment substantively to the post of Surgeon General/Inspector General of Civil Hospitals in a Part 'A' State (except Orissa) was promoted to the rank of Major General/Colonel and granted additional pension admissible to an officer of the rank of Major-General or Colonel. He was also allowed a tenure of 4 years in these Posts or till he attained the age of 60 or 57 as the case may be, which ever was earlier. With effect from the 15th August, 1947, the promotion of the officers of the late I. M. S. to higher Military ranks is not possible and in order that these officers on appointment to the posts mentioned above may not suffer in any way as regards pay, additional pension, tenure and age of superannuation, the President is pleased to decide that the posts of Surgeon General and Inspector General of Civil Hospitals should be equated to the ranks of Major-General and Colonel,

respectively for purpose of additional pension, tenure and age of superannuation. As, however, in the some States posts of Surgeon General/Inspector General of Civil Hospitals have been re-designated as Director of Health Services or Director of Medical and Health Services, the President is also pleased to decide that such re-designation should not effect the pay, the additional pension, tenure and age of superannuation of the officers of the late I. M. S. (Civil) holding these posts.

The President has also decided that an officer of the late I. M. S. (Civil) appointed as D. G. H. S. (this post has been created in place of the post of D. G. I. M. S. and Public Health Commissioner with the Government of India) will on retirement be granted additional pension admissible to a Major-General and will enjoy the same rights as regards pay, age of superannuation and tenure as were admissible to the incumbent of the post of D. G. I. M. S. prior to the 15th August, 1947.

[G. I. Ministry of Health letter No. F. I. 32/50 M.I. dated the 15th November 1950.]

613. The undermentioned officers cease to be in Civil employ on attaining the age of 55 years :—

(*a*) **Military Officers in the Survey of India, unless specially premitted by the Secretary of State, in the interests of the public service to remain in the department for a further definite period ;**

(*b*) **Officers of the Indian Medical Service below the rank of Colonel, except Lieutenant-Colonels who are granted extensions of service beyond the age of 55 years until they complete 30 year's service ;**

(*c*) **Departmental Officers and Warrant Officers.**

614. On succession to the Colonel's allowance, a Military Officer (not holding an appointment the tenure of which is limited to five years) must vacate any Civil appointment which he then holds. But, with the sanction of the Secretary of State in Council, he is eligible for re-appointment or for employment in the same or any other appointment, at the discretion of the Government of India in the Army Department. In such a case, his civil pay will be reduced by the amount of his Colonel's allowance, which will be included in, and not given in addition to his consolidated salary.

Public Works Department.

615. The compulsory retirement of military officers in the Public Works Department or in the Engineering Department of State Railways, who are proved to be unfit for further advancement is regulated by Article 353A and Note 3 thereunder. But any such officer who on reaching the age of 50 years has not attained the rank of Superintending Engineer, will be liable to be called upon to vacate his appointment by the Government of India.

616, Military Officers in the Public Works, Railway and Telegraph Department cease to be in Civil employ on attaining the age of 55 years.

617. A Military Officer serving in the Public Works or Railway Department must vacate absolutely any appointment he may hold in that Department on succession to the Colonel's allowance.

618. *Omitted.*

619. (*a*) **Article 616 applies to officers of Royal Engineers serving in the Public Works and Railway Departments.**

(*b*) **Officers of the Royal Engineers who have attained or hereinafter may attain the rank of General Officers, must vacate their appointments in the Public Works and Railway Departments. But if an officer at the time of so vacating office is a Chief Engineer, Ist class, or holds a post carrying that rank, he may be continued in the position which he**

had been required to vacate, for the remainder of the term of five years referred to in clause (c) unless in the meantime he must vacate office by some other Regulations. Officers of the Royal Engineers holding rank below that of Chief Engineer, Ist class, vacating office under this rule are not ordinarily eligible for re-appointment to the Public Works or Railway Department, but exceptions to this rule may, at the discretion of the Government of India, be made in the case of officers who, on account of specially accelerated Military promotion for distinguished service in the field, have reached the rank of Major-General without attaining the departmental rank of Chief Engineer, Ist class.

(c) No Chief Engineer of the Corps of Royal Engineers shall without re-appointment, hold the same post for more than five years.

(d) The foregoing rules are applicable to officers of Royal Engineers who held the post of Secretary or of Deputy Secretary to the Government of India in the Public Works Department.

Note.—The period of five years referred to in clause (c) begins to run from the date on which the officer first becomes entitled to draw the full pay of the appointment whether holding, the appointment substantively or only in an officiating capacity ; provided that, if officiating, he is confirmed in the appointment without a break of service.

Leave after completion of period of Civil Employ.

620. (a) No leave but privilege leave may be granted to a Military Officer in Civil employ, whether subject to the Civil or Military Leave Rules or to any Naval Officer who is more than 55 years old. Any leave, other than privilege leave, granted in the Civil Department to a Military or Naval Officer in Civil employ before he is 55 years old ceases to have effect on his fifty-fifth birthday, on which date he reverts to Military employ. The absentee allowances of a Military Officer in Civil employ on leave other than privilege leave becomes a Military charge, and he becomes subject to Military Rules on his fifty fifth birthday, whether his leave was granted in the Military or the Civil Department.

Note.—In the case of a Miliiary or Naval Officer in Civil employ, who reverts to Military employ under the operation of the rules in this Section, privilege leave cannot be granted at the end of the service in the Civil Department for any period which will expire within the three months previous to his reversion.

(b) In applying (a) to Medical Officers of the administrative grades, namely, Surgeon-General and Colonels, "sixty" or sixtieth" as the case may be should be substituted for fifty-five" or " fifty-fifth".

CHAPTER XXYIII-A –PEFSIONS OF MILITARY OFFICERS OF THE INDIAN POLITCIAL SERVICE

620A. A military officer who joined the Indian Political Service on or after 1st April, 1939, or who having joined that service before the said date has elected to be subject to this Rule shall, if he has completed 25 year's qualifying service in the Indian Political Service, be granted a pension of Rs. 11,333.33 a year and, if he has rendered approved service in a post the pay of which has been fixed either generally or specially for him at not less than Rs. 4,000 a month shall be granted an additional pension of Rs. 1000 a years for each completed year not exceeding two, of effective service in such post.

626B. The Secretary of State retains an absolute right to require a military officer to whom the rule in Article 620A applies, to retire from the Indian Political Service at any time after he has completed 25 year's qualifying service without giving any reason, and no claim to special compensation on this account will be entertained. This right will not be exercised except when it is in the public interest to dispense with the service of an officer.

620C. All pensions granted under Article 620A shall be subject

to the provisions of Articles 351, 353, 353A, 418 and 423 and of Chapter XXI.

620D. For the purpose of Articles 620A and 620B 'qualifying service' shall consist of 'active service" as defined in Article 8, Study Leave, Special disability leave and other leave to the extent prescribed in Article 408, and "effective service" shall be calculated as prescribed in clause (4) of Article 475B.

620E. An officer who has received under F. R. 113 officiating promotion to a post of the kind mentioned in Article 620A. or in whose case the Governor-General in Council certifies that he would have received such promotion had he not been on special duty or holding a temporary post, may be allowed by the Governor General in Council, an additional pension at the rate and subject to the conditions prescribed in that Article as though he had held such a post during the period for which he officiated or would have officiated.

Note :—For the purpose of this Article the period of officiating promotion includes any privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension, taken during the period, but no other leave, if the Governor-Generalin Council, certifies that had the officer not been on leave he would have continned in the same capacity.

620F. An officer of either of the categories indicated at the begining of Article 620A who retires voluntarily, or who is required to retire on grounds of ill-health, before completing 25 years' qualifying service, shall be granted such gratuity or pension (other than) gratuity or pension admissible in respect of a disability attributable to service) as would have been admissible to him under the conditions and at the rates laid down in the Pension Regulations for the Army in India, other than those prescribed in Chapter III, Section IV had he remained in military employment.

Provided that an officer who is subject to the special or ordinary leave rules in the Fundamental Rules shall not count as service for pension any period of leave preparatory to retirement in excess of one year.

620G. An officer who joined the Indian Political Service before Ist April. 1939, and who has elected not to be subject to Article 620A shall on superannuation or retirement, be granted such gratuity or pension, (other than gratuity or pension admissible in respect of disability attributable to service) as would have been admissible to him under the conditions and at the rates laid down in the Pension Regulations for the Army in India, other than those prescribed in Chapter III Section IV, had he remained in military employment, together with such special additional pension, if any, for which he may be eligible under Article 475B.

Provided that an officer who is suject to the special or ordinary leave Rules in the Fundamental Rules shall not count as service for pension any period of leave preparatory to retirement in excess of one year.

620H. The widow and or children of an officer, including one to whom Article 620A relates, may if not granted an award under *the Superior Civil Service (Extraordinary Pension) Rules, 1936, be granted pension at the ordinary rates and subject to the conditions laid down in the Pension Regulations for the Army of India which would have been applicable if the officer had remained in military employment.

CHAPTER XXIX—CIVIL VETERINARY DEPARTMENT

Note :—The rules contained in this Chapter apply only to those officers of the Civil Veterinary Department who were transferred to it from the Army Veterinary Department.

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*Printed as appendix 34.

Acting Allowance and Leave Rules.

621. Officers officiating in the Department draw the pay of their militaty rank *plus* half the Civil allowance attached to that rank.

622. The leave and allowances of Civil Veterinary Officers are regulated by the rules in Chapter XII applicable to Military Officers subject to the Civil Leave Rules, with the following special conditions :

(*a*) While on furlough during which half average salary is admissible under the rules in Chapter XIII Civil Veterinary Officers draw half the pay of their military rank *plus* half their civil allowances subject to the limits laid down in Article 316 for Military Officers subject to the Civil Leave Rules.

(*b*) Civil Veterinary Officers are treated, in applying the rules mentioned, as if they had before entering the Civil Department, been subject to the leave rules for the Indian Army, (1886) from the date of their arrival in India.

Note 1.—For the purpose of this rule, the date of arrival in India must be held to be the date of arrival on the last tour of service,

Note 2—An officer must be substantively appointed to the Department or have officiated continuously in it for three years, before he can become subject to the Civil Leave Rules; but an officer subject to Civil Leave Rules at the time of joining the Department counts all service rendered under those rules as service for Civil furlough.

Note 3.—Previous service in an appointment which has been absorbed into the Civil Veterinary Department counts, for the purpose of these rules as service (substantive or officiating, as the case may be) in that Department.

Pension Rules.

623. The Pension Rules of the Civil Veterinary Department are as follows :—

(*a*) No officer become qualified for pension under the scale fixed for the Department until he has rendered ten years' service in it.

(*b*) Pensions are granted at the rates prescribed for the Army Veterinary Department by the Army Regulations in force for the time being *plus* an addition made on the following scale :—

	£
After 10 years' service in the Civil Veterinary Department.	72 a year.
After 15 yeers' service in the Civil Veterinary Department.	96 ,,
After 20 years' service in the Civil Veterinary Departmeut.	120 ,,

(*c*) Leave, apart from privilege leave, counts as service qualifying towards pension to the extent of two months for every year of actual service.

(*d*) Retirement is optional after twenty years' service and allowed on medical certificate after fifteen years service. An officer, who resigns the Civil Veterinary Department before retirement, forfeits all claims to pension under the scale fixed for the Departmont.

Officers retiring before having completed ten years service in Civil employ are dealt with under Military rules for pension or gratuity. In the case of an officer invalided before completing ten years' service in the Civil Veterinary Department, the gratuity or pension earned by him under Military rules is increased in the same proportion as the total Civil allowances bear to the total Military allowances earned by him during his period of service in India.

Note 1.—Previous service in an appointment absorbed in the Civil Veterinary Department counts as service rendered in that Department for the purpose of this rule.

Note 2.—This Article does not apply to officers of and above the rank of Deputy Superintendent who come under Article 349A.

Note 3.—This Article does not apply to officers who come under Article 349AA.

624. **The rules in Chapter XXVIII relating to the retirement of Military Officers in Civil employ upon attaining the age of 55 years apply to Army Veterinary Officers in the Civil Veterinary Department.**

625. *Cancelled.*

Family Pension.

626. **The family of a Civil Veterinary Officer recruited from Veterinary Staff of the Army is eligible for pension under the provisions of the Royal Warrant, 'Pay and non-effective Pay' applicable to the families of Army Veterinary Officers.**

CHAPTER XXX—CIVIL ENGINEERS AND TELEGRAPH OFFICERS.

SECTION I.—PAY AND LEAVE ALLOWANCES

627. **The rules in this Chapter apply, to the extent stated in the several Articles, to the following officers :—**

(*a*) **Officers of the Public Works, Railway and Telegraph Departments appointed from the Royal Indian Engineering College and Coopers Hill.**

(*b*) **Stanley Engineers**

(*c*) **Other Civil Engineers and Telegraph Officers appointed by the Secretary of State.**

(*d*) **Indian College Engineers appointed in India.**

(*e*) **Other Civil Engineers not of purely Asiatic descent appointed in India.**

Note.—Section III of the Chapter applies not only to the Civil Engineers and Telegraph Officers enumerated in the Article, but also to the following classes :—

(*a*) Superior Civil Officers of Telegraph Department not included in clauses (*a*) and (*c*).

(*b*) Civil Engineers of the class described in clause (*e*) who are of pure Asiatic descent

Commencement of Service

628. **If a Coopers Hill Engineer lands in India on or before the 1st December of the year in which he passes out of College, his service counts from the preceding 1st October, unless another date should be specified in his letter of appointment**

629. **If a Coopers Hill Engineer is, after completing his three years, residence at College required to go through a course of practical engineering in England under a Civil or Mechanical Engineer, his service, unless another date should be specified in his letter of appointment, will reckon from the commencement of the practical course, or from such later date as will be consistent with the regulation that he may count as service towards pension the time spent on such practical course to the extent of one year only.**

630. **The service of a Coopers Hill Eugineer, whose case is not provided for in Article 628 or 629, and who does not land in India by the 1st December, and that of any other Civil Engineer appointed by the Secretary of State counts from the date on which he lands in India.**

631. **The service of an officer appointed to the Telegraph Department after training or competitive examination, by the Secretary of State, begins as follows :—**

(*i*) **If appointed after competitive examination, from date of covenant.**

(*ii*) **If appointed after training at Coopers Hill from date of sailing of vessel selected by the Secretary of State or 1st October in the year of passing out of the College, whichever is named in his letter of appointment, provided that he reaches India within two months of that date or other approximate date named in his letter of appointment ; otherwise from date of arrival in India.**

632. **The service of an officer appointed in India begins ordinarily from the date on which he takes charges of the office to which he**

is first appointed.

Rules regarding Pay and Allowances and Leave.

633. Unless there be something repugnant in the subject or context, the rules in Part II govern the pay and allowances of officers to whom the rules in this Chapter apply, the acting allowance rules applicable to them being those in Chapter VI.

634. The Civil Engineers and Telegraph Officers whose leave is regulated by the European Service Leave Rules (Chapter XIII) are determined by Article 310. The leave of all other officers is regulated by the Indian Service Leave Rules (Chapter XIV).

SECTION II—PENSION RULES

635. The rules in this Section apply to all officers of the classes described in clauses (*a*) to (*c*) of Article 627, with the exception, save as provided below, of officers of the Indian Railway Service of Engineers and of the Provincial Engineering Service, State Railways, who joined their appointments on or after the 17th September, 1925, and of officers included in clause (*c*) of Article 627 appointed on or after the 6th day December, 1932.

Note. 1. The rules in this section apply to Mr. J. H. C. Kelly, of the Indo-European Telegraph Department, and to Mr. T. Ryan, of the Indian Audit and Accounts Service. They apply also to Messrs R. C. Harvey and Q. F. Rahman of the Indian Railway Service of Engineers, who joined their appointments after the 17th September, 1925, and to officers in pensionable service who were or may be promoted to the Indian Railway Service of Engineers or Provincial Engineering Service, State Railways, on or after the 17th September, 1925.

Note. 2. Except as provided in this Article the rules in Article 643 apply to all classes of officers in pensionable service of the Public Works, Railway and Telegraph Departments.

Note. 3. Officers of the Indian Telegraph Departmnnt who may be transferred to the Indo-European Telegraph Department retain the pensionary privileges of their own branch of the Department.

636. The pensionary claims of officers of the Classes decribed in Article 627 and the Note under it whose cases have been provided for in the preceding Article will be governed by the ordinary Rules in Part IV. But in the case of officers of this class who may rise to the rank of Superintending Engineer, or in the Indo-European Telegraph Department, of Director, the Government of India will be prepared to consider favourably their admission to the pension rules including those contained in Article 642, applicable to the officers specified in Article 635 :

Provided that Civil Engineers and Telegraph Officers who are Members of the Provincial Services of the Public Works, Railway and Telegraph Department are not eligible for the concession described in this Article.

1. The Public Works Department of the Government of India exercises the powers of the Government of India under this Article in respect of engineer officers of that Department.

2. The concession made under this Article does not effect the operation of the rules which determine the age from which qualifying service begins.

637. The Government of India may, on special grounds, recommend for sanction of the Secretary of State the grant of an invalid pension on the scale below to an officer belonging to the classes referred to as appointed in India in Article 627, provided that he be not of purely Asiatic descent. This Article does not apply to officers of the Provincial Service.

Not less than Rs. 1,000 or more than Rs. 2,000 a year.

If the qualifying service of the officer be not less than—	Forty-fifth part of the Officer's Average Emoluments.
10 years	10
11 ,, ...	11
12 ,, ...	12
13 ,, ...	13
14 ,, ...	14

638. Unless there is something repugnant in the subject or context, the rules of Part IV apply to officers defined in Article 635, but they are modified in the points noted in the following Article.

639. The rule which excludes service under the age of twenty years does not apply to the officers defined in Article 635 or to Indian College Engineers.

640 Privilege leave, and Subsidiary leave taken under the rules in force prior to 29th July, 1920, count as service. Other leave counts to the extent stated in Article 408.

Auditor General's decision :—When a Chief-Engineer proceeds on leave after vacating office, he continues to remain a member of the service to which he belongs and therefore remains in the employment of Government in a substantive and permanent capacity. The Auditor General with the concurrence of the Government of India has therefore decided that the conditions of Article 361 and 368 C. S. R. should be held to have been fulfilled in such cases and that the leave without lien granted to a Chief Engineer on vacating office should be regarded as qualifying for ordinary pension. The extent to which such leave should count should be governed by Article 407, 408 and 640 of the Civil Service Regulations.

[Auditor General's letter No. 365-A/98-43, dated 16th July, 1943 to the Accountant General, Madras.]

641. The following special scale of pensions is admissible to the officers defined in the Article 635, who entered service before the 6th day of December 1932, and did not elect the pension rules mentioned in Article 349A :—

(*a*) **After a service of less than ten years, an invalid gratuity on the scale laid down in Article 474(*a*).**

(*b*) **After a service of not less than 10 years but less than 25 years, an invalid pension on the scale laid down in Article 474(*b*).**

(*c*) **After a service of not less than twenty years, a retiring pension not exceeding the following amounts :—**

20 to 24	30-sixtieth of Average Emoluments	4,000	a year or 333⅓ a month,
25 and above		5,000	,, 416⅔ ,,

Note.—The corresponding rule applicable to officers mentioned in Article 349A is contained in Artlcle 474-A.

Government of India's decision. See Government of India's decision No: (2) below Article 476.

Spccial Additional Pensions.

642. One or other but not both of the following special additional pensions, over and above those allowed in Article 641, may be granted by the Local Government to officers of classes specified in Article 635, limited in the case of the Engineering Establishment to those appointed not later than 1898 and of the Telegraph Department to those appointed not later than 1897, as rewards of approved service in the responsible position mentioned below :—

(*a*) **Additional pensions of Rs. 2,000 per annum to those who have served three years as—**

(*i*) **Secretary to the Government of India, Public Works Department.**

(*ii*) **Chief Engineers, or officers who may have been graded as such.**

(*iii*) **Chief Engineer, Telegraphs, or in any capacity in the Telegraph Department on the Rs. 2,250 grade.**

(*iv*) **Agents, North, Western, Oudh and Rohilkhand and Eastern Bengal State Railways.**

Note. If an officer to whom this clause applies is compelled to retire under the 55 years rule, or on medical certificate, before he has served the full period of three years he may, with the special sanction of the Local Government, receive a special pension, which bears, the same ratio to the full pension of Rs. 2,000 as the number of complete

months' service in the grades referred to in this clause bears to the full period of three years.

(*b*) **Additional pensions of Rs. 1,000 per annum to those who have served three years as—**

(*i*) **Superintending Engineers**

(*ii*) **Officers of the Indian Telegraph Department in the grades of Rs. 2,000 and Rs. 1,750 or as either of the two senior officers in the grade of Rs. 1.500.**

(*iii*) **Directors of the Persian and Persian Gulf Telegraphs in the Indo-European Telegraph Department.**

Note 1. For the purpose of awarding these special additional pensions, Civil Engineers of the classes enumerated in Article 635, in Class I of the State Railway Revenue Establishments, the Deputy Secretary to the Government of India, Public Works Department, and Engineers holding the appointment of Under Secretary, Civil Works branch, in that Department prior to the 6th February 1914 are treated as of equivalent rank to a Superintending Engineer.

Note. 2. Mr. T. Ryan of the Indian Finance Department will be elegible to count service for the additional pension of Rs. 1,000 mentioned in this Article from the date on which he would have reached Class III of Examiners in the late Superior Accounts Branch of the Public Works Department, if he had continued on the old scale of pay.

Note. 3. The provisions of this Article apply to officers of the Indo-European Telegraph Department appointed up to the 28th July 1896. Those appointed thereafter come wholly under Article 643.

Note 4. As regards the officers of the Indian Telegraph Department mentioned above, no officer who has been passed over for promotion from the Rs. 1,750 grade and no officer in that grade at the end of his service who is not declared fit for promotion will be considered entitled to the special additional pension.

Note 5. Clauses (*a*) (*iii*) and (*b*) (*ii*) of this Article apply to services rendered in the specified appintments from 1st April 1914. As regards services rendered before that date the appointments qualifying for additional pensions are :—

(*a*) For Rs. 2,000 under clause (*a*) (*iii*)—
Director General and next senior officer in the Telegraph Department.

(*b*) For Rs. 1,000 under (*b*) (*ii*)—
Directors of Telegraphs 1st, 2nd and 3rd classes, Senior Director of Telegraphs, 4th class, and the Electrical Engineer-in-Chief.

Note 6. It is important to bear in mind that these additional pensions cannot be claimed as a matter of right, but will be granted at the discretion of the Local Government as rewards of "approved service". See special addition to certificates in Form No. 26 (Pension).

Note. 7. The corresponding rule applicable to officers mentioned in Article 349A is contained in Article 475A.

Government of India's decisions. (1) An officer holding one of the special appointments referred to in this Article but temporarily placed on Military duty, reckons towards additional pension, the period of his service in the Military Department provided that Government is satisfied that if the officer had not temporarily left the Civil Department he would have rendered in a qualifying appointment service of such a character as to render him eligible for the special additional pension.

[G. I. F. D. No. 15, C. S. R. dated 12-1-1919.]

(2) See Government of India's decision No. (5) below Article 475.

643. For officers to whom special additional pensions under Article 642 are not admissible, the following special additional pensions may be allowed by the Local Governments :—

Additional pensions of Rs. 1,000 *per annum* **to those who have rendered not less than three years of effctive service in the following appointments, provided that in each case during such service the officer has shown such special energy and efficiency as may be considered deserving of the concession. In the case of officers entering Government service after the 31st December 1909, the grant of the additional pension is subject to the further condition that they must, in the event of voluntary retirement have completed twenty-eight years of qualifying service. Voluntary retirement for the purpose of this rule should be taken as retirement under Article 465 and 641 (*c*).**

Secretary to the Government of India, Public Works Department
Chief Engineers in the Public Works and Railway Departments.

Posts in the Superior Telegraph Engineering Branch of the Indian Posts and Telegraphs Department included in the Schedule of appointments carrying additional pensions below Article 475A (including the posts of Director-General, Posts and Telegraphs ; Senior Deputy Director-General, Posts and Telegraphs, Postmaster General and Deputy Director-General, Telegraphs ; if held by officers of the Superior Telegraph Engineering Branch) provided that only service rendered in those posts after the 24th year of service shall count for additional pension.

Superintending Engineers of the Public Works and Railway Departments on pay of not less than Rs. 2,050 a month.

Deputy Secretary to Government of India, Public Works Department.

Director in Chief of the Indo-European Telegraph Department, when the office is held by a member of either the Indian or the Indo-European Telegraph Department.

Deputy Managers, Traffic Superintendents, Locomotive Superintendents and Carriage and Wagon Superintendents in class I of the State Railway Revenue Establishment on pay exceeding Rs. 1,500 a month.

Note 1. The provisions of this Article apply to officers employed in the Telegraph Department on the 31st March 1914 Those appointed thereafter to the "Posts and Telegraph" Department come wholly under Article 475.

Note 2. The corresponding rule applicable to officers mentioned in Article 349A is contained in Article 475A.

Government of India's decisions :—(1) See Government of India's decision No. (5) below Article 475.

(2) In order to become eligible for a special additional pension under Article 643, Civil Service Regulations, a Superintending Engineer who does not elect to come under the new pension rules in Government of India, Finance Debartment No. 1085 E-A, dated the 15th November 1919 must render three years' effective service on Rs. 2,050 a month or more. If he entered Government service after 31st December 1909 he will in the event of voluntary retirement, be subject to the further condition that he must have completed 28 years' qualifying service as prescribed in the rule.

[G. I F D. No. 1231, C. S. R. dated 12-7-1920].

Audit Instructions. See Audit Instructions No. (1) below Article 475-A.

644. (*a*) **An officer who holds a qualifying appointment substantively counts all active service, whether in the appointment or in an appointment of corresponding rank and responsibility in foreign service, or on deputation, on special duty or in a temporary appointment or while officiating in another permanent post. He also counts period of privilege leave taken by him during such service, but periods of leave other than privilege leave do not count.**

(*b*) **All officiating and temporary service in a qualifying appointment falling within any of the classes mentioned in clause (*a*), including periods of such service passed on privilege leave, counts.**

Government of India's decisions—(1) In the case of officers holding one of the special appointments referred to in Article 475 and 642, Civil Service Regulations, but temporarily placed on military duty, the period of military duty should be allowed to qualify for the extra pension in cases in which the Government of India are satisfied that if the officer had not temporarily left the Civil department, he would have rendered in a qualifying appointment service of such a character as to render him eligible under the regulations for the special additional pension.

[S. of S. Despatch 41-Final dated 1-11 1918, G. I. F. D. No. 15-C. S. R., dated 12-4-1919.]

(2) If while holding a post declared to be a special post for the purpose of the second proviso to F. R. 30 (1), an officer is granted officiating promotion in the cadre of his service and draws pay which in the ordinary line would

entitle him to count service for special additional pension under Article 644 (*b*), Civil Service Regulations, such of the periods of officiating promotion as fall on or after 18th March 1930 (the date on which the words "be given any officiating promotion.....and may therefore" were inserted in the second proviso to F. R. 30 (1) should be admitted to special additional pension without any further sanction.

[G. I. F. D. No, F. 23(3)-Ex. 1/34, dated 16-1-1934].

Auditor General's decisions :—(1) In a case referred to by the Accountant General, Bombay the Auditor General has observed that the question with regard to the interpretation of the phrase "periods of such service passed on privilege leave" occurring in Article 644(*b*) of the Civil Service Regulations was left uncovered when the rules in the Civil Service Regulations were replaced by the Fundamental Rules without a corresponding change in the Pension Rules. Under the Civil Service Regulations there would have been no difficulty in interpreting the phrase in Article 644(*b*) of the Civil Service Regulations quoted above. An officer could then retain a lien on a post on which he was officiating, and the question whether a particular period of leave was taken while "in such service" would be decided finally by the fact that he did, or did not, retain during such leave a lien on his post.

Under the Fundamental Rules, a lien on a post in which a man officiates is not possible. Article 644(*b*) in such a case is not, therefore, susceptible of a definite interpretation. The Auditor General has, therefore, decided with the concurrence of the Government of India that during the interim period until the new pension rules are promulgated, the phrase occuring in Article 644(*b*) C. S. R. quoted above should be held to mean that for a period of privilege leave for the first four months of leave on average pay, to count for additional pension it should be in evidence that, had the officer not been on leave, he would have been officiating or holding the temporary post.

[Auditor General' letter No. 35 A/321-28, dated 6th February 1929]

(2) For the purpose of counting of service for special additional pension the joining time availed of by an officer on transfer from the qualifying post to another such post, which he held successively in an officiating capacity, should be allowed to count as service in a qualifying post only if the competent authority certifies that had the officer not been on joining time he would have held either the new or the old qualifying post.

[Auditor General's No. 120-A/107-34, dated 1-8-1934.]

Audit Instruction : An officer who while holding a post outside the ordinary line of a Service is, under the second proviso to clause (1) of F. R. 30, given officiating promotion to a qualifying post in the cadre of that service counts the period of such promotion for special additional pension.

[Para 29, Section III of the Manual of Audit Instructions (Reprint).]

645. *Cancelled.*

SECTIGN III.—COMPULSORY RETIREMENT.

646. *Cancelled.*

647. *Cancelled.*

648. *Cancelled.*

649. The compulsory retirement of Civil Engineers of the Public Works Department or the Engineering Department of State Railways, who are proved to be unfit for further Advancement, is regulated by Article 353A. But any Civil Engineer of these Departments, who on reaching the age of 50 years has not attained the rank of Superintending Engineer, is liable to be called on to retire by the Government of India.

650. All Civil Engineers in the Public Works and Railway Departments, Civilian Under Secretaries in the Public Works Secretariat of the Government of India or of a Local Government or Administration, and Civilians in the Superior Railway Revenue Establishment, and in the Superior Establishment of the Telegraph Department, are required

to retire on attaining the age of 55 years.

Note 1. The above rule is applicable to all Civilians of the several establishments named whatever the source of their appointment may be.

Note 2. The Government of India are empowered in special cases to extent the service of Chief Engineers of the Public Works Department for a period not exceeding three months.

CHAPTER XXXI—LAW OFFICERS

651 to 658. (*Not printed*).

CHAPTER XXXII—STATE RAILWAY ESTABLISHMENTS

659 to 669 (*Not printed*).

CHAPTER XXXIII—THE BENGAL COVENANTED PILOT SERVICE

670 to 692-A. *Cancelled.*

CHAPTER XXXIV.—ANDAMAN AND NICOBAR MILITARY POLICE.

693. (1) The rules in this Chapter apply to the subordinate officers, non-commissioned officers and men of the Military Police in the Andamans, Nicobars, including Havildars, Naiks and Sepoys employed in the civil police as Head Constables and Constables.

(2) The term "subordinate officer" includes Subedar-Majors, Subedars and Jamadars.

Leave Rules

693A. (*a*) Privilege leave on full pay may be granted to all ranks as under—

(*i*) Two months after thirty month's consecutive service.

(*ii*) Three months after thirty-six month's consecutive service.

(*b*) Such leave, if taken to India, may be overstayed without forfeiture of pay by such period not exceeding eigth days as may intervene between the end of the leave and the date preceding that on which the next mail steamer leaves Calcutta for Port Blair.

694. Leave on private affairs on half pay may be granted to all ranks for a period not exceeding six months afte five year's continuous service.

695. Leave on medical certificate under Article 336, as it stood prior to 29th July, 1920, may be granted to all ranks. During such leave absentee allowances are paid at the following rates :—

Sepoy—Substantive allowance of Rs. 6 a month.
Naiks ,, ,, ,, ,, 8 ,,
Havidars ,, ,, ,, ,, 10 ,,

Subordinate officers—Half pay for fifteen months and subsistence allowance of Rs. 15 a month after that terms.

696. Extraordinary leave under Article 339, as it stood perior to 19th July 1920, may be granted to all ranks.

697. The total number of men absent from duty at one time on leave other than privilege shall not exceed ten percent of the Force.

698. Abesnce from duty while ill in hospital in the Andamans or Nicobars does not interfere with the grant of any leave admissible under this Chapter and does not count as such leave. Absentee allowances are granted as follows :—

(*a*) Subordinate officers... ....The allowances admissible under Article 695.
(*b*) Havildars, Naiks and Sepoys .. . Full Pay.

699. (*a*) Policemen proceeding to India on leave of any description should ordinarily be employed on the voyage in guarding transferred convicts.

(*b*) On the expiration of their leave, they will report themselves to the Commissioner of Police, Calcutta, with a view to their employment as convict guards on the return journey.

700, Deck passages without diet by sea or river steamer and third class accommodation by rail are granted—

(*a*) To the families of subordinate officers for the initial journey

to Port Blair on payment of one-third of the passage money and railway fare.

(*b*) To the families of non-commissioned officers and men who have received permission from the Commandant of the Force to bring their families to Andamans for the initial journey free of charge.

Note. The Commandant's power to give such permission is limited to 10 percent of the total strength of non-commissioned officers and men.

(*c*) To all ranks proceeding on or returning from leave on private affairs or medical certificate free of charge.

(*d*) To the families of all ranks accompanying the head of the family to and from his home when proceeding on and returning from leave of any kind free of charge for the deck passage and on payment of a single fare for the railway journey.

Note "Family" includes children, one wife and one relative.

Pension Rules.

701. Members of the Force are entitled to pension under the Regulations in Part IV, for the calculation of ordinary pension for Superior service. Native officers, Non-Commissioned officers and Sepoys of the Indian Army recruited direct from the Army and whose services are obtained on special application count their previous Army service as qualifying service under the rules in Part IV. provided they complete 10 year's qualifying service in the Force. Those who retire before completing 10 year's such service are granted the military pension of their rank – their service in the police being included as qualifying under Military rules

702. Time spent in hospital by Sepoys, Naiks and Havildars of the Force during which they receive full pay under Article 698, does not qualify for pension.

Travelling Allowance Rules.

702A. The rules in part XI of these Regulations apply with the exception that Jamadars and Subadars are entitled to second class accommodation.

CHAPTER XXXV.—ASSAM AND DACCA MILITARY POLICE.

703. Pensions are granted to Policemen and, in the exceptional cases specified in the rules, to their heirs in accordance with parts IV and VI.

704. Furlough on private affairs on half Assam or Daeca pay for not more than six months, from date of departure from headquarters to date of return thereto, may be granted by Battalion Commandants on condition that the number absent on furlough and sick leave at any one time does not exceeed 5 per cent; of the strength of the Battalion from 15th April, and 10 per cent, from 16th April to 14th October.

705. Leave on medical certificate for not more than six months, from date of departure from headquarters to date of return thereto, may be granted by Battalior Commandants to all ranks. Extension of such leave on medical certificate beyond this period may be sanctioned by the Inspector-General of Police, or in the case of the Dacca Military Police, by the Commandant but the amount of leave which may be granted with pay at one time is limited to two years.

Note—A man taking leave on medical certificate forfeits his turn for furlough and his name is placed at the bottom of the furlough roster.

706. Allowances on leave on medical certificate are full pay for as long a time as the man is entitled to privilege leave, and half pay for the remainder of the first six months ; and, in case of extension being granted, half pay. The leave allowance of a man on leave on medical certificate taken in extention of furlough is half Assam or Dacca pay.

707. Sick leave is granted under the following rules :—

(*a*) *Assam Military Police.*—Sick leave on full pay for a period not exceeding two months may be granted by Battalion Commandants to all ranks while in hospital and on half pay for any period in excess of two months. Sick leave on full pay may, however, be granted to all ranks while in hospital on account of wounds received in action until they are discharged from hospital. Leave granted under this rule does not interfere with the grant of ordinary leave on medical certicate.

(*b*) *Dacca Military Police.* Sick leave on full pay for a period not exceeding one month may be granted by the Battalion Commandants to all ranks while in hospital. In exceptional cases, *e.g.*, in consequence of wounds received in action or for other special reasons, this privilege may be extended to two months under the special sanction of the Local Government. After this period, such leave may be granted on half pay. Leave granted under this rule shall not interfere with the grant of ordinary leave on medical certificate.

708. The Battalion Commandants may grant privilege leave on urgent private affairs under the rule in Chapter XII to men whose conduct has been good.

709. The Inspector-General of Police may frame subsidiary 'rules not inconsistent with these rules for the guidance of Battalion Commandants in granting furlough and leave.

710. Native Commissioned officers are entitled to travelling allowance as second class officers for journeys by rail and by river steamer.

710A. Officers and men proceeding to or returning from outpost duty are allowed free passage by rail, river and road for their families. In the case of journeys by road, where carts cannot be used, the cost of one cooly for wife and one cooly for children may be allowed.

711. Free passage by steamer or rail are allowed—

(*a*) to and from their homes, to men proceeding on or returning from furlough on private affairs or leave on medical certificate, but not to men proceeding on or returning from privilege leave.

(*b*) to their homes, to men who are not natives of the Province when retiring on Invalid pensions, but not to men granted Retiring on Superannuation pensions.

712. Any member of the force belonging to races foreign to Assam or Dacca who may be recruited outside the Province may, with the written permission of the Battalion Commandant and if quarters are available in the Police lines, bring his children, one wife and one relative to Assam or Dacca.

For the conveyance of families, third class passage will be granted by railway, and deck passages by steamer, in the case of all Native Officers, on payment of one-third of the passage money and fare ; in the case of 20 per cent of the Non-Commissioned officers of each Battalion, free of charge ; in the case of 5 per cent of the privates of each Battalion, free of charge. The percentage must be reckoned on the number of foreigners only.

Return passages to their homes will be granted to the families of such officers and men dying in Assam and Dacca.

CHAPTER XXXVI.—CALCUTTA AND SUBURBAN POLICE FORCES

713. *Not Printed.*

CHAPTER XXXVII.—BURMA MILITARY POLICE.

714—727. *Not Printed.*

PART VI—WOUND AND OTHER EXTRAORDINARY PENSIONS.

†CHAPTER XXXVIII.—*WOUND AND OTHER EXTRAORDINARY PENSIONS.

SECTION I.—GENERAL RULES.

728. (*a*) Subject to the provisions of Article 729, the rules in this Chapter apply to all persons in civil employ (and to all persons employed in civil capacity under the Army Department) whether their employment is permanent, temporary or casual and whether remunerated by fixed pay or by piecework rates : Provided that, in the case of a person to whom the workmen's Compensation Act, 1923 : applies—

(1) an award shall be paid under the provisions of this Chapter only if the authority competent to sanction it considers that the compensation payable under the Act is, in the particular case, inadequate ; and

(2) the amount of an award paid to any such person shall not exceed the difference between the amount otherwise admissible under these rules and the amount of compensation payable under the Act.

(*b*) Pay for the purposes of this Chapter means pay as defined in Rule 9 (21) of Fundamental Rules, which a person was drawing on the date of his death or injury : Provided that in the case of a person remunerated by piece-work rates, pay means the average earnings of the last six months ending with the date of his death or injury.

Government of India's decisions :—(1) Wound pensions granted under Article 728 are renewable from year to year according to subsequent report of a Medical Board.

[G. I. F. D. No. 1840, dated 16-4-1890.]

(2) The rules in section III of this Chapter apply exclusively to officers injured or to the families of officers killed in the execution of public duty or service other than military. In all cases of civil officers on military service the rates of pensions admissible will be regulated by Section I; if these rates are more favourable than those admissible under the Military Regulations,

[G. I. F. D. No. 548 C. S. R., dated 12-6-1917.]

(3) An extraordinary pension or gratuity may be granted to a Government servant under this Chapter even if he is not invalided from service as a result of the disability on account of which the award is made.

[G. I. F. D. Memo ; No. F. I-I/R II/1926, dated 26-9-1928.]

(3-A) The Government of India have decided that the proceedings of the Medical Board in regard to case of wound and other extraordinary pension under Chapter XXXVIII of the Civil Service Regulations should be drawn up in Army Form A—45

[G. I. F. D. No. D. 3235 R. II/29, dated the 27th May 1929].

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*See Government of India's decisiod No. (4) on the next page.

†Consequent on the decision to fix the minimum pension at not less than Rs. 25 p. m. *vide* Finance Ministry's Office Memo. No.F. 9(16)EV(A)I/63, dated the 31st December 1963, incorporated as appendix 12 to Chaudri's Compilations of C.S.R. Volume (II) the President has been pleased to decide that where no other pension *e. g.* compensation/ invalid/retirement/superannuation/ family pension is being drawn or where the Government servant is not in receipt of any pay from Government, the minimum rate of injury and/or wound pensions under the Central Civil Services (Extraordinary Pension) Rules and the Extraordinary Pension Rules contained in Chapter XXXVIII of the Civil Service Regulations should not be less than Rs. 25 p.m including *ad hoc* increase of Rs. 5 p m., admissible under Finance Ministry's Office Memorandum No. F. 15(13)EV(A)/63, dated the 16th October, 1963.

These orders will take effect from the 1st January 1964 and cover cases of persons receiving wound/injury on or after this date.

[G.I.M.F. Memo : No : F. 2(14)-EV(B)1/63, dated the 14th February 1964.]

(4) The Wound and Extraordinary Pension Rules in this Chapter apply to those officers of the Governor-General in Council's service who enter service under the Central Government before the '1st of April' 1937, irrespective of whether they are governed by the Workmen's Compensation Act or not. Such officers appointed on or after the 1st April, 1937, if the Workmen's Compensation Act does not apply to them, are governed by the Central Civil Service Extra-ordinary Pension Rules. [*See* Appendix 35] and those to whom that Act applies are not eligible for the grant of any Wound or Extraordinary Pension.

[G. I. F. D- U. O. No. D. 1928 R. II/42, dated 24-9-1942 to Railway Board.]

(5) Section* 266 (3) (*e*) of the Government of India Act, 1935, prescribes that the Federal (*Union*) Public Service Commission or, as the case may be the Provincial (*State*) Public Service Commission should be consulted on claims for, the award of injury pension, and as to the amounts of such award. Consultation in such cases has not been excluded by Regulations made by the Secretary of State or the Governor-General in Council under Section 266 (3) of the Act. It is therefore necessary to consult the Federal (Union) Public Service Commission on every claim by or in respect of person who is or was under the rule-making control of the Secretary of State or the Governor-General in Council for the award of a pension or gratuity under the Superior Civil Services (Extraordinary Pension) Rules, or under the Central Civil Services (Extraordinary Pension) Rules, or under the rules in Chapter XXXVIII of Civil Service Regulations and irrespective of whether the amount of a pension or gratuity to be awarded is in the discretion of the awarding authority, or is obligatory in accordance with the scales laid down in the rules.

[G. I. H. D. Memo ; No : 16/5/43. Establishments dated 11-6-1948.]

Note 1. The following supplementary instructions should be borne in mind when the Federal [Union] Public Service Commission is consulted in furture in regard to claims for the award of injury pensions—

(*i*) the Commission should be consulted after all Departments concerned have expressed their views on a case.

(*ii*) the points of reference to the Commission should *inter-alia* be whether in their opinion the award of any pension, gratuity etc. is admissible and, if so, the amount thereof.

(*iii*) any such reference to the Commission should be made in the form of an official letter with which all relevant papers should be forwarded ; and

(*iv*) except as stated in Note 2 below, the convention regarding the acceptance of the advice of the Commission (*vide* paragraphs, ‡7 and 6 of the annexure to the Home Department Office Memorandum No. 16/2/39-Establishments. dated 15th December, 1939) shall apply in these cases.

[G. I. H. D. Memo : No : 16/5/43-Establishment, dated 11-6-1945.]

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*Now Article 320 (3) (*e*) of the Constitution of India.

‡Paras 6 and 7 are reproduced below :—

"6 In any case in which the advice of the Commission is sought in regard to disciplinary matter the letter containing the finding of the Commission shall form part of the record of the case and shall be communicated to the officer or officers concerned along with the orders of the authority empowered to pass orders in the case".

"7 A convention has been established by the Government of India with the approval of the Secretary of State that in the following classes of cases referred to the Commission the recommendation made by that body shall be accepted save in exceptional circumstances :—

(1) Quasi-judicial cases *i. e.*

(*a*) Original orders, appeals, memorials, and petitions relating to disciplinary matters

(*b*) Interpretation of existing conditions of service.

(*c*) Equitable treatment in the matters referred to the Commission in regard to payment of compensation to officers affected by abolitions of posts.

(2) Selection for appointment of candidate by nomination subject to any special directions that may be given to the Commission in the matter of the class of candidates to be nominated.

In the cases of classes mentioned in clause (2), where the appointing authority considers the circumstances so exceptional as to justify departure from the order of preference in which candidates are recommended by the Commission, the reasons for that opinion should be stated and the Commission be given an apportunity, if they so desire, of further justifying their recommendation before final decision is taken."

Note 2. All cases of *ex-gratia* award of extraordinary pension shall be referred to the Federal Publice Service Commission. If the Commission consider that claim is covered by rules, and recommend an award, it will be open to Government to examine the position before accepting the recommendation: If Government are satisfied that the case is covered by rules, they will accept the Commission's recommedations as to the amount of the award. In cases where the Commission are satisfied that no award is admissible under the rules, but would recommend an *ex-gratia* payment, they will not make any recommendation about the amount of payment. Government will in that case retain discretion, after giving all due weight to the Commission's recommendation whether or not to make an *ex-gratia* payment, they will not make any recommendation about the amount of payment.

The above arrangement has been made as an experimental measure for period of two years in the first instance where after it will be open to the Government of India or to the Federal Public Service Commission to reopen the question and to press for a modification of the arrangement, if, in their opinion experience during this period warrants it.

[G. I. M. H Affairs Memo : No : 18/25/48 Ests, dated 31-10-1949]

Note 3 :—A question recently arose whether it is necessary to consult the Union Public Service Commission on a claim for the award of an extraordinary injury pension to a civil Government servant who was on deputation with the Army and who sustained an injury while on active service. It has been held in that connection in consultation with the Ministry of Law that a person who is serving with a military force in a civil capacity and is not subject to the Army Act and the Army Regulations service in a civil capacity within the meaning of clause (3) (*a*) of Article 320 of the Constitution and the fact that he is paid from the Defence Estimates does not affect the nature of his service. The Union Public Service Commission should therefore be consulted on any claim for the award of a pension to such pension in respect of injuries sustained by him while serving in a civil capacity with a military force. An officer serving in a civil capacity temporarily loses his status as civilian if he is subject to the Army Act : and if he sustains any injury while he is subject to the Army Act the Union Public Service Commission need not be consulted in respect of a claim for the award of pension to him.

The position stated in paragraph 1 above may kindly be noted and also brought to the notice of the attached and subordinate officers, if any, under the Ministry of Finance/etc.

[G. I. M. H. Affairs Memo No. 18/26/50-Ests., dated 6-11-50].

(6) Any powers hitherto held by lower authorities (in the case of Civilians of Defence personnel) to sanction extraordinary pensions under Chapter XXXVIII -Civil Service Regulations are hereby withdrawn. All such claims will be submitted to the Government of India through normal channels.

[Army Instruction No. 238, dated the 3rd September 1955].

729. The rules in this Chapter do not apply to :—

(*a*) **pensions paid from the Defence Services Estimates (except Class II followers and religious teachers of Indian Units) who in the matter of service Pensions or gratuities are governed by the rules in Pension Regulations for the Army in India.**

(*b*) **Non-combatant departmental and regimental civilian employees holding regular appointments and remunerated by pay or salary from the Defence Services Estimates (including those employed in the Military Accounts Department), in receipt of pay less than Rs. 200 per mensem, if they were recruited before the 18th October, 1932.**

The claims of these men and their dependants to wound and other extraordinary pensions and gratuities should be dealt with under Pension Regulations for the Army in India.

730. Government do not bind themselves to grant a pension or gratuity in every case, or, if they grant a pension, to grant it for life.

731. Every grant of pension under this Chapter is subject to the provisions of Article 351.

732. In cases where considerable delay has occurred in applying for an extraordinary pension, the grant, if any, will take effect only from

the date of the report by the medical board, or in the case of a family pension from such date as the sanctioning authority may decide. Otherwise the grant may be made with effect from the date of wound or injury, or in the case of death, from the day following the death of the Government servant ; except that, when it is made under Army Regulations, it has effect from the date therein prescribed.

733. In cases falling clearly and strictly within the letter of the the rules in this Chapter, the Local Government may exercise, in relation to Government servants under its administrative control, all powers conferred by the rules upon the Government of India other than the powers conferred by Articles 739, 741A, 741B, 743, 746D, 746E, and by the Notes under Article 746B.

†*Note*—The Comptroller and Auditor General of India shall be competent to exercise powers specified in this Article in respect of persons serving in the India Audit and Accounts Department.

734. All awards involving expenditure chargeable to British revenue should be reported without delay to the Secretary of State.

735. When a grant under these rules is made in India to an European officer, the authority sanctioning the grant shall inform the Secretary of State in order that a grant of a like nature may not be made by any authority in the United Kingdom in respect of the same casualty.

736. When it is necesssary to convert sterling pensions or gratuities awarded under the rules in this Chapter into rupees, or rupee pension or gratuities into sterling, the conversion shall be effected at the rate of exchange fixed for the conversion of ordinary civil pensions.

737. Subject to the provisions of *'Civil Pensions (Commutation) Rules' the recipient of a pension awarded under the rules in this Chapter may be allowed to commute a portion of it.

738. (*a*) **If an officer is incapacitated for further civil service in consequence of a wound, injury or disability, in respect of which an extraordinary gratuity or pension is awarded to him under the provisions of this Chapter, he will be eligible to receive, in addition to such extraordinary gratuity or pension, any ordinary civil pension or gratuity for which he may be eligible under the Civil Service Regulations.**

(*b*) **In the event of his total qualifying service for civil pension rendering him eligible for invalid gratuity only, as distinguished from pension he may notwithstanding, he granted at his option a pension calculated as follows in lieu of the gratuity :—**

(*i*) **If he is a member of the Indian Civil Service, at the rate of £30 a year of each completed year of active service, including any period passed with a military force in the circumstances described in Article 739.**

(*ii*) **In other cases, at the rate of one-sixtieth of his average emoluments for each completed year of service for pension including any period passed with a military force in the circumstances described in Article 739.**

Note.—For the purpose of calculating ordinary civil pension or gratuity in the case of an officer who has been serving in a military capacity with a military force (see Article 744), his emoluments' during the period of such service shall be taken to be those which he would have drawn if he had remained in civil employ, the calculation being made according to the "next below rule" where applicable.

Government of India's decision—See decision No : (2) below Article 744.

Audit Instruction--An award made under Article 744 of the Civil Service Regulations which ever of the alternative there in prescribed, the officer in

*See appendix 38 to this Compilation.

†Added vide G. I. M. F. Notification No. F. 2(14)-EV (B)/61/II, dated the 28th September 1961.

question may have elected, should be regarded for the purposes of Article 738 as an award under the provisions of Chapter XXXVIII.

[Para 30. Section III of the Manual of Audit Instruction (Reprint)].

SECTION II—WOUNDS. INJURIES, OR OTHER DISABILITIES SUSTAINED BY A CIVIL OFFICER WHILE SERVING WITH A MILITARY FORCE.

739. The rules in this Section apply to officers serving in circumstances justifying their presence with a military force if the connection of the officer with the force can reasonably be held to be due wholly or in part to the fact that he was at the time a civil officer of the Government of India or a Local Government. This may be assumed without question in the case of any officer called out for actual service as a member of the Indian Army Reserve of Officers or of the Auxiliary Force India, or the Indian Territorial, Force, or attached to an Indian unit or to a force under the orders of the Government of India or operating in a country contiguous to India. If in other case doubt arises as to the applicability or otherwise of the rules in this Section of decision will rest with the Government of India, subject if they think it desirable to reference to the Secretary of State for India in Council.

A.—CIVIL OFFICERS SERVING IN A CIVIL CAPACITY WITH A MILITARY FORCE

Wound, Injury or Family Pensions or Gratuities

Civil, officers on pay of Rs. 350 a month or over.

740. A civil officer in receipt of pay of Rs. 350 a month or more, who may be serving in a civil capacity with a military force, may be granted by the Government of India a wound or injury pension or gratuity, and the family of such an officer is eligible for family pensions and gratuities, at the rates and under the conditions stated in Army Regulations, India, Volume I (1915 edition), the rank of civil officer for this purpose being the military rank assigned, or assignable to him under rules in the field or his relative military rank in the table below, whichever is more favourable to the recipient :—

(*a*) **Viceroy, Heads of Provinces, and members of Executive Council.**

Class of officer	*Relative Military Rank.*
Viceroy of India	Field Marshal.
Governor	General
Member of an Executive Council, Chief Commissioner or Chief Justice of a High Court	Lieutenant-General.
Judge of a High Court other than a Chief Justice	Major-General.

(*b*) **Members of the Indian Civil Service.**

(Except as above)

Of more than 31 years' standing	Major-General
Of more than 23, but not more than 31 years' standing	Colonel.
Of more than 18, but not more than 23 years' standing	Lieutenant-Colonel.
Of more than 12, but not more than 18 years' standing	Major.
Of more than 5, but not more than 12 years' standing	Captain.
Of Not more than 5 years' standing	Lieutenant.

(*c*) **Other Civil Officers on pay of not less than Rs. 350 a month.**

Monthly pay	*Relative Military Rank*
Rs. 2,500 and over	Major General.
,, 2,000, but less than Rs. 2,500	Colonel.
,, 1,500 2,000	Lieutenant-Colonel.
,, 900 1,500	Major.
,, 700 900	Captain.
,, 450 700	Lieutenant.
,, 350 450	Secend-Lieutenant.

Secretary of State's order :—In cases where disability is not strictly attributable to military service but is "aggravated" by military service, the Secretary of State ordered as follows :—

"Aggravation" cases would not be refused provided that (*a*) the original

disease or injury must either have arisen in the service or be of such nature as might easily have escaped observation on entry even by most careful observation ; and (*b*) the condition of the disability from which the officer is suffering must be definitely due to conditions of his service and must not be such as might arise from the original disease or injury by mere efflux of time.

[Extract paragraph 7 of despatch from the Secretary of State for India No. 1 Military dated 4th January, 1923, Despatch No 58-Final, dated 25th November, 1926, from the Secretary of State received with Government of India, Finance Department No P/30-C-S. R./27, dated 11th March, 1927]

Government of India's orders :—The Government of India have ordered that the procedure followed by the War Office in regard to the grant of pensions to dependants of deceased officers under Article 671,678, 685 and 616 of the Royal Warrant, 1926, should in future be followed in cases of the extra-ordinary pensions granted under Articles 740, 746B, 746BB, and 746D, Civil Service Regulations, and accordingly pensioners should invariably be informed that awards are subject to review, should their pecuniary circumstances change and that immediate report of all such changes should be made.

[G. I. F. D No. F. 288-C. S. R./27, dated the 25th July, 1927 read with No. 3111-R. II/29 dated 23rd April, 1929.]

Note:—Under the relevent articles in the Royal Warrant, grants are dependant on the pecuniary circumstances of the grantee only in cases where awards are made to dependants other than widows and children, and a statement of means therefore ought to be issued in their cases only. Pensions under these provisions to widows and children are not normally liable to periodical review unless this is specifically prescribed in the sanctioning order.

[G. I. F. D. No. F. 5(1)-R 11/33 dated 20th March, 1933.]

Government of India's decisions : –(1) The Government of India have decided that in cases where neither the date, month nor the year of birth can be ascertained of an heir to family pension, the year of birth of the claimant should be calculated from the age given by the investigating officer and the date and month taken as the 1st July of that year. In cases in which the year and month in which the claimant was born are known, but not the actual date, the latter should be taken as the 16th of the month.

[Government of India, Army Department, letter No. 342261 (A.G.-10), dated the 29th April 1916.]

(2) The Audit Officer should see that, in sanctioning pensions to parents of deceased officers under the Articles referred to in Government of India's order below this Article the sanctioning authority attaches the following conditions:-

(1) that the awards is subject to review should the pecuniary circumstances of the pensioner change, and

(2) that any such change of circumstances is to be promptly reported by the pensioner to the sanctioning authority.

[G.I.F.D. Memo. No. F. 288-C. S. R./27 dated 29-10 1927].

(3) The reference to the Army Regulations, India, Volume I, in Article 740, Civil Service Regulations has and is intended to have continued in force and that the grant of wound pension under that Article should be regulated by the rules in these Regulations *viz* the old rules in Part II of Pay and Allowances Regulations of the Army in India (1923 Edition) and not by the new rules laid down in the Pension Regulations.

[G.I.F.D. letter No. F. 5 XXVI R. II/30, dated the 7th January 1931-]

(4) The intention of paras, 466 and 468 of the Pay and Allowance Regulation of the Army in India Part II, 1923 Edition is to render a person whose injury persists, eligible for a permanent wound pension (as recommended by a Medical Board) after he has continued to draw a temporary pension for five years. The actual date of effect being one for Government to decide or determine.

[Government of India, Finance Department U.O. No. 1751 R. II/41 dated the 24th October 1941.]

(5) Family pensions and gratuities under Article 740. C. S. R. should be

regulated in accordance with para 770 of the Army Regulations, Volume I (1915 Edition), read with the Royal Warrant in force at the time being, that is the Royal Warrant issued from time to time. In view of the correspondence leading to the insertion of Article 741A, the disability additions to service pensions of civil officers serving in a civil capacity with a Military Force, should be calculated under the rules which would govern the regular officers of the Army.

Auditor General has agreed with this view.

[G.I.M F.U.O. No. 7938-E V/49, dated 18-11-1949]

740 A. A civil officer in receipt of pay of less than Rs. 350, but not less than Rs. 200, a month who may be serving in a civil capacity with a military force may be granted by the Government of India a wound or injury pension or gratuity, and the family of such an officer is eligible for family awards, under the condition stated in Army Regulations, India, Volume I (1915 Edition), in so far as they are applicable to Conductors and Sub-Conductors and at the rates specified below :—

		When pay is less than Rs. 250	When pay is not less than Rs. 250.
(*i*)	Wound Pension	Rs. 800 (or £60) per annum.	Rs. 940 (or £70) per annum.
(*ii*)	Injury Pension	Rs 480 (or £38) per annum.	Rs. 600 (or £45) per annum.
(*iii*)	Gratuity for a wound or injury received in action	Rs. 830 (or £60)	Three months pay subject to a minimum of Rs. 800 (or £60).
(*iv*)	Family awards—		
(*a*)	Widows' pension	Not more than Rs. 1,200 (or £90) and not less than Rs. 600 (or £45) per annum.	
(*b*)	Children's Allowance	If motherless, not more than Rs. 300. (or £22½) and not less than Rs. 167 (or £12½) per annum for each child.	
		If not motherless not more than Rs 156 (or £12) an not less than Rs. 83 (or £6½) per annum for each child.	

Note 1.—The above rates of family awards shall be granted under the conditions laid down in Army Regulations India, Volume I (1915 Edition) for the grant of intermediate rates of those pensions and allowances only.

Note 2.– Pensions, gratuities and childern's allowances under this article shall be paid in sterling if the person to whom payment made is residing on the date of payment in a country where the rupee is not legal tender and in rupees in all other cases.

Government of India's decision :– It has been decided that a civil officer of Government on pay of Rs. 200, and cover serving with a military force in a civil capacity, who is eventually invalided from his civil employment owing to disease attributable to such service, may also be granted, in addition to any service pension or gratuity admissible under the Civil Service Regulations (an invalid pension being regarded for this purpose as a service pension) such allowances as would have been awarded to him by way of disability in addition to the serice pension had he been a regular officer of the Army, pronounced permanently unfit for military service ; owing to disability attributable to military service, the grant to take the effect from the date of invaliding. This decision is applicable both to the period of the Great War as well as to post-war cases.

[G. I F. D. No 326 C. S. R. dated 29-2-1924].

***741. The family pension of a widow will ceases on re-marriage but when such re-marrige is annulled by divorce, deserving or death of the second husband, her pension may be restored upon proof that she is in necessitious circumstances and otherwise deserting. The pensions to children will be continued to boys up to the age of 18 years, to the girls up to 21 or marriage, whichever may happen first,**

741A A civil officer in receipt of pay of Rs 200, a month or more,

*Substituted by G. I. M. F. Notification No : F. 2(1) EV (B)/61, dated the 17th February 1961.

serving in civil capacity with a military force, who is eventually invalided from his civil employment owing to disease attributable to, or aggravated by, such service, may be granted by the Government of India, with effect from the date of invaliding, a pension equal in amount to the disability addition to his service pension which would have been awarded to him had he been a regular officer or a Warrant Officer of the Army, pronounced permanently unfit for military service owing to disability attributable to, or aggravated by, such service. The rank for this purpose in the case of officers on pay of not less than Rs 350 a month shall be determined according to the table of the relative military rank in Article 740.

If the officer is in receipt of pay of less than Rs. 350 a month, the pension admissible under this Article shall be equal to the disablement addition which would have been awarded to a Warrant Officer who has qualified by length of service for a retiring pension.

Government of India's decision :—See decision No. (5) below article 740.

741B. In awarding gratuities, pensions or allowances to families the Government of India shall have discretion to make such modifications in the mode of allotment or conditions of tenure prescribed in Army Regulations, India, Volume I (1915 edition), as they may consider desirable with a view to adapting these to legal or customary conditions applicable in the case of the families to be benefitted.

Civil Officers on pay of less than Rs 200 a month,

742. A civil officer in receipt of pay of less than Rs. 200 a month, who may be serving in a civil capacity with a military force, may be granted by the Government of India wound or injury pension or gratuity and the family of such an officer, if he is killed on such service or dies of an illness or injury due to such service, may be granted a family pension, under the following rules :—

(*i*) *Wound or injury Pension.*

Higher.—At a rate of one third of pay, subject, if the officer is wholly incapacitated from earning a living, to a minimum of Rs. 10 a month.

Lower.—At the rate not exceeding one-fifth of pay.

(*a*) The higher rate pension will only be granted if the officer has sustained, as a result of his service with military force, a wound or injury occasioning the loss of an eye or limb or of the use of a limb, or equivalent in its effect to the loss of a limb.

(*b*) The percentage of pay to be awarded in the case of an officer eligible for pension on the lower scale will be decided by the Government of India, at their discretion, according to the injury.

(*c*) No pension will be granted unless the wound or injury is reported by a medical board to be severe.

(*d*) An officer may be recommended for a pension for each eye or limb of which he has lost the use through his service with military force

(*e*) A pension may be granted permanently, or temporarily for a period not exceeding one year in the first instance. In the later case, the question whether the pension shall be continued and, if so, at what rate and for what further period will be left for subsequent determination.

(*ii*) *Family Pensions.*

At the rate of one-half of the officers pay.

(*a*) For the purpose of awarding a family pension under this Article, the term "family" includes only wife, legitimate child, father or mother, dependent upon the deceased for support.

(*b*) The pension is allotted :—
- (1) to the eldest surviving son, for the support of the family ,
- (2) failing a son, to the eldest widow, for the same purpose ;
- (3) faling both sons and widows, to the eldest surviving unmarried daughter, for the same purpose ;
- (4) these failing, to the father, for the same purpose ;
- (5) failing, (1) to (4), to the mother, for the same purpose ;

(*c*) The pension to a male is tenable as follows :—
- (1) If the pensioner is under six years of age, till he is eighteen years old ;
- (2) if not under six, but under fifty years, for twelve years ;
- (3) if not under fifty years, for life.

(*d*) The pension to a female is for life or until marrige ; but on her suitable marriage the Government of India may at their discretion grant her for marriage expenses an amount not exceeding five years pension provided that the pension is not regranted to any other member of the family under sub clause (*f*).

Note.—A pension granted to a female infant who is a native of Asia shall, in the absence of special orders to the contrary, last until she leaves her own family to cohibit with her husband, or being married, attains the age of sixteen years, whichever event happens first.

(*e*) In awarding a family pension under this Article the Government of India have discretion in make such modification in the mode of allotment or conditions of tenure set forth in clause (*b*) to (*d*) as they may consider desirable with a view to adopting these to the legal, or customary conditions applicable in the case of the family to be benefited, or to providing against the improper application of the pension or its premature cessation. They have also power to award the pension to a dependent who does not strictly fall within the definition of "family."

(*f*) On the cessation of the pension through death, marriage or other cause, the Government of India have discretionary power to re-grant it, in whole or in part, to members of the family lower down in the scale prescribed in clause (*b*) who may have been dependent on it for support, and for such period as they may consider desirable, not exceeding that admissible under clause (*c*) or (*d*) for an original grant.

Government of India's decisions—(1) The widow of a Police man who was governed by the Extraordinary Pension Rules in the C. S. R. gave birth to an illegitimate child and a question was raised whether her family pension should be stopped. The pension was payable only on her death or re-marriage which every occured earlier. As there was no legal re-marriage, it was held by the Ministry of Law that the case should be disposed of on the assumption that there has been no re-marriage and as such the pension was accordingly allowed to continue.

[G. I. M. F. U. O. No. 3006-EV/51 dated the 11th May. 1951].

(2) All awards made under Article 742 (*ii*) (*f*) of C. S. R. are of *ex-gratia* character even though such *ex-gratia* awards are contemplated in the Rules itself. The regrant having once been made does not, therefore, admit of an extension under the rules because one of the conditions of regrant is that it should be made to a claimant next in the chain indicated in sub-rule 742 (*ii*) (*b*).

[G. I. M. F. letter No, 4267—EV (B)/57, dated 27-9-1957].

743. *Pension or Gratuity in case of serious detriment to health.*—**A civil officer of the Government of India or a Local Government in receipt of pay of less than Rs 200 a month, who when serving in a civil capacity with a military force, sustains in consequence of that service serious detriment to his health not entitling him to a pension under Article 742 may be granted by the Government of India; a special pension or gratuity fixed by them at their discretion with reference to—**

(*a*) **the scale of wound any injury pensions and gratuities which would be applicable. under Article 742, in his case.**

(*b*) **the severity and probable permanence of the disability, and**

(*c*) **the extent to which the disability may be merely an aggravation of one proviously existing,**

Government of India's decisions :—(1) The pensions granted either under Chapter XXXVIII of the Civil Service Regulations, the Superior Civil Service, (Extra-ordinary Pension) Rules or the Central Civil Services (Extra-ordinary Pension) Rules and payable to persons residing in countries where the rupee is not legal tender should be increased to the same extent and subject to the same conditions as have been laid down in respect of service pensions payable in United Kingdom. Such increase would be to the same extent and on the same conditions as provided in the pension (Increase) Act, 1944. The increases will be payable from such date and for so long as increases in service pension are payable. The Audit Officers concerned will, no doubt, take necessary action now both in respect of Central and Provincial Governments pensioners in receipt of wound and other Extra-ordinary Pensions.

This increase in wound and other Extraordinary Pension will be subject to the condition that where such a pension is drawn in addition to a service or other pension, the total amount of the pension does not exceed the limit to which the increase is admissible.

[G. I. F. D. Memo : No F. 5 (11) R. 11/41, dated 2-2-1946].

(2) The Government of India have had under consideration the question of the applicability of the rules to regulate the award of extra-ordinary pension and gratuities to Home Civil Servants employed under the Govennment of India. It has been decided that in the event of injury (as defined in rules 3(4) of the Central Civil Services (Extra-ordinary Pension Rules) or death of a Home Civil Servant while on service in India, the India office should be addressed promptly explaining the circumstances in which the injury was sustained or death occurred and asking them no obtain the advise of His Majestry's Treasury as to what award. if any, would have been made by the Treasury had the case been one for consideration under their own rules--injury warrants. etc., or according to their practice in respect of *ex-gratia* award to relieve hardship or *ex-gratia* contribution towards Medical expenses as the case may be. On receipt of their advice the case should be considered by the Government of India, and a decision taken by them.

[G. I. F. D. Memo : F 5(2)-Est. V/46, dated 9-4-1946].

B. CIVIL OFFICERS SERVING IN A MILITARY CAPACITY WITH A MILITARY FORCE.

744. If a civil officer of Government who is a member of the Auxiliary Force India, or the Indian Territorial Force, is called out on actual military service, or if a civil officer is otherwise serving in a military capacity with a military force in circumstances justifying his presence, he may elect, if wounded, injured or otherwise disabled as a direct result of such service, to be treated either under the conditions laid down in Articles 740—743 for a civil officer who is serving in a civil capacity with a military force, or under the military regulation governing his employment on military service. In the later case, the award will be governed by his actual military rank. The election may be made at any time during the service or after it

Note—If a civil officer serving in a military capacity with military force elects to be treated under the conditions laid down in Article 740—743, his pay for purpose of those Articles, shall be taken to be that which he would have drawn if he had remained in civil employ, the calculation being made according to the next below rules where applicable.

Government of India's decisions (1) An award made under this Article when ever the alternatives prescribed may have been elected, should be regarded for the purposes of Article 738 C. S. R as an award under the pro visions of this Chapter.

[G. I. F. D. No. F. 206 C. S. R /25, dated 9-12-1925]

(2) In a case regarding, the grant of a pension under Article 744 and 738 Civil Service Regulations the Auditor General observed that the Government of India Finance Department Resolution No. 429, Civil Service Regulations, dated the 15th May 1922, made it clear that the revised Chapter XXXVIII of the Civil Service Regulations was applicable, with retrospective effect, to any case which had arisen since the beginning of the War in which it would be to the benefit of the officer concerned. The revised Chapter was therefore applicable to the case of an officer, who was incapacitated for further civil service, with effect from the 2nd March 1921.

Omitting the period spent on military service the officer's total qualifying service was sufficient to render him eligible for invalid gratuity only. He therefore became entitled to the concession given by Article 738 (*b*) (*ii*), which allowed him to take a pension in place of a gratuity and to count in his service for such pension the period spent on duty with the military forces, under the provisions of Article 738 (*a*), he could receive this pension in addition to this extraordinary military pension, and in view of the interpret-

ation by the Secretary of State given in his letter No F. 3571/25, dated the 12th October 1925, this right was not adversely affected by the fact that the officer was in receipt of two distinct military pensions.

The case referred to above had throughout been governed by Article 738 (*b*) of the Civil Service Regulations and the Resolution of the Government of India in the Home Department No. F. 371-23 Ests. dated the 7th December 1925, had no bearing upon it. That resolution merely extended as from a later date, to officers whose ordinary civil service sufficed to earn a pension, the concession given by Article 738 (*b*) to officers who civil service had earned a gratuity only.

The Secretary of State pointed out that a pension granted under Article of 744 ordinarily includes no service element and it is reasonable in such a case that military service should count for civil pension. But the invalid pension admissible to a regular officer and granted to officers of the Indian Army Reserve of Officers in accordance with the terms of India Army Order No. 539 of 1914, includes a service element, and does not appear to him reasonable, nor was it ever his intention that in such a case military service should count for civil pension save to the extent and in the special circumstances laid down in the Government of India, Finance Department Resolution No. F. 21-1-C. S. R.-24, dated the 28th August 1925, and in the Home Department No. F. 371-23 Ests, dated the 17th December, 1925.

Article 738 of the Civil Service Regulations, however, in addition to the concession that the military service, should count for pension, embodies also the concession that if the officer's total service renders him eligible for a gratuity only instead of a pension, he should never the less be granted a pension. The Secretary of State in Council sees no reason why eligiblity for a pension instead of a gratuity, where the letter only would ordinarily be admissible, should be affected by the nature of the military pension, and he has accordingly decided that this concession should apply also to cases in which the Regular Officers' military pension has been awarded under India Army Order No. 539 of 1914. The officer will therefore, be eligible from the 2nd March 1921 to 2nd February 1925, for a civil pension based on his qualifying civil service only, from 3rd February 1925 to 4th July 1925 to civil pension based on his qualifying civil service *plus* active military service, and from 5th July 1925 to a civil pension based on his total service including military sick leave.

[G. I. F. D. No. F. 383-C., C. S R./27, dated the 10th October, 1927.]

(3) The sanctioning authority for disability and family pension awards in respect of civilian Government servants deputed for service in a military capacity with a military force (and for ex-gratia awards) whether under civil and military rules or made *ex-gratia* will be :—

(*a*) Military authorities in the case of those personnel whose pay accounts etc. are maintained by the Defence Accounts authorities.

(*b*) Director General, Post and Telegraphs/Railway Board in consultation, where necessary, with the Ministry of Defence, in the case of personnel of the posts and Telegraphs and Railway Deparments respectively whose pay accounts etc. are maintained by the Posts and Telegraphs Department/Railway Department and their Accounts and Audit Officers.

2. Cases in which the Director General, Posts and Telegraphs or the Railway Board is not competent to accord sanction to extraordinary pensions under the civil rules will be referred by them to the competent authority concerned for sanction.

(3) When cases concerning Post and Telegraphs/Railway personnel are dealt with under military rules the Posts and Telegraphs/Railway audit officer will, where necessary. consult the CDA (P), Allahabad, concerning the application of the Military Rules.

[Army Instruction No. 229 of 1963].

(4) *Rules Governing the award of disability, family pensions and gratuities in respect of (1) Civilian Government servants (2) Railway servants, employed in a military capacity with a military force.*

1. Civilian Government servants belonging to the various States Governments (except J. & K.) and the Central Government (including Ministry of Defence) are, whilst employed in their civil appointments governed by either :—

(*a*) Chapter XXXVIII, Civil Service Regulations, or
(*b*) Superior Civil Services (Extraordinary Pension) Rules, or
(*c*) Central Civil Services (Extraordinary Pension) Rules, or
(*d*) Rules framed by the State Governments.

2. The rules governing disability and family pensions of such Government servants when employed in a military capacity with a military Force are as follows :—

Those governed by (*a*)—They have the option of civil or military rules—see Rules 164 and 192 of Part I and rules 188, 381 and 412 of Part II of the Pension Regulations for the Army in India (1940), and Article 744 and 745, Civil Service Regulations.

Those governed by (*b*)—They are governed by military rules subject to the proviso that those who are in civil service on the 28th January 1937 have the option of electing to be governed by the Superior Civil Services (Extraordinary Pension) Rules—See Rules 164 and 192 of Part I and 188 of Part II of the Pension Regulations for the Army in India (1940).

Those governed by (*c*)—The will be governed by the applicable military rules.

Those governed by (*d*)—

(*i*) *The State Govts. which have not introduced rules corresponding to Central Civil Services (Extraordinary Pension) Rules.*—The civil servants of these States are governed either by Chapter XXXVIII: Civil Service Regulations or by rules analogous thereto. In either case, they will have the option to be governed by the civil or military rules.

(*ii*) *The State Govts. which have rules analogous to (1) Chapter XXXVIII CSR or (2) the Central Civil Service, (Extraordinary Pension) Rules.*—The civil servants of these States are governed by either of these rules according to the date of their entry in Govt. service. Those falling under category (1) will have the option to elect between the civil and the military rules, but those of category (2) will be governed by the military rules.

(*iii*) *The State Govts. which have rules corresponding only to the Central Civil Service (Extraordinary Pension) Rules.*—The civil servants of these States will, irrespective of the date of their entry in Govt. service, be governed by military rules.

3. Railway servants, granted commissions in the Army will have the option, for the purpose of pensionary awards. of electing to be governed either by relevant railway or military rules are stated below :—

The relevant Railway rules regarding wound, injury and family pensions are as follows :—

(*i*) Superior Civil Services (Extraordinary Pension) Rules.
(*ii*) Chapter XXVII of the State Railway Establishment Code Vol. II.
(*iii*) Railway Services (Extraordinary Pension) Rules.

When employed with a military force in a military capacity.

(A) those governed by (*i*) will be governed by military rules subject to the proviso that those who were in service on the 28th January 1937 have the option of electing to be governed by the Superior Civil Services (Extraordinary Pensions) Rules.

(B) those governed by (*ii*) have the option of being governed by paras. 2716 and 2717R, of the Code, *i.e.*, they can elect the military rules or the railway rules, whichever are more favourable.

(C) those governed by (*iii*) and such other as are not entitled to compensation under any Railway rules except under the Workmen's Compensation Act, do not exercise any option. They will be governed by military rules only.

4. In modification, where necessary, of any previous orders issued in this behalf, the awards of disability and family pension in respect of civilian Government servants employed in a military capacity under the Ministry of Defence will be governed by the rules set out above.

[Army Instruction No. 161 of 1961].

745. The family of a civil officer who loses his life through service in a military capacity with a military force will be treated according to the rules, civil or military, which the officer may have according to the rules, civil or military, which the officer may have elected for himself, or, if no such election has been made, the family will be given the benefit of the rules most favourable to them.

SECTION III—WOUNDS, INJURIES OR OTHER DISABLITIES SUSTAINED OTHERWISE THAN ON SERVICE WITH A MILIFARY FORCE

746. (1) The rules in this Section provide the grant of pension or gratuity to an officer who is injured. and to the family of such an officer who is killed or dies of injuries received, in the execution of public duty in circumstances other than those specified in Section II.

Note—Military personnel who receive wounds or injuries in the discharge of civil duties, and the families of those officers who die of such wounds or injuries have no claim to injury gratuities and pensions under military rules and will be dealt with under the rules in this Section.

Note 2. No award shall be made under the rules in this Section in respect of civilian officer who is deputed on foreign service under the U.N. bodies on or after the Ist January, 1958 and who is allowed to join the U. N. Joint Staff Pension Fund as an 'Associate Member'.

[G. I. M. F. Notification No- F-2 (2)-EV (B) 61/1, dated the 2nd June 1961]

(2) No gratuity or pension shall be sanctioned under this Section except after necessary medical report and the report of the audit officer have been obtained, provided that if the officer lost his life in circumstances which render it impossible to procure a medical report reliable evidence of the actual occurrence of death may be accepted in lieu thereof.

Government of India's decision :—Great discretion should be used by local authorities in the recommendations made for the grant of pensions to the families of *officers dying of plague* contracted in the descharge of duties connected with the plague. It is not desirable to give encouragement to an impression that duty connected with the plague involves greater risks or is deserving of more favourable treatment than attendance in the infectious wards of a hospital or in a camp affected with cholera, which is accepted as part of the officer's ordinary duty.

Cases in which familes of police officers who die of plague in the execution of plague duty should not therefore be recommended for pension, [But see G. I. decision No : (5) below Article 746B]

[G. I. F. D. No. 2946-P., dated 30-6-1899.]

746A (*a*) When a claim for an extraordinary pension or gratuity under this Section arises, the head of the department or of the office in which the deceased or injured officer was employed will hold a formal inquiry, taking evidence as to—

(*i*) the circumstances in which the injury was received or the life lost,

(*ii*) in the case of death, the relationship and the pecuniary circumstances of the claimants.

(*b*) He will then submit the case, with a statement of the circumstances, through the usual channel of the Local Government or the Goverment of India, as the case may be. The application should be in Form No. 25 in the case of an officer injured and in Form No. 22 in the case of

a deceased officer.

Government of India's decisions. (1) Mr.—died on active service. The deceased had adopted mother who had also died. The deceased was not supporting his natural (real) mother nor had she been nominated by him. A question was raised whether or not the real mother of the deceased who was alive was eligible for the family pension. It was held that family pension is intended to support the family and in the case in question, the question of support did not arise. The natural mother was therefore not entitled to family pension.

[G. I. F. D. U. O. No. D 3568-E. V/47, dated 13-6-1947.]

(2) The provision of clause (3) (*c*) of Article 320 of the Constitution of India prescribes that the Union Public Service Commission or as the case may be, the Provincial Public Service Commission should be consulted on claims for the award of injury pensions, and as to the amounts of such award. Consultation in such cases has not been excluded by Regulations, made by the President under Article 320 (3) of the Constitution. It is therefore, necessary to consult the Union Public Service Commission on every claim by or in respect of person who is or, was under the rule making control of the Secretary of State or the Governor General for the award of a pension or gratuity under the Superior Civil Services (Extraordinary Pension) Rules, or under the Central Civil Service (Extraordinary Pension) Rules or under the rules in Chapter XXXVIII of the Civil Service Regulations and irrespective of whether the amount of a pension or gratuity to be awarded is in the discretion of the awarding authority or is obligatory in accordance with the scales laid down in the Rules.

[G. I. Home Department Memo. No. 16/5/43, Estabishment dated 7th March 1944].

(3) It has been held in consultation with the Ministry of Law that a person who is serving with a Military Force in a Civil capacity and is not subject to the Army Act and the Army Regulations serves in a civil capacity within the meaning of clause (3) (*c*) of Article 320 of the Constitution and the fact that he is paid from Defence Estimates does not effect the nature of his service. The U.P.S.C. should, therefore, be consulted on any claims for the award of a pension to such a person in respect of injury sustained by him while serving in a civil capacity with a military force. An officer serving in a civil capacity temporarily loses his status as a civilian if he is subject to the Army Act, the Union Public Service Commission need not be consulted in respect of claim for the award of pension to him.

[Ministry of Home Affairs, Memo. No. 18(26)/50-Ests, dated 6th November 1950 endorsed by the Ministry of Finance No. F. 1(10) Adm/50 dated 30th November 1950]

746B. Except as provided below, grants under this Section may be made only when injury or death is met in the performance of any particular duty which has the effect of increasing the officer's liability to injury or death beyond the ordinary risk of the civil appointment held by him. No claims shall be admitted on account of loss of life or bodily injury resulting from an accident to which an officer may be liable under the ordinary conditions of civil life or in connection with the ordinary discharge of his duty.

Note.—The object of this rule is to limit the grant of a pension or gratuity under this Section strictly to the cases for which it is intended, It is obviously inexpedient for the Government to dispense charity in individual cases. or to do anything which might weaken the inducement to officers to secure proper provision for their families. All doubtful cases should be referred for the orders of the Government of India who have been authorised to decide in cases whether the conditions of this rule have been fulfilled with due regard to the principles laid down in it.

It has been decided by the Secretary of State that the performance of operations on venereal or septicaemic patients, or the attendance by nurses or medical subordinates on such patients may be treated as duty involving extraordinary bodily risk Any grant in accordance with this decision requires the sanction of the Government of India.

Government of India's order'—See Government of India's order below Article 740,

Government of India's decisions :- (1) No general rule can be laid down as to what constitutes extraordinary bodily risk within the meaning of

Article 476 C.S.R. It is a question in each case to be determined with regard to circumstances. The mere fact of a khalasi being killed by a tiger while in the execution of his duty would not be sufficient to bring the case within the terms of this Article, but circumstances could easily be concieved of survey khalasi in the performance of a duty attended with extraordinary bodily risk being killed by a tiger.

[G.I.F.D. No. 3480 P, dated 12-8-1896]

(2) The Government of India do not think it would be expedient to alter the existing practice to express an opinion upon the questions whether the injury or death was met while in the performance of a duty attendent with extraordinary bodily risk within the meaning of Article 746B, Civil Service Regulations.

[G. I. F.D. No. 4521 P., dated 20-7-1904]

(3) Hurt in the eye while in the execution of public duty is an ordinary accident.

[Paragraph 402 India Supplement to C.S.R. (5th Edition)].

(4) Falling from a tree while cutting fodder for Government elephant is an ordinary accident.

[Paragraph 382 India Supplement to C. S. R. (5th Edition).]

(5) Policemen who *die of plague* contracted in the execution of their duties in plague-striken localities may be considered as having been killed in the execution of duty attended with extraordinary bodily risk within the meaning of Article 746B, Civil Service Regulations, provided that care be taken strictly to limit the grant of pensions to cases where men are sent to duty entailing imminent risk from plague. The concession is applicable to families of policemen dying of plague duty in all provinces in which plague is or may became prevalent.

[G I.F.D. No. 4516 P, dated 13-9-1900.]

(6) Article 746B does not apply to the cases of policemen dying of cholra contracted during employment on the duty of enforcing sanitary measures in infected village ; but if, in any special case, the Local Government should think fit to make a recommendation for the grant of gratuity to the family of a policeman dying of cholra while on sanitary duty full particulars of the case should be submited to the Government of India.

[G. I. F. D. No. 324, dated 11-7-1913]

(7) Deaths or injuries caused by terrorists should be treated if received as in action for the purposes of Chapter XXXXIII of the Civil Service Regulations and in such cases the maximum amount of compensation admissible under the rules in the Royal Warrant and paragraphs 461 and 462 of the Pay and Allowances Regulations, Part II (1923 Edition) should invariably be awarded.

G. I F. D. Endt No, D/2375 R.—11/33, dated 8-9-1933].

Note.— So long as the fanatics are not held to be insane. there is no reason for differentiating between deaths and injuries caused by fanatics, and those caused by terrorists. The above orders should therefore be held to cover deaths or injuries caused by fanatics. Deaths or injuries caused by insane people will, however, in case be decided on their merits.

[G.I.F.D. Endt. No. F. S-XI—R., 11/33, dated 20/21-12-1933.]

(8) The Government of India have decided that injury or death met in the performance of duties *e.g.*, dispersal of unlawful assemblies, suppression of riots, or the arrest of dangerous criminals by Police officer render the officer concerned or his family eligible for the benefits of the concession provided by Section III of Chapter XXXVIII, C.S.R.

(G.I.H D., No. F. I·—XV-23, dated 19-12-23 received with G. I. F.D., No. 117-C.S.R., dated 21-1-1924].

(9) It is the function of the Audit Officer to interpret Article 735 (now 746B) of the Civil Service Regulations as he would do any other financial rule, and the presence or absence of extraordinary bodily risk is a question on which he must satisfy himself before he accepts the action of the Local Government under that Article.

[G.I F.D. No. No. 4985-P., dated the 26th August, 1910]

(10) Any normal risk on particular beats or roads cannot be considered as 'extraordinary' and the mere fact that an extraordinary danger suddenly intervened, does not bring cases within the provision of Article 735 (now 746B) of the Civil Service Regulations. The question whether it would be correct to recognise claims under this Article of runners injured or killed while carrying mails containing cash or other Article of value over lonely roads should be considered with reference to the amount or character of the normal risk in each case.

Example 1.—A policeman on sentry duty is suddenly shot at and killed by a sepoy who has run amok B, C and D. other policemen who are also on duty, try to arrest the sepoy, and B is killed. A's family is not entitled to a pension because sentry duty is not a duty involving the conscious acceptance of extraordinary bodily risk B's family is entiled to pension because B voluntarily accepted an extraodinary risk, his acceptance dating back not from the moment he went on duty but from the moment he made up his mind to try and arrest the sepoy instead of running away.

[Government of India, Finance Department, No. 4485-P., dated the 26th August 1910].

(11) Syphilitic infection contracted in the performance of duty may, if it is reported by a Medical Board to be likely to be permanent, be *ipso facto* regarded as "of a very serious nature" for the purpose of the grant of injury pension under paragraphs 756 and 858 Army Regulations, India. Volume I.

[S. of S. Despatch No. 38, dated 12 5 1917 ; F. D , No. 615-C. S. R , dated 30-6-1917]

(12) See Government of India's decision No. (2) below Article 747.

746 BB. Where a police officer is injured or killed whilst in the actual performance of or in consequence of, his duty, a gratuity or pension may, if the injury or death was intentionally inflicted or caused, be granted to him or to his family, as the case may be, on the scale prescribed in Article 746C.

Government of India's orders.—See Government of India's order below Article 740.

Government of India's decision.—See decision No (8) below Article 746B.

746C. If, in the circumstances described in Article 746B, it be decided to award a gratuity or pension to a civil officer or his family, and the injury or death in respect of which the grant is to be made has been caused othewise than on service with a military force the amount and conditions of the award shall be those prescribed in Subsection A of Section II above, except that the award shall be made without reference to the military rank which might under rule have been assigned to the officer in the field if he had been serving with a Military force ; or to his actual military rank if he is a Military officer in civil employ.

746D. The Government of India have discretionary power to award extraordinary pension or gratuities in special cases where the conditions of Article 746B are not strictly fulfilled, as for instance, when an officer is killed or injured in, or in consequence of, the due performance of his official duties, or because of his official position. Any case in which it appears to the Government of India that the claim to extraordinary pension or gratuity is doubtful should be referred for the decision of the Secretary of State.

Government of India's order.—See Government of India's order below Article 740.

Government of India's decisions. (1) A Mail Overseer while outside his headquarters from the 24th February 1948 caught cold with fever. He continued on duty by which time the fever developed into typho-pneumonia. He applied for leave on medical grounds and died on the 8th March 1948. The Union Public Service Commission viewed that he developed typho-pneumonia as he had to work outdoors in February which is a 'cold' month and opined that it was to the official's credit that, inspite of his ill-health he continued to perform his duty. He could not apply for leave in time as he was away from headquaters. The Commission recommended the grant of an *ex-gratia* pension

to the family of the deceased. The Government of India held that the death was attributable to risk of office and granted an *ex-gratia* award to the minor son for a period of 12 years.

[U. P. S. C. letter No. F. 9/19/51-S dated the 21st May 1952 and G. I. M. F. U. O. No. D-6644-EV/52, dated the 21st October 1952.]

(2) A line man went to repair the telephone lines on the 29th November 1958 and worked there till noon of the following day. He then fell tired and returned to his headquarters covering a distance of 6 miles. Soon after he returned to his place he got an attack of accute pain in heart and lungs and died instantaneously. It was presumed that the continuous labour which he performed at odd hours of the day and night at a distant place proved too great a strain on his heart. The Government of India held that the case fell under Rule 746 D and agreed to the grant *ex-gratia* pension.

[G. I. M. F. U. O. No 3602 E. V/52, dated the 9th June, 1952].

(3) A Government servant lost his life while on duty for petrolling with a preventive party of the customs staff and fell a victim to some smugglurs who took his life by drowing him in a canal. It was held by the Government of India that the grant of award in the case will go a long way in keeping the morale of Land Custom staff and agreed to the grant of extraordinary pension to his two widows and children including posthumous daughter.

[G. I. M. F. No. 8134-EN/52, dated 8th December, 1952].

D. G. P. T.'s decision.—Officials of the Indian Posts and Telegraphs Department who are injured, and the families of those who are killed or who die of injuries received in the execution of their duty by reason of civil disturbances are eligible for the grant of extraordinary pension or gratuity under the provisions of Section III of Chapter XXXIII of the Civil Service Regulations in accordance with the circumstances of each case.

Cases in which an official, though not actually occupied in the discharge of his public duty, is assaulted by rioters because of the fact that he is a Government servant, will be dealt with under Article 746D of that Section.

[D. G. P. T.'s General Circular No. 38, dated 2nd February 1931].

746E. If in the circumstances described in Article 746D ; it be decided to award a pension or gratuity to a civil officer or his family, the amount of the award shall be fixed by the Government of India with reference to the character and service of the officer, the nature of the risk undergone and his conduct in accepting it, and the pecuniary circumstances and prospects of the claimant, the *maximum* award being that which would be admissible in a corresponding case falling under Article 746B. The form and conditions of the award shall ordinary be the same as these prescribed for a corresponding case under that Article, but the Government of India may modify these at their discretion, *e. g.*, they may award an equivalent gratuity in lieu of pension, or *vice versa* if they think that this would be to the benefit of the recipient or desirable on grounds of administrative convenience.

Government of India's decision.—It has been held that in accordance with *Section 266 (3) (*e*) of the Government of India Act, 1935, consultation with the Federal (now Union) Public Service Commission is also necessary in cases where it is proposed to reduce, enhance, stop or continue an extraordinary pension already granted irrespective of whether the Commission had been consulted before granting the pension or not.

[G. I. H. D. Memo. No. 12/14/46, Ests., dated 23-6-1947].

747. Subject only to such conditions as they may impose the Government of India may grant to an officer who has been severely injured or has contracted a serious disease in the execution of public duty, or to the family of an officer who has died from the effects of such injury or disease, an extraordinary pension not exceeding Rs. 25 a month, or a gratuity not exceeding the equivalent of that amount or

*Now Article 820 (3) (*e*) of the Constitution of India.

Rs. 1,000 whichever may be greater.

Note 1. The power of the Government of India under this Article may be exercised by the Railway Board in respect of railway servants.

Note 2. A gratuity or pension may be granted under this Article to a village watchman (including a municipal chaukidar in the United Provinces, or his family, even though he receives no pay from the State.

Note 3. Superintending Engineers in the Public Works Department may be authorised by a Local Government to grant a gratuity under this Article read with Article 733, not exceeding Rs. 20 or two months' pay, whichever is less, to a day labourer or mechanic injured, or to his representatives if he is killed, in the execution of duty by causes beyond his control.

Government of India's decisions :—(1) For the grant of extraordinary pension under Article 747 of the Civil Service Regulations to the dependants of low paid officials of the Posts and Telegraphs Department, who died as a result of disease contracted or injury sustained in the execution of public duty, the Government of India observed that a good deal of uncertainty existed regarding the precise nature of the cases to which the provisions of that Article are intended to apply.

The main criterion for determining whether cases of these kinds come within the scope of Article 747 of the Civil Service Regulations, or not is to be found in the answer to the following question ; "Did the loss of life result from an injury or a disease to which a private citizen of the same social class, pursuing his normal vocation at the same time and place would have been equally liable ?" If the answer is "Yes" the claim is inadmissible. For a claim to satisfy the implied conditions of that Article it must be established that the Government servant in question ran a risk substantially enhanced in kind or degree by the nature, conditions or obligations of his employment under Government and there must be reasonably good ground for attributing the injury or disease specifically to that enhancement.

The Government of India desire to emphasise the importance, in the interests of the efficient working of a commercial department such as the Posts and Telegraphs Department of according reasonably liberal treatment in matters of this kind to low-paid employees and their dependants in cases in which loyalty and devotion to duty have resulted in fatal disease or injury, and they desire that this consideration should be kept prominently in view in dealing with cases of the type referred to above. The grant of pension, however, requires the sanction of the Central Government in each case.

[F. A. P and T's endorsement No. 31-P. T E, dated 21st March, 1929].

(2) It has been decided that an officer travelling on duty by air should be regarded as exposed to special risk of office as defined in the relevant extraordinary pension rules.

[G.I M.F. Memo. No. F. 2 (1). EV (B)/63, dated the 2nd March 1963].

(3) Maximum amount granted under this Article should be restricted to the monetary limit prescribed in Article 742 (*ii*), C. S R. and in cases where compensation under the Workmen's Compensation Act is admissible award of extraordinary pension should be regulated by Article 728 (*a*) (2) read with Article 742 (*ii*) C. S. R.

[G. I. M. F U O. No: 1276—E, V/49, dated 1-9-1949]

(3-A) A Head Constable was posted to anti-dacoity service at a Police Station. He was returning from home after availing 5 days casual leave in a bus. When bus had gone about 12 miles, logs were found placed across the bridge on the road. The Head Constable and the other constables got down from the bus to remove the obstruction. The dacoits challenged them. One of the dacoits fired at the Head Constable hitting him on his head which resulted in his instantaneous death. The Head Constable was in plain clothes. His widow received a death-cum-retirement gratuity and there was no other source of income. The Accountant General, reported that no extra-ordinary pension was admissible. The Inspector General of Police took a stand that a Government servant on casual leave is on duty and as such the Head Constable met death while on duty. It was further argued that it was the duty of the Police

Officer to act in defence of forces of Law and Order and the Head Constable has set an example to enlist the support of the law abiding citizens to curb the activities of criminal elements. It was high sense of devotion to duty which prompted the Head Constable. The Head Constable was aware of the eminent personal risk and as such the Inspector General of Police recommeded the extra-ordinary pension under Article 747 of the C.S.R. The case was referred to the Government of India who advised that the essential condition of grant of an award under Extra-ordinary Pension Rules is that the injuries received by or death caused to the Government servant should be attributable to a risk of office. The Head Constable was neither actually on duty nor was he in uniform at the time of his death. His death could not, therefore, in the opinion of the Government of India be attributed to risk of office and his case could hardly be distinguishable from that of a private citizen who got killed as a result of accident.

[G. I. M. F. letter No 6132 EVB/57/ dated 11/12-2-1958 to the address of Secretary of Government Punjab, Finance Department, Chandigarh in File No. 6 (1) EV/58].

(4) A Runner of the Postal Department died when he was employed in a out of way place in a hilly tract where no medical facilities were available. A question was raised whether in absence of a medical report he could be granted extraordinary pension under Chapter XXXVIII of the C. S. R. It was held that in view of the fact that the Runner was employed in an out of way place in a hilly tract, where no medical facilities were available and that the death occurred in the course of performance of duties. Government would be prepared to agree to *ex-gratia* award under Article 747, of the Civil Service Regulations.

[G. I. M. F. U. O No : D. 5684 E. V./53 dated the 29th July 1953.]

(5) The compensation in the event of a fatal air accident is paid by the Indian Air Line Corporation even to members of public. Any amount received on that account by the family of a deceased Government servant should not be taken into account for determining the extra-ordinary pension normally admissible under the Rules.

[G I M F letter No. 457-EV (B)/60. dated 15-2-60 in File No. 46 (3)/. EV/60]

(6) A question was raised whether accidents or deaths occurring to civilian Government servants engaged in work with the demolition of unserviceable ammunition, the storage, handling, maintenance or repair of servicable ammunition can be regarded as 'special risk of office.' Ministrary of Finance viewed that these types of work involve risk beyond normal risk and the performance of such duties would automatically fall under the definition of *'Special risk of office'*

[G I,M F.U O. No. 1165-EV/59 in File N. 32 (7)-EV/59.]

(7) An officer was proceeding on duty from Simla to Pounta in connection with the opening ceremony of recreation centre by the Lt. Governor, Himachal Paradesh. On his way while negotiating revultes, the Government Jeep in which he was travelling got struck up in the slush. While he was attempting to salvage the Government Jeep and records, he was over-taken by a sudden rush of flood in the stream and was drowned. In view of the fact that the officer was drowned while he was on duty and was trying to salvage the Government Jeep and record, the Government of India presumed that the death occurred as a result of risk of office and agreed to the grant of extra-ordinary pension to the family members of the officer admissible under the Rules.

[G I.M.F.U O. No. 1057 EVB/59, dated 19-3-1960]

Auditor General's decision.— * * * In the absence of definite proof that a particular disease was contracted in the execution of public duty, the grant of a family pension under Article 747 C. S. R. is not permissible. If, however, it can be be shown that in a case there were specific and special circumstances definitely likely to have caused eggravation of the disease and consequent death, such as orders requiring the officer to undertake duties outside his normal work, or refusing or postponing the grant to him of leave at a time when the state of his health had been made known to Government it would be in order to grant a family pension.

[Auditor General No. 95-A./47-34, dated 16-6-1934]

747A. *State Railway Servants.*—**The following special rules apply in the case of State Railway servants who are injured, or the dependants of such servants who are killed in the discharge of their duties, in accidents caused by the working of trains or railway engines, otherwise than through their own negligence or wilful action :—**

(1) **An employee permanently disabled while on duty may be awarded gratuity not exceeding 24 months' emoluments, or, if his service is under 24 moths' 12 months' emoluments.**

(2) **The widow or dependants of a railway employee killed or dying of injuries received while on duty may be awarded a gratuity not exceeding 24 months' emoluments, or, if his service is under 24 months, 12 months' emoluments.**

(3) **An employee who sustains partial disablement as the result of a railway accident rendering him unfit for reversion to his former occupation, and for whom no other suitable employment can be found, may be awarded a gratuity not exceeding 12 months' emoluments.**

(4) **For the purposes of rule (1), (2) and (3), "emoluments" shall be taken at (*i*) the average amount for the last 12 months' service of the employee if his service is not less than 12 months and (*ii*) the average amount drawn during his whole service if it is less than 12 months.**

(5) **The gratuity admissible in any case is subject to a maximum of Rs. 15,000.**

Note 1.—Gratuities within the maximum limits mentioned in this Article may be sanctioned by Railway Board in all cases Agents of State Railways are authorised to sanction gratuities under this Article, provided that the grant in any single case shall not exceed Rs 6,000.

Note 2 —Officials of the Railways Mail Service are eligible in the same way as State Railway servants under this Article for the grant of gratuities to those who may be injured or to the representatives of those who may be killed, in Railway accidents. For the purpose of this Rule, the Director-General of posts and Telegraphs exercises powers similar to those exercised by Agents of State Railways in respect of State Railway servants.

Note 3.—This Article applies to servants of railway companies working State Lines. It does not apply to State Railway Servants or companies, servants injured or killed in railway accidents otherwise than in the discharge of their duties. In their case, as well as that of other Government servants injured or killed in railway accidents while travelling on civil duty, compensation is payable under the rules applicable to ordinary passengers.

748. (*See* **Article 528**)

749. (*See* **Article 528 A**).

PART VII.—FOREIGN SERVICE; REGULAR ESTABLISHMENT THE COST OF WHICH IS RECOVERED BY GOVERNMENT, SERVICE UNDER LOCAL FUNDS.

***CHAPTER XXXIX—FOREIGN SERVICE**

749A to 782 :—*Not Printed.*

CHAPTEER XL—*Cancelled.*

CHAPTER XLI—REGULAR ESTABLISAMENTS THE COST OF WHICH IS RECOVERED BY GOVERNMENT

783. When an addition is made to a regular establishment on the condition that the cost shall be recovered from the persons for whose benefit the establishment is created, recoveries should be made under the following rules :—

I.—The amount to be recovered should be the gross sanctioned cost of the service, and should not vary with the actual expenditure of any month.

II.—The cost of the service should include the amounts required

*This Chapter is now obsolete and is awaiting deletion at the time of re-codification and has accordingly not been printed. The existing rules are contained in rules 109 to 127 in the Chaudri's Compilation of Fundamental and Supplementary Rules.

under Article 769, 770 to provide for pension and leave allowances; these amounts being calculated on the sanctioned rates of pay [including duty and deputation (duty) allowances] of the members of the establishment. The remission of recovery on this account requires the sanction of the Government of India if the cost of the service exceeds Rs. 1250 per month.

III. If for any period the expenditure incurred, or to be incurred, should be considerably less than the sanctioned cost, the Local Government may reduce the amount of the recovery, the reduction being roughly proportionate to the difference.

Note. 1.—In the cases of permanent establishments of (as also temporary establishments which are filled by men already in permanent Government employ), a Part of the cost of which is recovered from persons or bodies benefited by their service, a demand for leave and pension contribution should be made in respect of the portion of the cost paid by the persons benefited, the limit of Rs. 1250 a month prescribed in clause II above applying only to such portion.

Note 2—Recovery of contribution has been remitted in the case of the following class of officers : Native Superintendents of Vaccination and Vaccinators in the Bombay Presidency enrolled as officers of Government before 27th November, 1906 and employed in cantonments or under Municipalities or paid from Local Fuuds.

Note 3—The contributions for pension and leave allowances referred to in clause II above should be levied at the rates prescribed in ‡Articles 769 and 770 only in the case of establishments sanctioned after the 1st August, 1913, the rates in the old rules contained in the original fifth edition of these Regulations continuing to apply in the case of establishments that existed before that date even though the incumbents may change or additions be made to these establishments.

Government of India's decisions :—(1) The additions before the 1st August 1913 are subject to the rates prescribed in the original Fifth Edition of the Civil Service Regulations even though the incumbents may change or any further additions be made to the additional establishment.

(*b*) The rates of contributions applicable to the additions made on or after the 1st August 1913 and before the 27th January, 1922 are those prescribed in Articles 769 and 770, Civil Service Regulations (Fifth Edition—Reprint), irrespective of any change of incumbents or further additions to the additional establishment.

(*c*) The additions made on or after the 27th January, 1922, are subject, up to the 28th February, 1929, to the rates laid down in Government of India, Finance Department, letters No. 64-EB., dated the 27th January, 1922, and No. F. 81-C.S.R./24, dated the 4th August, 1924, and from 1-3-1929 to 31-12-38 to the rates announced in Government of India, Finance Department, Resolution No. F. 81-R.I/24, dated the 11th February, 1929 and from 1-1-1939 at the rates contained in G.I.F.D. Res : No. F. (1) R.I./37, dated 3-6-1939 (*vide* Government of India's decision No. (2) below F. R. 116 in Chaudri's Compilation of Fundamental and Supplementary Rules). or any revised rates which may be precribed from time to time.

(*d*) In all cases, renewal of sanctions to additions to regular establishment should be treated as new sanctions.

[G. I. F. D. letter No. F. I. XI. R. 1/28 dated the 30th July, 1929].

(2) The Government of India have decided with the concurrence of the Auditor General of India that the rates of leave and pension contribution be recovered in respective of establishments sanctioned before the 27th January, 1922, should be the old rates mentioned in clauses (*a*) and (*b*) of the Government of India's decision No. (1). The calculations, however, should not be made on the average pay of the revised time-scales attached to the posts in all cases as they will depend upon whether the new additions have been sanctioned on the old or revised rates of pay—*vide* Audit Instructions below this Article.

[G.I.F.D. endorsement R. Dis. No. 422 Admn. C.E. 42. dated 14-1-1943].

‡The existing rates are laid down in Government of India's decision below F.R. 116 in the Chaudri's Compilation of Fundamental and Supplementary Rules.

Audit Instruction :—The words 'its cost' in line 2 of F. R. 127 [corresponds to Article 783) refer to an addition in line 1 of that rule. The underlying intention of the rule is to recover the cost of the additional establishment sanctioned. Contribution for leave salary and pension leviable under Clause (*b*) of this rule should, therefore be based on the rates of pay, old and or revised, as the case may be, on which, that establishment is actually sanctioned, irrespective of whether the persons employed on the work for which it is sanctioned is an old or new entrant.

[Para 7, Chap. XII. Section I of Manual of Audit Instructions (Reprint)]

784 to 795 *Omitted.*

CHAPTER XLII.—SERVICE UNDER LOCAL FUNDS.

SECTION I.—PENSIONS.

796. Apart from any special provisions made under the following rules, service paid for from a Local Fund does not qualify for pension.

797. In the case of the Local Funds which up to the 1st April 1908 were treated as Incorporated, the Local Government may, subject to any provisions of law applicable to the case, allow the Trustees, Committee, or Managers to treat the service as qualifying, and may itself do so in the case of Funds under its own direct administration.

798. The same procedure should be observed in the calculation, grant and payment of pensions for service treated as qualifying under Article 797, as is prescribed for pensions payable from General Revenues, but the pensions must be paid from and charged against the Local Fund.

Note—See Notes under Article 807.

799. When part of the pensionable service of an officer qualifies for pension from the General Revenues and part from the Local Funds which up to 1st April, 1908 were treated as Incorporated, his pension is paid and charged according to the Rule of Proportions : it is not admissible to disregard the pensionable Local Fund service, and award a pension only for the service paid from General Revenues : Provided that if, under this rule, less than one-fourth of the pension would be payable from either source, no distribution shall be made ; in such case the other source shall be made ; in such case the other source shall bear the whole charge.

Auditor General's decision—It has been decided by the Comptroller and Auditor General that in the case of pensions ordinarily debitable according to the rule of proportions, when the share of pension payable from either source does not exceed Re. 1, the other source will bear the whole charge under the principle in Article 799, Civil Service Regulations.

[Comptroller & Auditor General's No. 280-T.A. & A, dated 29th May 1919.]

800. In the case of other Local Funds, the rule that service does not qualify does not prohibit the grant and payment of pensions in conformity with the general terms of the pension rules by the authorised administrators of the funds. But Government is in no way responsible for the sanction or continuance of such pensions and no standing order for their payment may be issued to or received by, any Government Treasury, and the procedure rules in Part X do not apply to them.

Note.—The restrictions as to the payment of such pensions do not apply to pensions chargeable to Calcutta Fire Brigade Fund.

801. Service in the following establishments paid from Local Funds is treated as qualifying, provided that pension for service under the Fund is paid from the Fund, the Rule of Proportions being applied in the case of service paid partly from the Fund and partly

from other sources :—

(i) Establishment paid from Port Funds managed by Government.

Note.—The rule regarding officers of the Royal Indian Marine lent to Port Trust is given in Article 772 (*b*) (*iv*).

(ii) Members of the establishment of the Fire Brigade, Calcutta, whose pay at date of discharge exceeds Rs. 20 a msnth.

Note The pension of a member of the Fire Brigade who was entitled on or after 27th December, 1905 and whose pay at date of discharge does not exceed Rs. 20 is regulated by Scale B in Article 502 and is paid from the Fire Brigade Fund or from the Fire Brigade Fund and the General Revenues according to the Rule of Proportions as provided above for officers on pay exceeding Rs. 20. The pension of a member of the Fire Brigade who was enlisted before 27th December, 1905 and subscribed to Police Superannuation Fund, and whose pay at date of discharge does not exceed Rs. 20 is on his being invalided, regulated by Scale A in Article 503 and paid from General Revenues Provided he pays up his subscriptions from 27th December, 1905 to the date of his retirement. Failing such payment his pension or gratuity is regulated by Scale B in Article 503 and paid from the Fire Brigade Fund or from the Fire Brigade Fund and the General Revenues according to the Rule of Proportions as provided above for officers on pay exceeding Rs. 20.

1. The transfers of Government servants to service under Local Funds should ordinarily be dealt with under the rules regarding Foreign Service. The application of the Rule of Proportions to service partly under a Local Fund (other than those mentioned in this Article and in Article 799) requires special sanction of the Local Government who before giving such sanction should satisfy itself that the fund in question is not of a merely temporary character, that it is solvent and able to bear the charge, and that the pension can legally be charged to it.

802—814 *Not Printed.*

PART VIII.—RECORD OF SERVICE

CHAPTER XLIII.—RECORD OF SERVICE.

SECTION I—GAZETTED OFFICERS.

815. (*a*) **A record of the service of gazetted officers* * * is maintained by the Audit Office under arrangement which differ in different departments. The general arrangement to be observed is that the Service Registers should be kept by the Audit Officer who audits the salaries and that, when an officer passes from one audit circle to another, a record of his past service should be passed on from the Audit Officer whose circle he leaves to the Audit officer to whose circle he is transferred.**

(*b*) } *Relates to Chaplains—(Not printed)*
(*c*) }

1. When gazetted officer is transferred to Foreign Service, a copy of his Service Register will be sent by the Audit Officer whose duty if was to keep it to the Accountant General who will account for the contribution and the latter will return the register (or an extract from it), duly written up to date, when the officer is re-transfered to British Service.

2. Government Examiners of Railway Accounts and the Examiner of Accounts, Military Works Services, will keep the Service Registers and Service Books of officers and be, transferred to Foreign Service and will issue their last-pay certificates, all contributions paid into the Treasuries on accout of these officers being reported to the Audit Officers by the Accountant-Genereal.

Government of India's orders (1) Ministry of Home Affairs O. M. No. 13/41/53—Ests. dated the 4th August, 1954 and No. 33/6/56—Ests. (A) dated the 9th April, 1957 lay down that all important events in the official carreer of the gazetted Government servant affecting his pay and other conditions of service including retirement from Government service should be notified in the Gazette. The question has been raised whether a gazette notification is necessary in cases where proforma promotion in the parent department of a gazetted officer under the "next below rule" is made. It has been decided, in consultation with the Ministry of Finance and the Comptroller and Auditor General, that as such a promotion is an important event in the official career of a gazetted Government servant, it should also be notified in the Gazette. This notification will be in

addition to the special declaration to be issued under the second proviso to F. R. 30 (1)

Report of relinquishment of the charge in the office in which the Government servant is serving and report of assumption of duties in the higher grade in his parent office would not, however, be necessary in such cases as they would be factually incorrect.

[G. I. M H. Affairs Memo : No. 13/2/58-Est (A), dated the 24th October, 1957].

(2) A question has been raised whether re-designation of a gazetted post amounts to the relinquishment of the charge of the former post by its incumbent and also simultaneous assumption of the charge of the re-designated post and if so, whether notification regarding the transfer of charge is necessary. It has been decided that both the Gazette notification and an intimation to the Accounts Officer concerned are necesssary. As regards handing over/taking over charge, no formal charge report need be called for in such cases, but in endorsing the copy of the notification to the Accounts Officer it should be made clear that the re-designation does not involve any change in duties or classification or scale of pay. This would enable the Accounts Officer to instruct the Treasury and other disbursing officers suitably.

[G. I. M. H. Affairs Memo : No ; 13/2/58, Ests (A), dated the 1st October 1958].

Auditor General's order. The Military Accountant General has been requested to issue necessary instructions to the audit officers under his control so that the information regarding the year-calendar on official in respect of which privilege leave has been granted during three years previous to the transfer, may invariably be furnished in the leave statement forwarded to the civil audit officer at the time a military officer is transferred to civil employ.

[C. G. No. 79-A & A-303-13, dated 4th July, 1913.]

SECTION II—NON-GAZETTED OFFICERS.

816. With the exceptions noted below, a service book (Form 23) should be kept for every non-gazetted officer holding a substantive appointment on a permanent establishment, in which every step in his official life should be recorded, each entry being attested by the head of his office. If the officer is himself the head of an office (e. g., a Postmaster or Sub-Inspector of Police), the attestation should be made by his immediate superior. The following are the exceptions referred to :—

(1) Non-gazetted officers the purticulars of whose service are recorded in the History of Services of gazetted and other officer' or in Service Registers maintained by the Accountant-General. (2) Sub-Registrars in Bengal and Bihar and Orissa whose record of service is maintained by the Inspector General of Registration in the form of Service Registers (3) Members of the Salt Preventive Force mentioned in item (3) under Article 494 of these Regulations ; Police Officers of rank not higher than head constable. (3A) Members of the menial establishment in the Presidency Division of the Salt Department in the Bombay Presidency whose pay does not exceed Rs. 20 a month also the Excise menial staff in that Presidency. (4) Postmen and village postmen (excluding head post men, overseer postmen and sorting or reader postmen), and mail guards in the Railway Mail Service and linemen or line riders in the Telegraph Engineering Branch recruited after the 15th November, 1933 (5) Mandals employed in the Assam Valley Districts (6) Myooks and Junior Assistant Registrars in the Co-operative Department in Burma. (7) Permanent subordinate non-pensionable employees on State Railways for whom a special form of record has been prescribed. (8) Inferior servants of all sorts. (9) Enrolled clerks, storekeepers and checkers of the Indian Army Service Corps and Indian Corps of Clerks (Indian Wing).

Government of India's decisions :—(1) The service book of a non-gazetted officer officiating in a gazetted appointment should be kept by the head of the office to which he permanently belongs.

(G. I. F. D. No. 637-F. dated 9-2-1857).

(2) Service books should be maintained for all temporary and officiating Government servant who have been, or are likely to be, employed for a period exceeding one year.

[G. I. M. F. Memo. No. F. 12(13)-Est IV/49, dated 6-7-1949.]

(1—A) The service book in respect of a non-gazetted Government servant officiating in gazetted appointments is to be kept by the head of

office to which he permanently belongs. On his confirmation in gazetted appointment his service book is to be forwarded to the audit officer concerned for retention.

The particulars of pay and allowances pertaining to the substantive non-gazetted post should, for so long as the incumbent is not confirmed in the gazetted post or does not revert to his substantive non-gazetted post, be shown in the service book of the officer concerned by the administrative authorities concerned. These particulars will be subject to usual audit verification and at the time of service verification these will be extracted in the service verification statement (IAFA—357) for certification by the pay audit officer.

[G. I. Army Hd. Qrs letter No. 93317/ORG-4 (Civ) (D) dated the 6th August 1962].

(2A) The question of obtaining from Government servant their thumb and finger impressions where it is necessary under the existing orders has been reviewed. After careful consideration, and in consultation with the Comptroller and Auditor General, it has been decided :—

(*i*) to dispense with the affixing of left hand thumb and finger impressions on page 1 of Service Book during the service life of a non-gazetted Government servant, if he is literate enough to sign his name in English, Hindi or the official regional languge ; and

(*ii*) to dispense with the practice of recording the left hand thumb and finger impressions taken as a means of identification of pensioners who are required to send along with their pension application certified copies of photographs of pass-port size, only if they are literate enough to sign their names.

2. In so far as the persons serving in the Indian Audit Department are concerned these orders have been issued after consultation with the Comptroller and Auditor General.

[G. I. M. F. (Department of Expenditure) Memo No. F. 7 (62)-EV/56 date the 5th November 1956].

Note :—Page 1 of Service Book mentioned in sub para 1 (*i*) refers to page 1 of the 1955 print of the Service Book. The necessity of issuing this clarification has been felt as in some earlier prints of the Service Books (*e.g* 1953 print) the particulars mentioned on page 1 of the 1955 print are mentioned on page 2 of the 1953 print, and page 1 of the latter print, which corresponds to page 24 in the 1955 print, is meant for employees of the police and other similar Departments It is not the intention of the above decision to do away with the left hand thumb impression which is required to be affixed on page 1 of the 1953 print or on page 24 of the 1955 print of the Service Books by employment of the Police and other similar Departments.

[G. I. M. F. Memo No. 5 (13)-EV/59, dated the 10th March 1959.]

(3) The record of service in respect of all civilians paid from Defence Service Estimates, who are permanent or temporary but are likely to be employed for a period of more than one year, shall be maintained in the Standard Service Book Form No. ATC 4.

The existing service sheets etc. should be securely placed inside the Service Book opened in pursuance of paragraph 1 above.

[Army Instruction No 129 of 1950]

Note. It has been represented that the Service Sheets. etc., which have been placed in the service books are already worn out and are likely to deteriorate further in course of time, with the result that it may become difficult to decipher the entries recorded therein at the time of verification of qualifying service for pension, gratuity, etc. In order that such difficulties may be obviated at that stage, it has been decided that the entries in the existing Service Sheets etc. should be incorporated in the Service Books and verified by the Head of Office and the fact of such verification recorded therein under his signature.

Action in this respect should be taken as early as possible. Work in this connection will, however, be conducted by the existing staff and suitably staggered over a period of time.

[Army Instruction No. 185 dated the 9th July, 1955]

(4) In addition to the increments in substantive appointment, increments granted to a Civilian Government servant in Defence Services in his present officiating/temporary appointment and increments, if any granted to him in lower officiating/temporary appointment will also be recorded in

the Service Book. When making the first entry in respect of an increment in an intermediate higher appointment held by an individual, all the increments so earned by the individual will be sanctioned at one stroke simultaneously on one increment statement and the same will be recorded in the individual's service documents.

This issues with the concurrence of the financial authorities at the Headquarters.

[Civilian Personnel Routine Order No. 35, dated the 1st. June 1958]

(5) It has been decided that in future the whole non-gazetted service of an officer shall be admitted for pension by the audit officer who is to authorise the payment of pension to him on the basis of the entries recorded in his service book, irrespective of the fact whether he rendered service in different circles of audit during his service career.

[G. I. M. F. Memo No. F. 38 (4)-EV/60, dated the 21st December 1962]

(6) Rules 65 to 67 of the Financial Regulations Part II (Army and Air Force) and the corresponding Rules on the Navy side provide that when a non-gazetted civilian employed with Defence Services is transferred from one office to another, the head of office under whom he was originally employed should record in the Service Book under his signature, the result of the verification of service, with reference to pay bills, in respect of the whole period during which the Government servant was employed under him, before forwarding the service book to the office where the services are transferred. It has now been decided that in cases where such transfer also involves permanent transfer of the Government servant from Defence side to Civil Departments, etc. the qualifying service for the purpose of pension rendered upto date of transfer, should be got verified and a certificate to that effect recorded in the service book by the audit officer concerned before the service book is forwarded to the office where the services of the Government servant are transferred. This will obviate the necessity of getting the service of the Government servant concerned verified by two or more audit officers at the time of his retirement, which may cause delay in the finalisation of the pension case.

The non-gazetted service of a permanent gazetted officer should similarly be got verified by the concerned audit officer before his service book is forwarded to the civil audit officer required to maintain the History of Service of the officer concerned.

It has further been decided that in cases of temporary/officiating employees who are permanently transferred from Defence to Civil Department before confirmation in the Defence Department their temporay/officiating service rendered upto the time of last permanent transfer should be got verified by the audit officer(s) concerned, soon after the confirmation of the officer in a permanent post, after intimation has been received from the civil authorities that the officers, in question. has been confirmed.

[G I. M. Defence Memo No. F. 18(19)/60/4139/D(Civ. II), dated the 24th April 1961].

(7) The Annual Estt. Returns are used in the Audit Office for completion and check of particulars in the registers maintained for conducting the audit of non-gezetted establishments and for verification of service for pension. It has been pointed out that in actual practice, these returns are not received by the Audit authorities regularly, in time or in a complete form, mainly due to the reason that the Heads of Offices and other controlling officers find the work difficult and laborious. Huge arrears in the submission of these returns have rendered audit of paybills of non gazetted establishments with reference to the returns ineffective and verification of service with reference to them difficult. As in view of the rapid increase in number of Government servants, not only the preparation of these returns by the Heads of Offices but also their check in the Audit Offices has become labrious the question of dispensing with these returns has been considered in consultation with the Comptroller and Auditor General of India.

The basic records of service of a non-gazetted Government servant is his

service book and the Estt. Returns are prepared from particulars available therein. As the checks now exercised in the Audit Offices for the audit of paybills and verification of service for pension can be conducted with reference to service books or other records maintained in Audit Offices and in view of the difficulties experienced in the preparation of these returns, it has been decided that these returns need not be prepared in future. The President is, therefore, pleased to decide that Para 119 of the General Finance Rules Vol. I and Appendix 7 of the General Financial Rules, Vol. II may be deleted.

According to the instructions contained in Appendix 13 of the General Financial Rules, paybills and acquittance rolls (where these are maintained separately of Government servants for whom no Estt Returns are submitted are required to be preserved for a period 35 years whereas, in other cases, these are required to be maintained for a period of six years only. In view of the decision contained in para 3 above, it will be necessary to preserve the paybills and acquittance rolls (where these are maintained separately) for all Government servants for a period of 35 years in future.

[G. I. M. F. Memo No. F. 11(3) E II (A)/62, dated the 3rd May 1962.]

(8) In the case of offices, which are subject to Local Audit, the service Books and Leave Accounts of all non-gazetted officers including the officers who are due to retire during the next five years are checked upto a prescribed percentage by the Local Audit Staff of the Audit Officer concerned and a suitable certificate to that effect is recorded therein.

In the case of offices, which are not subjected to Local Audit, it has been decided in consultation with the Comptroller and Auditor General of India that the Heads of Offices should send the Service Books of all non-gazetted officers, who are due to superannuate during the next five years to the concerned Audit Officer for check and recording a suitable certificate to that effect therein.

[G. I. M. F. Memo No. 38(4)-EV/60, dated the 5th April 1963].

(9) According to Rule 81 of the General Financial Rules (Revised and Enlarged), 1963 at a fixed time early in the year, Service Books shall be taken up for verification by the Head of the Office who, after satisfying himself that the services of Government servants concerned are correctly recorded in each of the Service Books, shall record in each case a certificate in the following form over his signature :—

"Service verified upto..... .....(date) from.....(the record from which the verification is made)."

2. It has come to the notice of the Government of India that the above procedure is not being followed generally. Instead the certificates of verification in the Service Books are being recorded some what in the following form :—

"Services from..... ..... . (date) to..... ....(date) verified from (the relevant records of the Ministry/Department of..... .....)."

3. Recording of certificates in the manner mentioned in para 2 above is in contravention of the procedure prescribed in the rules and is likely to cause delays in the settlement of pension claim, since in this process, the continuity of verified portions of service cannot be ensured and it may result in certain periods being left unverified. These unverified periods of service can be detected only at the time of preparing pension papers and this in turn will necessitate looking into old records.

4. The Ministry of Home Affairs etc. are, therefore, requested to impress upon all the officers dealing with pension cases under their control, the need for scrupulous observance of the provisions mentioned in para 1 above, both in the spirit and letter.

[G. I M F. Memo. No. F. 18(14)-EV(C)/63, dated the 28th January 1964]

817. Service rolls such as those prescribed for the Police in Article 823 should be maintained for all officers holding substantive appointments on a permanent establishment for whom service books are not kept except runners, boatmen and coolies in the Post Office, and the officers referred to in exceptions (1), (2), (6) and (7) under

Article 816. Service rolls should invariably be submitted with the pension papers to the Audit office.

818. In all cases in which a Service Book is necessary under Article 816, such a book shall be maintained for a Government servant from the date of his first appointment to Government service. It must be kept in the custody of the head of the office in which he is serving, and transferred with him from office to office. The head of the office should see that all entries in the Service Book are duly made and attested. There should be no erasures or over-writing, all corrections being neatly made and properly attested.

Note :—The Service Book shall not be returned to the Government servant on retirement, resignation or discharge from service even in cases where he might have paid for it already.

Government of India's decision. The question whether it would be permissible to supply a certified copy of the Service Book to a Government servant who asks for it on quitting Government service by retirement, discharge or resignation has been considered and it has been decided that in such cases, a certified copy of a Service Book may be supplied to the Government servant on payment of a copying fee of Rs. 5.

[G. I. M. F. letter No. F. 12 (6) E. IV (A)/60 dated the 9th May, 1961]

Auditor General's decision—In the case of non-gazetted Government servants serving under more than one Government, the information regarding the incidence of leave salary for the first four months of leave on average pay which is necessary for the purpose of allocation of their pensionary charges should be recorded by the respective heads of offices in column 13 of their service books.

[Auditor General's letter No. 144 Admn. C/446-28, dated 28th February 1929.]

819. It is the duty of every officer to see that his Service Book is properly kept up, in accordance with the previous Article. If the book is not carefully kept up, difficulties may arise as to verification of service, when the officer applies for pension. The head of the office, will therefore, allow the officer to examine the service book, should the officer at any time desire to do so. Ordinarily there should be no occasion for this as the examination should be made whenever the officer is required to sign against an entry in his service book.

Director General Posts and Telegraphs' Instructions.—It is incumbent on every Government servant to see that his Service Book is properly maintained and it is therefore necessary that an official should be allowed to examine, his Service Book whenever he wishes to do so. The head of the office should therefore permit an official to examine his Service Book should he at any time desire to do so, but such scrutiny of Service Book by the official concerned must always be made in the presence of a responsible official. As a token of his scrutiny and acceptance of entries in the Service Book, the official should sign his name in the relevant column of the Service Book and the official who supervised the scrutiny will also endorse his signature as evidence that the scrutiny was conducted under proper supervision and the supervising officer is satisfied that it was *bonafide* and that no unauthorised changes were made in the enteries in the Service Book in the course of such scrutiny.

[D. G. P. & T,s endrosement No. E, S, B. 132-2/32, dated the 18th July, 1933]

Government of India's decision—A question has been raised whether educational qualifications attained by a Government servant subsequent to his entry in the Government service, should be entered in the Service Book even though the existing Service Book form does not provide any space for the record of any qualifications.

The form of the Service Book has recently been revised and on page I thereof, space has been provided for the record of the educational qualifications of the Government servant, where if so desired, a note of educational qualifications attained by him subsequent to his entry in service can also be made. The new form will, however, not be available till the stock of the old

form is exhausted. It has therefore been decided in consultation with the Comptroller & Auditor General that during the intervening period, note of educational qualifications attained by the Government servant, which may be deemed necessary to be recorded in the Service Book, may be made in the body of the Service Book.

[G. I. M. F. Memo No. F. 12 (17), E, IV/54, dated the 2nd November 1954]

820. Personal certificates of character should not, unless the Local Government so directs, be entered in column (14), but if an officer is reduced to a lower substantive appointment, the cause of the reduction should always be briefly stated thus—"Reduced for inefficiency," "Reduced owing to revision of establishment," etc.

Government of India's orders. (1) The following general principles are laid down for the guidance of all concerned in connection with the confidential reports on Civilians of the Defence Services :—

2. *Importance of annual Confidential Reports.* It is emphasised that adequate care and attention should be paid to the rendering and maintenance of annual confidential reports on Government servants as Government have accepted the principle that promotion should be based primarily on merit and the assessment of relative merit turns to a great extent upon a comparison of confidential reports. To safeguard the interest of the State no less than of the individuals concerned, it is necessary to ensure that a confidential record of every employee is regularly and conscientiously maintained.

3. *Responsibility for the maintenance of confidential reports.* The Head of every department/office should regard it as a personal and special responsibility to ensure that annual confidential reports are properly maintained in respect of the persons working under his direct or ultimate control. It is the duty of the officers at each level to keep a proper watch over the work and conduct of those below and to provide training and guidance wherever necessary. The annual confidential reports should be based upon the recorded results of such watchfulness and periodical inspections.

4. *Form and content of confidential Reports.* Confidential Reports are to be recorded only on forms prescribed by Ministry of Defence from time to time. Besides the detailed assessment in the prescribed form, every confidential report should contain a summing up in general terms of the employee's good and bad qualities under the column "General Remarks" and this should include a definite categorisation or rating as "Outstanding", "Above Average." "Average", "Below Average".

5. *Objective in confidential reports.* In order to minimise the operation of the subjective human element and of conscious or unconscious bias, the confidential report on every employee recorded by his immediate superior should be submitted by the reporting officer to his own immediate superior. The latter should as a rule have sufficient knowledge of the work and qualities of the employee reported on, to be able to judge whether the reporting officer's report is a fair and correct assessment. If he accepts it as such, its objectivity is less open to doubt. If the superior officer does not fully agree with the reporting officer, he should indicate the nature and extent of such difference.

6. *Communication of adverse remarks.* On the question whether adverse entries in confidential reports should be communicated to the employee, one view is that the "unpleasantness" likely to be caused by the communication of adverse entries would tend to discourage the reporting officers from expressing their opinion freely and frankly, the opposite view is that failure to communicate adverse entries may enable unscrupulous reporting officers seriously to injure the prospects of an employee to deny him promotion on account of defects of which he may well be unaware, and which he could have removed had he been informed of them. Quite apart from point of view of the employee himself, it is evidently in the interest of the State that every employee should know what his defects are and how he can remove them. Different solutions have been tried at different times to resolve this conflict. As a result of experience

it is considered that the best results will only be achieved if every reporting officer is made conscious of the fact that it his duty not only to make an objective assessment of his subordinates' work and qualities, but also to see that he gives to his subordinates at all times the necessary advice, guidance and assistance to correct their faults and deficiencies. If this part of the reporting officer's duty has been properly performed there should be no difficulty about recording adverse entries, because they would only refer to defects which have persisted despite the reporting officer's efforts to have them corrected. Accordingly in mentioning any faults or defects in the report the reporting officer's should also give an indication of what efforts he has made by way of guidance, admonition,etc., to get the defects removed and with what results. Every such entry, after it is confirmed by the superior officer should normally be communicafed to the officer concerned either verbally or in writing considering the nature of the remarks and the personality and the record of the officer and the fact of such communication having been recorded in the report itself. It should, however, be open to the superior officer to whom the remarks of the reporting officer are put up for acceptance to decide that the report need not be so communicated. When the superior officer so decides, specific order to this effect should be recorded by him.

7. These instructions should be noted by all concerned for strict compliance. The officers which maintain the reports on civilians will scrutinise the annual reports to see whether they have been written in accordance with these instructions and whether adverse remarks, if any, have been communicated to the officer concerned. If there is any procedural defect in the report it will be returned to the authorities concerned for rectifying the defect, etc.

Note.—This instruction applies to D. G. O. F's Organisation as well.

[Army Instruction No. 178, dated the 2nd July 1955.]

Note. The following procedure for dealing with representations against adverse entries made in the Confidential Reports is laid down as a working formula :—

(*i*) All representations from officers against adverse remarks should be examined by an officer superior to the reviewing officer in consultation, if necessary, with the reporting and reviewing officer. The Superior Officer referred to shall be as the competent authority to deal with such representations.

(*ii*) If the competent authority feel that there is no sufficient ground for interference, the representation should be rejected and the officer informed accordingly.

(*iii*) If he, however, feels that the remarks should be toned down he should make the necessary entry with proper attestation at the appropriate place of the Report. Past entries should not be corrected.

(*iv*) In the rare event of the competent authority coming to the conclusion that the adverse remark was inspired by malice or was entirely incorrect or unfounded and, therefore, deserves expunction, he should score through the remarks or paste it up or obliterate it otherwise and should state that he has done so and sign at the appropriate place indicating the date.

But before such action is taken, he should bring it to the notice of the Head of the Department or Office if he himself does not occupy that position.

The representations or explanations against adverse entries should not be added to the Confidential Reports. If the representation was well founded, it should have resulted in the competent authority toning down, in rare cases, expunging the adverse remarks ; if the representation was without substance, it must have been rejected. In either case, no useful public purpose can possibly be served by adding the representation itself to the Confidential Roll.

3. At present adverse remarks on remediable defects recorded in the Confidential Reports are communicated to the individual concerned in order to give him an apportunity to improve It is equally necessary that instance of outstanding work done by any individual employee should be publicaly acknowledged as an incentive both to him and to other members of the staff. The acknowledgment should be in the following manner :—

(*a*) If outstandingly good work is done on a particular case, appropriate remarks should be recorded in the case itself.

(*b*) If such work is done on a problem or in exceptional circumstances such as natural calamities, administrative emergencies etc., a letter of appreciation may be issued under the Head of Department or a mention may be made in the Annual Report of the Department, if appropriate.

(*c*) If the Officer's work of the year as a whole deserves to be classed as outstanding this should be mentioned in his Annual Confidential Report. The

Officer concerned will know regarding this by the increasing amount of confidence reposed in him and the enhanced responsibility entrusted to him by accelerated promotion which he should normally get.

4. The Instruction applies to CGDP'S Organisation as well.

[Army Instruction No. 82, dated the 26th April, 1958.]

(2) The Government of India have had under consideration the question whether an entry should be made in the Character Roll of a Government servant in respect of approved courses of study or training undergone by him at institutions in India or abroad. It is desirable that the Character Roll of an officer should contain a complete record of his experience and accomplishments. Besides, the awareness of the fact that Character Roll entries would contain particulars of such courses would create greater incentive amongst officers to attend the courses and pay more serious attention to them. It has, therefore, been decided that the following procedure should be adopted in such cases :—

(*i*) Whenever an officer attends an approved course of study or training the fact of his having done so should be entered in his Character Roll.

(*ii*) The report received from the head of the institution should either be placed in original with the character roll or the substance of it entered therein.

(*iii*) An entry about the Report submitted by the officer on his work abroad as required under Cabinet Secretariat O. M. No. 145/CF/52 dated 22nd May, 1953 should also find mention in the Character Roll if it is outstandingly good, or is of poor quality indicating that the officer had not made good use of his period of study or training.

[G. I. M. H. Affairs Memo : No. 51/I4/60-Est (A), dated the 29th January 1962]

(3) Enquiries have been received in regard to the definition of the term "approved courses" of training and its scope for the purpose of making entry in the Character Roll of the officer concerned. The following should serve as a guiding principle for the purpose : -

Approved courses of training may be defined to include courses sponsored by the Government or in which the cost or part of the cost is borne by Government, as also course attended with the permission of Government or for which Government grant study leave. In respect of some of these courses it may not be possible or necessary to obtain reports which could be incorporated in the character rolls. For instance there are part-time courses and refresher courses where an assessment of the candidate is not made. In such cases, however, entry in the character roll of the fact of the officer having attended the course would nevertheless be useful in giving a more complete picture of the officer's experience and accomplishments.

[G. I. M. H. Affairs Memo. No. F 51 (2)/62 Ests (A), dated the 12th April 1962].

821. Every period of suspension from employment, and every other interruption in service, should be noted, with full details of its duration, by an entry written across the page and attested by the head of the office or other attesting officer.

1. The head of the office should take efficient measures to see that the entries are made with regularity. The duty should not be left to the non-gazetted officer concerned.

822. (*a*) If the officer is transferred to Foreign Service the head of the office or department should send his Service Book to the Accountant-General, who will return it after nothing therein under his signature, the orders of Government sanctioning the transfer, the effect of the transfer in regard to leave admissible during Foreign Service, and any other particulars which the Accountant-General may consider to he necessary in connection with the transfer. On the officer's re-transfer to the Government Service, his Service Book should again be sent to the Accountant-General, who will then note therein, under his signature, all necessary particulars connected with the officer's Foreign Service including the fact of recovery of leave and pension contributions.

1. No entires made in the Service Book of an officer on Foreign Service of the first kind can be attested by any officer except the Accountant-General.

2. Rule 1 does not apply in the case of Military Works and Railway Subordinates (*vide* rule 2 under Article 815).

(*b*) **In cases in which the salaries are audited by an Accountant General this Article does not apply to Foreign Service of the second kind.**

SECTION III —NON-GAZETTED POLICE SERVICE

823. In the case of Police officers of rank not higher than head constable, there shall be kept up for each district by the District Superintendent of Police a Service. Roll in English, in which shall be recorded the date of the enrollment of each man in the Constabulary ; his caste, tribe village, age height, and marks of indetification when enrolled; his rank, promotion. reduction or other punishment ; his absences from duty, on leave or without leave ; the interruptions in his service ; and every other incident in his service which may involve forfeiture of portions of his service or affect the amount of his pension. The roll shall be checked by the Vernacular Roll and Order Book and the Punishment Register, and every entry in it shall be signed by the District Superintendent of Police.

824. From this Roll the necessary statement of service of every applicant for pension shall be prepared, additional proofs being collected, as prescribed in Article 908, in respect of any service rendered before enrolment in the Constabulary which the applicant may be entitled to count.

CHAPTER XLIV.—APPLICATIONS FOR AND GRANT OF LEAVE

SECTION I.—APPLICATIONS

825. Except as provided in Articles 841 to 845 and 848, an application for leave should be submitted to the Local Government or other authority whose duty it would be to fill up the appointment of the applicant if it were vacant.

PART IX.—PROCEDURE RELATING TO LEAVE

826 and 827 *Cancelled*

Medical Certificates—General Rules.

827A. Medical officers are debarred from recommending the grant of sick leave in any case in which there appears to be no reasonable prospect that the officer concerned will ever be fit to return to duty. In such a case, the opinion that the officer is permanently unfit for service under Government should be recorded in the medical certificate.

Note.—(1) When a medical authority has reported that there is no reasonable prospect that a particular Government servant will ever be fit to return to duty, leave should not necessarily be refused to such Government servant. It may be granted, if due, by a competent authority on the following conditions :—

(*a*) If the medical authority is unable to say with certainty that the Government servant will never again be fit for service, leave not exceeding twelve months in all may be granted. Such leave should not be extended without further reference to a medical authority.

(*b*) If a Government servant is declared by a medical authority to be completely and permanently incapacitated for further service, leave or an extension to leave may be granted to him after the report of the medical authority has been received, provided that the amount of leave as debited against the leave account together with any period of duty beyond the date of the medical authority's report does not exceed six months.

Note (2) A Government servant who is declared by a medical authority to be completely and permanently incapacitated for further service shall :—

(*a*) if he is not on duty, be invalided from service from the date of relief of his duties, which should be arranged without delay on receipt of the report of medical authority. If, however, he is granted leave under paragraph (1) above, he shall be invalided from service on the expiry of such leave ; and

(*b*) if he is already on leave, be invalided from service on the expiry of that leave or extension of leave if, any granted to him under paragraph (1) above.

Note (3) A Government servant applying for invalid pension must obtain a medical certificate as in the manner laid down in Article 447.

Audit Instruction—In the case of an officer who is granted leave under Supplementary Rule 233 (*a*) or under the 3rd sentence of the Note below Article 827A, Civil Servic Regulations, and who subsequently returns to duty the leave should be treated as leave on medical certificate for purposes of the proviso to Fundamental Rules 81 (*b*) (*ii*) and Article 319 or 327, Civil Service Regulations, respectively,

[Para 23-A- Sec. II of Manual of Audit Instructions (Reprint)-]

827B. All certificates of medical boards or medical officer granted under the provisions of Article 829 or 831 of the Civil Service Regulations (or under any similar rules applicable to particular classes of officers) should contain a proviso that no recommendation in them shall be evidence of a claim to any leave which may not be admissible to an officer under the terms of his contract or the rules to which he is subject.

Government of India's decision.—A Government servant becomes insane and it becomes difficult to get him examined by a Medical Board inspite of specific orders issued to him to appear before the Board. The ordinary method of having been produced befor a Medical Board having failed, it was suggested that although he was not a wandering or trecherous lunatic he may be deemed to come under the provisions of Indian Lunacy Act and dealt with accordingly. Ministry of Finance agreed to this course.

[G. I. M. F. No. U. O : D-575-EV/53, dated the 24th Junuary 1953.]

Medical Certificates – Gazetted officers.

828. An application from an officer in India for leave, or extension or commutation of leave, on medical certificate, must be accompanied by a certificate in the following form :—

Medical Certificates for Gazetted Officers.

Statement of the case of

Name (To be filled in by the applicant in the presence of the Staff Surgeon or authorised Medical Attendant.)
Appointment
Age
Total Service
Service in India.
Previous periods of leave of absence on medical certificate
Habits
Disease

I, Staff Surgeon _____ of _____ or Medical officer attending the case after careful personal examination of the case hereby certify that _____ is in a bad state of health and I solmenly and sincerely declare that according to the best of my judgment a period of absence from duty is essentially necessary for the recovery of his health and recommend that he may be granted _____ months' leave with effect from _____

Dated

Staff Surgeon,
or Authorised Medical Attendant.

Note (1) The form should be adhered to as closely as possible and should be filled in after signature of the applicant has been taken. The Certifying Officer is not at liberty to certify that the applicant requires a change from or to a particular locality, or that he is not fit to proceed to a particular locality. Such certificates should only be given at the explicit desire of the administrative authority concerned, to whome it is open to decide, when an application on such grounds has been made to him, whether the applicant should go before a Medical Board to decide the question of his fitness for service.

Note 2.—In a case, where the period ef leave initially recommended, or the period of leave initially recommended together with any extension thereof subsequently recommended does not exceed one month, the Medical Officer should invariably certify whether in

his opinion it is or it is not necessary for the officer to appear before a medical committee.

[G. I. M. F. Notification No. 7 (42)-Est. IV/58 dated the 31st July, 1958]

Government of India's decisions. (1) The procedure for the production of medical certificates by gazetted and non-gazetted civilian personnel paid from the Defence Services Estimates in support of applications for leave and for return to duty is laid down in Articles 828, 834 and 225 of the Civil Service Regulations [as amplified by A. I. 170/52 incorporated as Government of India's decision No (1) below Article 225] respectively. If the initial certificate for either purpose is obtained by the applicant from the medical officer entrusted with the duties of attendance on him no separate payment is to be made for such a certificate. If a certificate from a private registered medical practitioner is submitted by a non-gazetted servant under the provisions of Article 834 or 225 C. S. R. as amplified by A, I. 170/52 *ibid* for the above purpose, no payment will be made by Government.

If, however, a Government servant is required by the head of the office to appear before a Civil Surgeon or any other medical officer for a second medical opinion in respect of the need for the leave applied for or in respect of his fitness to return to duty, the fee paid to the Civil Surgeon or other medical officer shall be borne by Government. These orders apply to both gazetted and non-gazetted officers.

This Instruction shall apply te D. G. O.F's Organization also.

[Army Instruction No. 102, dated the 18th April 1953.]

(2) See Government of India's decisions below Article 225.

829. With the cognizance or the head of his office, or if he is himself the head of his office, of the head or his department, the applicant must, except in the cases provided for in Article 831, present himself with two copies of the Statement of his case at the seat of the Government under which he is serving, or at such other place as may be appointed by that Government where a Committee of Medical Officers can be assembled under the orders of the Administrative Medical Officer of the Province, and when practicable, presided over by him. From this Committee the officer should obtain a certificate as follows :—

We do hereby certify that according to the best of our professional judgment, after careful personal examination of the case, we consider the health of C. D. to be such as to render leave of absence for a period of (x) months absolutely necessary for his recovery.

Government of India's decision. See Government of India's decision No. (4) below Rule 6 of the Civil Pensions (Commutation) Rules.

829A. When a gazetted officer is recommended for leave on medical certificate *in Asia* for more than 3 months or leave for 3 months or less is extended beyond 3 months, the Medical Committee shall state, at the time ef granting this certificate whether the officer should, or need not, appear before another Medical Committee for obtaining the Certificate of fitness for return to duty, *vide* Article 225.

830. Before deciding whether to grant or refuse the certificate the Committee may, in a doubtful case, detain the applicant under professional observation during a period not exceeding fourteen days.

831. (*a*) If the state of the applicant's health be certified by a Medical Officer, Commissioned or in charge of a Civil Station, to be such as to make it inconvenient for him to repair to the seat of the Government under which he is serving, or to any other place, the authority by whom the leave is granted may accepet either –

(1) a certificate signed by any two Medical officers, Commissioned or in charge of a Civil Station, who need not belong to the same province as the applicant; or

(2) if the authority concerned considers it unnecessary to insist upon the production of two medical opinions, a

certificate signed by an officer in medical charge of a Civil station and countersigned by either the District Officer or the Commissioner of the Division.

(b) Notwithstanding anything contained in clause (*a*) the authority competent to sanction leave may, when the leave recommended by the Authorised Medical Attendant or the Medical Superintendent of the hospital in which the applicant is undergoing treatment is for a period not exceeding one month, dispense with the procedure laid down in Article 829 and grant leave on the recommendation of such Medical Officer provided that such medical officer certifies that in his opinion it is unnecessary for the applicant to appear before a medical committee.

Government of India (Ministry of Defence) Orders. The medical certificates issued by Honorary Medical Officers recommending leave to Central Government servants or declaring them fit on the expiry of leave will be treated as certificates from their Authorised Medical Attendants, provided that such certificates are accepted for the same purpose in respect of its own employees by the Government of the State in which tne Central Government servant falls ill or to which he proceeds for treatment.

For this purpose Honorary Assistant Surgeons will be treated as equal to Assistant Surgeons and Honorary Surgeons and Physicians as equal to Civil Surgeons.

[Civilian Personnel Routine Order No : 12, dated the 1st Feburary 1962]

832. The certificate obtained should then be submitted to Government for orders. The grant in Article 829 of the option of undergoing medical examination at the seat of the Government under which he is serving, or at any other place, does not confer on the applicant a right to proceed on leave without the sanction of the Government to which he is subordinate.

Medical Certificates—Non-gazetted officers.

833. *Deleted.*

834. (*a*) **Every application for leave on medical certificate made by a non gazetted Government servant in superior or inferior service shall irrespective of the fact whether he is liable for general service or not be accompanied by a medical certificate in the form prescribed below this Article given by the registered medical practitioner defining as clearly as possible the nature and probable duration of the illness, or by a request of the issue of a requisition for examination by a medical officer of Government.**

(*b*) The authority competent to sanction leave may, at its discretion, secure a second medical opinion by requesting the Agency, or Civil Surgeon to have the applicant medically examined. Should it decide to do so, it must arrange for the second examination to be made on the earliest possible date after the date on which the first medical opinion was given.

(*c*) It will be the duty of the Agency or Civil Surgeon to express an opinion both as regards the facts of the illness and as regards the necessity for the amount of leave recommended, and for this purpose he may either require the applicant for leave to appear before himself or require the applicant for leave to appear before a medical officer nominated by himself.

Note—The possession of a certificate as prescribed in this rule does not in itself confer upon the Government servant concerned any right to leave.

Medical certificate for non-gazetted officers and Government servants in the inferior sevice recommended for leave or extension or commutation of leave.

I, after careful personal examination of the case hereby certify that

(whose signature or left hand thumb and finger impressions are given below), is suffering from and I consider that a period of absence from duty of is absolutely necessary for the restoration of his health with effect from.....
Dated
the

Signature and Designation of Government medical attendant
Signature with degree or diploma of the private practitioner or if he is a registered practitioner his Register No.
Signature or left hand thoumb and finger impressions of the sick

Note 1.—The nature and probable duration of the illness should be specified.

Note 2—This form should be adhered to as closely as possible, and should be filled in after the signature or left hand thumb and finger impressions of the applicant have been taken. The certifying officer is not at liberty to certify that the applicant requires a change to (or from) a particular locality, or that he is not fit to proceed to a particular locality. Such certificates should only be given at the explicit desire of the administrative authority, concerned, to whom it is open to decide, when an application on such grounds has been made to him, whether the applicant should go before a medical Board to decide the question of his fitness for service (vide paragraph 100, Regulations for the Medical Service of the Army in India.

Note 3.—In the case of female officers the local Government may either dispense with the countersignature referred to in this Article or authorise such countersignatures by doctors of their own sex.

Second medical opinion (if called for by the authority competent to sanction leave).

Agency or Civil Surgeon-

Note—Should a second medical opinion be required, the leave sanctioning authority should arrange for the second medical examination to be made at the earliest possible date. The Agency or Civil Surgeon's opinion both as to the facts of illness, and the necessity for the amount of leave applied for, should be recorded. He may require the applicant to appear before a medical officer nominated by him vide clauses (*b*) and (*c*).

Government of India's decision :—(1) The procedure to be followed in respect of non-gazetted civilian personnel (whether in superior or inferior service) paid from Defence Services Estimates is that laid down in Article 834, C.S.R.

[Army Instruction (India) No. 211 of 26-7-1941.]

(2) No general orders exist at present to govern the admissibility of medical certificates by the Ayurvedic, Unani or Homeopathic medical practitioners to Government servants for the grant of casual or other leave on medical grounds for fitness to return to duty on medical certificate, etc. The practice in different offices under the Central Government is therefore not uniform. The matter has now been carefully considered and, in supersession of all previous orders, the following general instructions are issued for guidance :—

(*i*) as a rule, medical certificates only from the "authorised medical attendant" or from registered allopathic medical practitioner will be accepted in support of applications by Government servants for leave on medical grounds [*cf* S. R. 229 (*a*)], or for purpose of S. R. 212.

(*ii*) Medical certificate issued by registered Ayurvedic, Unani or Homeopathic medical practitioners, *i. e.* by registered Vaids, Hakims and Homeopaths, will also be accepted for purposes of Supplementary Rules 229 (*a*) and 212 provided that such certificates are accepted for the relevant purpose, in respect of its own employees, by the Government of the State in which the Central Government servant falls ill or to which he proceeds for treatment.

(*iii*) Definite orders already exist regarding the authorities from whom certificates of fitness on first appointment to, or confirmation in Government service should be produced. Such orders require pro-

duction of certificates of fitness from registered allopathic medical practitioner, the authorised medical attendant, a Civil Surgeon or a Medical Board, as the case may be. Those orders will not be effected in any way by these instructions.

(*iv*) Notwithstanding any thing contained in the preceding sub-paragraph the leave sanctioning authority may, in its discretion, either altogether waive the requirement of a medical certificate or may accept a certificate from a Vaid, Hakim or a Homeopath in cases of applications fore leave on grounds of sickness for period not exceeding 3 days at a time. Such leave shall not, however. be treated as "leave on medical certificate" and shall be debited against leave other than leave on medical grounds.

[G. I. M- H. Affairs Memo No. 38/3/52-Est dated the 1st Februury 1952 as amended by Memo. No. 38/13/54-Ests. (A) dated the 21st January 1954.]

(3) See Government of India's decision No. (1) below Article 225.

(4) Medical certificates granted by registered medical practitioners (including Vaids, Hakims and Homeopathic doctors fulfilling the conditions prescribed in Home Ministry's Memo No. 38/13/54-Ests (A) dated the 21st January, 1957) for the purpose of Supplementary Rules 212 and 229 (2) may be accepted irrespective of whether they are in Hindi or in English so long as they are in the form. A Hindi Version of the each of forms prescribed under the above Rules is enclosed for information.

प्रार्थी के हस्ताक्षर.....

अराजपत्रित अफसर के छुट्टी लेने, छुट्टी बढ़ाने या उसमें परिवर्तन करने के लिये डाक्टरी प्रमाण पत्र ।

मैं.....भली प्रकार परीक्षण के पश्चात् प्रमाणित् करता हूं कि ..... जिन के हस्ताक्षर ऊपर हैं..... .....से पीड़ित है और मेरे विचार में स्वस्थ होने के लिये..... .....से..... दिनों के लिये उनका कार्य से अनुपस्थित रहना अत्यन्त आवश्यक है ।

हस्ताक्षर.....

सरकारी चिकित्सा परिचर

तारीख— अथवा

स्थान— रजिस्टर्ड चिकित्सक

प्रमाण-पत्र

प्रार्थी के हस्ताक्षर.....

हम चिकित्सा समिति के सदस्य

.....का सिविल सर्जन

.....का रजिस्टर्ड चिकित्सक

प्रमाणित करते हैं/करता हूं कि हमने/मैंने विभाग के .....का, जिनके हस्ताक्षर ऊपर हैं, भली प्रकार परीक्षण कर लिया है । आप अब निरोग हैं और सरकारी काम करने के योग्य हैं हम/मैं यह भी प्रमाणित करते हैं/करता हूं कि इस निर्णय के पूर्व हमने/मैंने उस/उन मूल डाक्टरी प्रमाण-पत्र (पत्रों) और विवरण (विवरणों) की (या उसकी/उनकी प्रमाणित प्रतियों की) जिसके/जिनके आधार पर छुट्टी मंजूर की गई या बढ़ाई गई थी, जांच कर ली है,

और निर्णय करते समय उसका/उनका ध्यान रखा है ।

तारीख..... ..... हस्ताक्षर.....

स्थान..... ... . पद ....

[G. I. M. H. Affair's Memo No, 38/2/57- Ests (A), dated the 2nd July 1957.]

835. *Cancelled.*

Medical Certificates—Gazetted and Non-gazetted Officers.

836. If the officer is going on leave out of India, he should take with him one copy of the medical report upon his case.

837. A duplicate of the medical report of an officer going on furlough on medical certificate or leave on medical certificate to Europe, North Africa, America, or the West Indies should be forwarded without delay direct to the Under Secretary of State for India, by the Local Government under which the officer is employed, for the information of the Medical Board attached to the India Office, so as to arrive as soon as the officer reaches his destination.

838. (*a*) An applicant for an extension or commutation of leave on medical certificate who is residing in Europe, North Africa, America, or the West Indies, must satisfy the Medical Board at the India Office as to the necessity for the extension or commutation.

Ordinarily he must attend at the India Office for examination at the Board ; but in special cases, particulary if he be residing at a distance of the more than sixty miles from London, a certificate in a form to be obtained from the India Office and signed by two medical practitioners may be accepted. A certificate obtained outside England and signed by foreigners must be attested by consular or other authority as bearing the signature of qualified medical practioners.

(*b*) An applicant for an extension or commutation of leave on medical cerificate who is residing in any place out of India not mentioned in clause (*a*) of this Article, must submit with his application (which is to be submitted to the proper authority in India under Article 300) certificates from two medical practitioners in the following form : –

"We hereby certify that we have carefully examined Mr. A.B. of the who is suffering from (the nature of the disease and the present condition of the officer must be fully detailed), and we declare upon our honour that according to the best of our judgment and belief, he is at present unfit for duty in India, and that it is absolutely necessary for the recovery of his health that his present leave which will expire in India on.....should be extended by

$$\frac{\text{month}}{\text{weeks}}.$$

Date

Place **"**

The certificate must be attested by the consular or other authority as bearing the signatures of qualified medical practitioners.

SECTION II—GRANT OF LEAVE

839. Leave may be granted with retrospective effect from the date on which it is admissible.

840. Unless specially otherwise ordered, leave must begin within thirty five days of the date on which it is granted.

841. (*a*) After obtaining a report from the Audit Officer upon the title of an applicant who is a gazetted officer to the leave applied for, the local Government may grant any leave admissible under the Regulations.

Note—For the purposes of this rule, Myooks and Junior Assistant Registrars in the Co-operative Department in Burma are treated as gazzetted officers.

(*b*) In the case of an officer who is not gazetted, leave may be

granted by the authority whose duty it would be to fill up his appointment, if vacant.

The report of an Audit Officer is not required on the title to leave of an applicant who is not a gazetted officer.

(*c*) The Local Government may, with or without restrictions, delegate the power of granting leave to any officer who, in its opinion, can judge of the expediency of granting the leave and who can, without reference to higher authority, make the necessary arragements for carrying on the absentee's duties during the leave. The Local Government may at any time withdraw powers delegated under this clause.

(*d*) An officer acting under clause (*c*) must, in the case of a gazetted officer, figst obtain a report from the Audit Officer that the leave is admissible. If he grants the leave, he must communicate his orders to the Audit Officer by insertion in the Gazette or otherwise. In delegating its powers of granting leave in accordance with clause (*c*), the Local Government will decide whether in the case of gazetted officers either the grant or the refusal of the leave should be reported to it.

Government of India's decisions :—(1) The question of devising a system which would avoid inconvenience in the drawal of leave salary by officiating gazetted officers during the periods of their leave and reduce work all round has been under the consideration of the Government of India for sometime past. The President has decided that if a non-gazetted Government servant who is officiating in a gazetted post proceeds on leave, he should be treated as continuing to hold a gazetted status during his leave for all practical purposes (*viz* for purposes of issue of notifications, drawal of leave salary and other allowances, grant of leave or extension of leave on medical certificate, etc. etc. irrespective of whether the leave counts for increment or not, whether but for his goning on leave, he would have continued to officiate in the gazetted post or not, and whether on the expiry of his leave he would return to his gazetted post or not.

Such a Government servant will, while on leave, be reckoned against a gazetted or a non-gazetted post, in the borrowing department itself except when leave is granted at the end of a period of appointment in the borrowing department. In the latter case the procedure laid down in Finance Ministry's Office Memorandum No. D, 1972-R. 1/33. dated the 31st July, 1933 appearing as annexure to this decision should be followed strictly.

This decision will apply also to a Government servant transferred from one office of the Central Government to another or from a State Government to the Central Government and *vice versa* and holding a lien (active or suspended) on a non-gazetted post in his parent office, when he proceeds on leave while officiating in a gazetted post in the borrowing office. The following procedure should be followed in future in the cases of such officers.

(*i*) leave and any extensions thereof should be granted and notified by the borrowing Government or office ; and

(*ii*) leave salary will be authorised by the Audit Office of the borrowing Government or office as the case may be.

[G. I. M. F. Memo No. F 7 (42)-Est IV/53, dated the 21st October 1953 as amended by letter of even number dated the 20th June 1956]

Note. This decision also applies to Civilian Gazetted officers paid from Defence Services Estimates and to D. G. O. F's organisation as well.

[Army Instruction No. 35, dated the 30th January 1954.]

ANNEXURE.

The question of the adjustment of leave salary of a Government servant lent by one department of Government to another has arisen and the following procedure has been prescribed to meet situations arising out of such departmental transfers If a borrowing department wishes to give leave to Government Servant lent by another department during the tenure of the post in the borrowing department, the latter department should be entitled to sanction the leave, provided it is prepared to pay fot it, and after having verified from the lending department the Government servant's title to leave. If on the other hand, it is desired to give leave at the end of a period of appointment in the borrowing department and before the person concerned actually resumed duty in the

lending department the latter should decide whether or not the leave can be sanctioned. If the leave is to be given the reversion to the lending department of the person concerned should take effect from the commencement of the leave, which should be governed in all respects as if it were being granted from duty in the lending department. This consultation should be sufficiently in advance of the termination of duty in the borrowing department and the commencement of the leave to enable the lending department to decide in time whether it would be administatively convenient to sanction the leave because when a lending department possesses a leave reserve but no deputation reserve, the substitute employed in the deputation vacancy will have to be discharged from the date of commencement of leave.

2. The above procedure applies in full only to cases where both department's are non commercial. Cases where the lending and/or the borowing departments are commercial departments stand on a somewhat different footing. In such cases the procedure for grant of leave will be the same as in the case of non-commercial departments but leave salary in respect of leave earned in the commercial department will be debited to that department irrespective of which department may grant the leave.

3. The procedure prescribed in paragraph 1 above will apply *mutatis mutandis* in the case of grant of leave and adjusment of leave salary of Government servants lent by one office to another under the same department:

[G.I.F D. Memo. D/1972-R.I/33, dated 31st July, 1933.]

(2) Anticipatory payments of leave salary to Civil Government servants in military employ will be made by the Defence Accounts authorities at a rate considered appropriate with reference to available particulars with them on a provisional basis pending receipt of information regarding the nature of leave taken and leave salary rates of pay from the parent departments/Civil Accounts Officerrs of the individuals concerned.

[Army Instruction No. 264, dated the 23rd October 1954 circulated with G.I.M.F. endorsement No. F. 7 (53) E. IV/54, dated the 8th December 1954].

(3) A question has been raised whether leave granted to a gazetted Government servant who is on foreign service should be notified in the Gazetted of India.

The audit officer who watches the receipt of the leave salary contributions in respect of the officer on foreign service has also to certify the admissibility of leave to him and to accept the debit for the corresponding leave salary. Moreover, leave, to the extent of only *4 month under F. R/120 days under Revised Leave Rules*, can be sanctioned by the foreign employer and any further leave has to be sanctioned by the authority which sanctioned the transfer to foreign service.

As all such events are required to be included by the Audit officer concerned in the officer's statement of service to be prepared at the time of his reversion to Government service, it has been decided that the leave which may be granted to a Government servant while on foreign service, should be notified in the Gazette of India irrespective of the fact whether the leave is sanctioned by the foreign employer or the authority which sanctioned the transfer to foreign service.

So far as the staff of the Audit and Accounts Department are concerned, this decision issues with the approval of the Comptroller and Auditor General.

[G.I.M.H. Affairs Memo No. 13/2/59 Ests (A), dated the 25th Feburary 1960].

Auditor General's Orders : - Under F.R. 93-A or Government of India decision No. (3) below rule 7 of Appendix E to the Chaudri's Compilation of Fundamental and Supplementary Rules, the State Government servants have the option to continue to be governed by the leave rules of the State Government concerned even after their permanent transfer to the Government of India. As the State Government have their own sets of leave rules which may differ from the leave rules of the Government of India, some practical difficulties have been experienced by the leave sanctioning authorities in the matter of maintaining the leave accounts of such Government servants and also in verifying the admissibility of leave at the time they apply for leave. This question has been under the consideration of the Government of India for sometime past and it has now been decided that in the case of State Government servants, who do not exercise the option of coming under, the leave rules of the Central Government after their permanent absorption

under the Government of India, the authority competent to sanction the leave to the non-gazetted Government servant may get a certificate of admissibility of leave under the State Leave Rules from the Accountant General administering the leave rules concerned. In quite a number of cases the period of leave applied for may be short and the qualifying service so long that the competent authority may have no difficulty in sanctioning it without reference to the State Accountant General. The references to the State Accountant General should therefore be confined to cases when there is genuine case for doubt and not in all cases.

[Comptroller and Auditor General' letter No : 2175-Adm. II/405-56, dated the 29th November 1956].

842. A Local Government granting leave to a member of the Indian Civil Service on the Bengal, Madras or Bombay Establishment serving out of his own Presidency, should inform the Government of India, madras or Bombay, as the case may be.

843. Leave to an officer appointed by a High Court is granted by the Chief Justice, subject, in the case of gazetted officers, to the report of the Accountant-General that the officer is entitled to the leave.

844. *Cancelled.*

845. *Cancelled.*

SECTION III.—RULES REGARDING CHAPLAINS.

Church of England.

846 to 852. *Not Printed.*

853. *Cancelled.*

Church of Scotland.

854. *Not Printed.*

SECTION IV.—RULES REGARDING MILITARY OFFICERS.

855. (*a*) When Furlough or Leave or an extension of furlough or leave is granted to a Military officer in Civil employ, whether subject to the Civil or the Military Leave Rules, the Civil Audit officer should intimate to the Accounts Officer in charge of the officer's records of pension service the date of the beginning and ending of the furlough or leave.

(*b*) After the Furlough or leave has appeared in orders, the Accounts Officer in charge of the officer's record of pension service will in the case of furlough to Europe, North Africa, America or the West Indies, forward to the Under Secretary of State for India, a statement of the officer's service in the prescribed form. The statement is not required in the case of officers proceeding on furlough under the Staff or British Leave Rules.

855A. Applications from Military officers in Civil employ who are subject to Military Leave Rules for privilege leave combined with furlough or other leave under provisions of Note 2 to Article 606 of these Regulations should be submitted through the Civil Accounts Officer who audits the Officer's salary and the Civil Accounts Officer when forwarding the application to the Local Government should report on the applicant's title to the combined leave, after consultation with the Controller of Military Accounts in charge of the officer's record of pension service.

856. (*a*) An application for Furlough or Leave in or out of India under Indian Military Furlough or Leave Rules from an officer in permanent Civil employ or an officer holding an appointment in the Civil Department, the tenure of which is limited should be submitted through the Accounts Officer in charge of the officer's record of pension service, who will forward it to the Local Government, stating the Furlough or leave Regulations to which the officer is subject; and

in addition—

(*i*) if the applicant is subject to the Military Furlough Regulations of 1868 or 1875—the particular rule or rules of the Regulations under which the furlough is admissible;

(*ii*) if the applicant is subject to the Leave Rules for the Indian Army—the year of service for pension he has entered upon and the date on which the year commenced;

(*iii*) if the application is for leave in India—the particular rule of the Ragulations under which the leave is admissible.

(*b*) In the case of officers subject to the leave rules applicable to Regimental officers of the British Army serving in India and holding civil appointments, applications for leave should be submitted direct to the Local Government. The Controller of Military Accounts will on application, furnish the civil auditors concerned with a certificate showing the rate of pay admissible during leave and how the leave may be extended or commuted.

(*c*) In the case of an officer in Civil employ proceeding on furlough under the Military Furlough Regulations of 1868 or 1875, the Accounts Officer incharge of the officer's record of pension service will furnish the civil auditor concerned with the necessary certificate as in Form 1.

857. (*a*) After the Furlough or Leave has appeared in orders, the Local Government will, in the case of furlough on medical certificate or leave on medical certificate to Europe, North Africa, America, or the West Indies forward the medical statement of the officer's case to the Under Secretary of State for India.

(*b*) All reports of officer's arrival from, and departure on, furlough or leave in or out of India with dates of embarkation and debarkation, as well as those of being struck off or of resuming duty, should be forwarded to the Accounts Officer in charge of the officer's record of pension service.

(*c*) On the return of an officer from furlough or leave, it will be the duty of the Accounts Officer in charge of his record of pension service to satisfy himself that he has returned within his leave; and if not, to report the case to the sanctioning authority.

858. When a Military Officer subject to the Military Leave Rules applies for leave of absence on medical certificate, or proceeds to a seaport for the purpose of appearing before a Medical Board he should communicate his intention to his immediate departmental superior when he sends in his application, or before he leaves his station, as the case may be.

859. An application from a Military officer subject to the Military Leave Rules for Special leave under Article 316, as it stood prior to 29th July, 1920, should be submitted to the Local Government for sanction with a certificate from the Officer-in-charge of the officer's record of pension service that he is entitled to it.

860. A Military officer subject to the Military Leave Rules proceeding on Furlough or Special leave, cannot obtain a last-pay certificate or a warrant, as the case may be, until he submits to the Audit Officer a certificate in Form 1 by the Accounts Officer-in-charge of his record of pension service.

Commissioned Medical Officers.

861. (*a*) An application for any leave except Privilege leave and leave on medical certificate from a Commissioned Medical officer in permanent or temporary Civil employment, should be submitted by the applicant, together with the Audit Officer's certificate, to the Local Administrative Medical Officer, by whom it will be forwarded to the Director-General, Indian Medical Service.

The Director-General will countersign the application if the state of the public service admits of leave being granted, and forward it to the Local Government. If the state of the public service does not admit of leave being granted, he will abstain from countersigning the application. On the application so countersigned, or from which countersignature has been withheld, the Local Government will be in a position to pass orders. The same procedure will be followed in the case of medical officers applying for extension of furlough on private affairs.

(*b*) **An application for any leave except Privilege leave and leave on medical certificate from a medical officer appointed by the Government of India should be forwarded, with the Audit Officer's certificate, through the Administrative Medical Officer and Local Government to the Department of the Government of India concerned, who after consultation with the Director-General, Indian Medical Services, will pass the necessary orders.**

Note.—A Local Government granting leave or extension of leave to a Commissioned Medical officer in temporary Civil employ should communicate a copy of the order to the Director of Medical Services in India.

CHAPTER XLV – PAYMENT OF LEAVE ALLOWANCES.

862. (1) Leave allowances shall be drawn in rupees in India :

Provided that portion of leave allowances which represents overseas pay drawn in sterling shall be paid in all cases in sterling and the payment shall be made by the High Commissioner for India in London.

(2) Notwithstanding anything contained in clause (1), a Government servant of non-Asiatic domicile who spends his leave out of Asia, may draw at his option the leave allowance admissible to him under these rules in sterling in London :

Provided that in the case of privilege leave, leave allowance due in respect of such leave spent in Asia may, if such a Government servant proceeds out of Asia during the currency of such leave, or within one month of its termination, be also drawn in sterling :

Provided further that in the cases of leave of any other description if the amount of such leave spent in Asia prior to embarkation does not in all exceed one month, leave allowances in respect of the whole of such leave may be drawn in sterling

(3) In the case of a Government servant of non-Asiatic domicile if an attachement order has been issued by a court in India in accordance with rule 48 of Order XXI of the First Schedule, Code of Civil Procedure, 1908 (V of 1908), that part of leave allowance which is attached shall be remitted to the court in rupees by the accounts authority in India. The balance of leave allowances, if payable in sterling, may then be drawn after reducing the maximum rates of leave allowances prescribed in Articles 316, 316-A, 317, 319, 325-A, 326 and 327 by the amount specified in the attachment order, converted into sterling at such rate of exchange as the President may by order prescribe.

Explanation :—**For the purpose of this Article Cyprus shall be regarded as outside Asia.**

(4) Payment of leave allowances in sterling shall be subject to such restrictions in the matter of foreign exchange as the Government of India may from time to time impose.

(5) Any leave allowance drawn outside India shall be subject to deduction of Indian Income tax and super tax at the rate which would have been applicable, if that leave allowance had been drawn in India.

Government of India's decisions. (1) Contribution on account of leave salary in the case of a Government servant on foreign service *in India*,

are recoverable from the foreign employer, and in return for such contributions, Government accept the charge for the leave salary in respect of any period of leave availed of by the Goverment servant in or at the end of the foreign service. The expenditure in respect of any compensatory allowance payable for such leave is, however, borne by the foreign employer.

A question has been raised whether the leave salary and allowances should in such cases be paid to the Government servant in the first intance, wholly by the foreign employer, Governmant's share being subsequently reimbursed, or whether the leave salary and allowances be paid in the first instance by the Government, the foreign employer re-imbursing the Government subsequently his liability for the allowances or whether Government and the foreign employer should each pay what are their respective liabilities and thus avoid further adjustments between themselves. It appears that the existing practice in the matter is not uniform.

After a careful consideration of the matter, the President, in consultation with the Comptroller and Auditor General of India, has now decided that the following uniform procedure should be observed in the matter in future :—

(*i*) In respect of the leave salary and compensatory allowances payable to the Government servant for periods of leave availed of by him in or at the end of foreign service, the parent Department of the Government servant and the foreign employer should discharge their respective liabilities directly in accordance with the terms of transfer on foreign service of the Government servant concerned.

(*ii*) In accordance with the procedure laid down in para 5 of Annexure 'B' to Chapter 2 in Section IV of the Audit Code, leave to a Government servant on foreign service can be sanctioned only after the Accountant General of the Government (Union or State) under which he was permanently employed at the time of his transfer to foreign service, has certified the amount of leave and the leave salary, including compensatory allowances admissible. While certifying the above, the Accountant General concerned should, therefore, indicate separately the leave salary and compensatory allowances payable by the Government and the foreign employer, respectively, to facilitate the discharge by them of their respective liabilities in manner indicated in (*i*) above.

(*iii*) A copy of the orders sanctioning leave, whether by the Government or by the foreign employer, should invariably be endorsed to the Accounts Officer concerned.

(*iv*) When a Government servant on foreign service in India proceeds on leave, the foreign employer should issue, immediately after payment for the duty period, a Last Pay Certificate in which he should indicate specifically that the compensatory allowances during leave, to the extent admissible under the rules, would continue to be paid to the Government servant by him. Similarly the Head of the Office in the case of non-gazetted Government servants, or the Accountant-General in the case of gazzeted officers, should issue a Last Pay Certificate after paying the leave salary, if the Government servant joins back the foreign service or is transferred outside their control at the end of the leave.

(*v*) In the case of a gazetted Government servant on foreign service in India, payment of leave salary shall be arranged through the treasury, while in the case of non-gazetted Government servants payment shall be arranged through the Department concerned.

[G. I. M. F. Memo : No: F. 1 (34) -Est. IV/57, dated the 24th October 1957].

Note.—This decision is also applicable to the civilian personnel employed with the Army who are paid from the Defence Services Estimates and to the C. G. D. P. O. also vide Army Instruction No ; 17 of 1958.

(2) It was represented to the Finance Ministry that considerable delay

sometimes occurs in the payment of leave salary to gazetted Government servants on leave. In this connection attention is invited to the instructions under Fundamental Rules 74 issued by the Comptroller and Auditor General of India : these instructions would be adequate in most cases for the avoidance of delays if prompt action is taken by all concerned, but in order to avoid hardship in individual cases where some delay is inevitable the following decisions have been taken and are communicated to all concerned :

(*i*) Where there is reason to believe that issue of a formal leave salary certificate will be unduly delayed, the Audit Officer who audits the pay of the officer concerned may be requested by the leave sanctioning authority to issue a provisional leave salary certificate, indicating distinctly the period (which in no case should exceed two months) for which the anticipatory payment of leave salary is required, pending receipt of a formal notification sanctioning the leave. The Comptroller and Auditor General is separately issuing instructions to audit officers under his control, authorising them to sanction anticipatory payment of leave salary in such cases at a rate considered appropriate with reference to the particulars available with them.

(*ii*) The Comptroller and Auditor General has agreed separately to issue directions to audit offices to arrange for the speedy transmission of transfer documents to the concerned audit offices when a Gazetted officer is transferred from their audit control.

(*iii*) It has also been arranged that audit officer will hereafter certify the total amount of leave on average pay/earned leave admissible or, if the officer concerned has applied for leave on half average pay-half pay leave, either by itself or in combination with leave on average pay/earned leave, the total amount of both kinds of leave at his credit. Such a leave report will remain current for the next six months provided that the leave or extension of leave applied for by officer on the second or subsequent occassion, after the receipt of the aforesaid leave report and before the expiry of six months period or the date of his superannation, which ever is earlier, does not exceed the balance of leave on average pay/earned leave or leave on half average pay/half pay leave, as the case may be already certified by the Audit Officer and does not extend beyond the date of superannuation.

In a case, where the Audit Officer certifies, say 3 month leave on average pay, and some leave on half average pay, and the officer concerned avails himself of 2 months' leave on average pay in the first occassion, and he again applies for 1½ month's leave on average pay after remaining on duty for 3 months, a fresh leave report should be obtained from the Audit Officer in order to know the exact amount of leave on average pay due to the officer concerned.

For the purpose of reporting leave form S. Y. 52 would be used by audit officers. Necessary directions in this behalf are also being issued separately by the Comptroller and Auditor General.

The decision contained in clause (1) of paragraph 1 above will remain in force upto the 4th June 1962.

G. I. M. F. Memo : No. F. 7 (81) Est. IV/58, dated the 5th June 1958 as a mended by Memo : of even No dated 4-3-60 and 30th June 1961].

(6) See Government of India's decisions below rule 7 of the Revised Leave Rules in Appendix 14.

(7) A question has been raised whether the grant of leave, as preparatory to retirement can be certified by audit officers in advance.

The position is that in reporting on leave preparatory to retirement the audit officers can report only on admissibility of leave on the date from which

it is applied for without specifying whether it is preparatory to retirement or not, as they are not ordinarily in a position to say that the applicant for leave is eligible to retire on the expiry thereof, unless the pension papers have already been received from the pension sanctioning authority and service has been verified and admitted by audit.

It has, therefore, been decided that in cases of grant of leave, as preparatory to retirement, where the authority sanctioning the leave is unable to satisfy itself from the service records of the officer concerned that he would be eligible to retire on the expiry of the sanctioned leave, a formal notification sanctioning the leave reported as admissible by the audit officer, may be issued without its being described as "preparatory to retirement." After verification of the officer's service in consultation with the audit officer, a separate notification may be issued permitting the officer concerned to retire on the expiry of the leave sanctioned under the previous notification.

[G. I. M. F. Memo No. F. 7 (81)-EIV/58, dated the 1st April 1959]

(8) The position in respect of decision No : (7) above as follows :—

(*i*) The orders contained in decision No : 7 above do not apply to cases in which the leave sanctioned is leave preparatory to retirement is *superannuation* pension, because the date of superannuation is ordinarily known to both the Audit Officer and leave sanctioning authority.

(*ii*) In cases in which the leave is intended to be leave preparatory to retirement, otherwise than on superannuation, *i. e.* where retirement is contemplated from a date earlier than the date of superannuation, the procedure prescribed in decision No ; (7) above should be followed. The sanctioning authority, while sending to Audit the original sanction to leave, should inform the Audit Officer that the leave has been applied for by the Officer as preparatory to retirement but that the same has not been sanctioned as such, pending verification of service etc. and the title to the retiring pension ; but in all such cases efforts should invariably be made to verify expeditiously the Officer's qualifying service in consultation with the Audit Officer, and if retirement as contemplated is permissible under the rules, a separate notification permitting the officer concerned to retire on the expiry of the leave sanctioned under the previous notifiction, should be issued as soon as possible but not more than four months after the date from which the leave intended to be leave preparatory to retirement was granted.

2. Pending the issue of the notification, the audit officer will treat the leave as leave preparatory to retirement, as applied for by the officer, and regulate the dearness allowance and the release of the last salarly and allowances accordingly.

3. In case it is found that the retirement, as contemplated, it is not permissible under the rules, the fact should be intimated to the Audit Officer also to enable him to take necessary action.

[G. I. M. F. Memo : No : 7 (81)-Est IV/58, dated the 18th May 1960]

(9) The Government of India have had under consideration the recommendation of the Pay Commission in paragraph 15 of Chapter XXXVI of their Report that upto a month's leave salary may be allowed in advance to Government servants proceeding on leave.

It has been decided to accept the recommendation of the Pay Commission subject to the following conditions :—

(*i*) No advance may be granted when the leave taken is for less than a month/30 days

(*ii*) The amount of the advance should be restricted to the net amount of leave salary for the first month of leave that is clearly admissible to the Government servant after deductions on account of Income Tax, Provident Fund, House Rent, repayment of advances, etc., so that there is no financial risk involved.

(*iii*) The advance should be adjusted in full in the leave salary bill in respect of the leave availed of. In case where the advances

cannot be adjusted in full, the balance will be recovered from the next payment of pay or/and leave salary.

(*iv*) The advance may be sanctioned by the Head of the office or by any other subordinate officer to whom the power may be specially delegated, both in the case of gazeted and non-gazetted officers.

(*v*) Officers who are Heads of officers may sanctioned the advance to themselves.

(*vi*) The advances in respect of temporary Government servants will be sanctioned subject to the furnishing by them of the surety of a permanent Central Government servant.

(*vii*) The amount of advance will be debited to the Head of Account to which the pay etc. of the Government servant is debited and the adjustment of the advance will be watched through objection book by the Accounts Officer concerned,

(*viii*) Advance under these orders shall be sanctioned in whole rupees.

[G.I.M.F. Memo : No. F. 7(75)-E.IV (A)/60 dated the 3rd August 1960].

Note (1) This is allowed also to Central Government servants transferred temporarily to posts other than under Central Civil Departments. The borrowing authority should be informed of this by making a suitable provision in the terms of transfer of the Goverment servants concerned.

[G.I.M.F. Memo : No. F 7(75) Est. IV/A/60, dated the 12th July, 1961]

Note (2) The concession regarding the advance in lieu of leave salary may in accordance with the order contained in this decision and decision No. (10) below, be allowed also to State Government servants transferred temporarily to posts under the Central Civil Departments.

[G.I.M.F Memo : No F. 7 (75)-Est. IV/A/60, dated the 16th November 1961].

(10) The following clarifications in regard to certain points in connections with decision No. (9), above have been issued :—

Point raised	*Clarification*
1. Whether the advance of leave salary will include allowances.	1. The advance of leave salary will not include allowances.
2. Since in the case of gazetted Government servants necessary details of net leave salary are not available with the Head of Office, on what basis would the advance in lieu of leave salary be sanctioned ?	2. The deductions to be effected from the leave salary in the case of gazetted Government servants can be ascertained from the previous pay bills of the officer concerned. Deductions to be made in respect of advances, if any, the recovery of which has not commenced before the person proceeds on leave but falls due during the currency of leave or deductions to be made in respect of any other event which comes to notice (*e. g.* taking postal life insurance policy, court attachment etc.) may also be taken into account to the extent information is readily available.
3. Whether in the case of a Government servant, who proceeded on leave (Say for 45 days with effect from 12-9-60) the advance of leave salary for a month (*viz* from 12 9-60 to 11-10-60) should be paid even though the duty pay will be drawn for him on 1-10-60 or on return from leave	3. The advance may be made on the basis of leave salary payable for one month of leave from 12-9-60 to 11-10-60.
4. Whether the deductions referred to in clause (*ii*) of decision No. (9) may be effected from the leave salary or duty pay which the Government servant will draw during the major portion of the month.	4. The deductions may be effected from the leave salary or duty pay which the Government servant will draw during the major portion of the month.
5. What should be the form of surety bond referred to in clause (*vi*) of decision No : (9) above.	5. It has now been decided that the advance in respect of temporary and *quasi*-permanent Government servants may be sanctioned without their furnishing the surety of a permanent Central Government servant
6. Whether in the case of gazetted Government servants advance of leave salary should be sanctioned only after the receipt of the title to leave from audit officer or it could be granted even without the	6. The nature and the period of leave availed of by a gazetted Government servant on the previous occasion is mentioned in the form of application for leave, which is available with the leave sanction-

audit report regarding the nature of leave admissible.

ing authority. The audit officer's previous leave report, which remains current for the next six months under para. 1 (*iii*) of Finance Ministry's O.M. No. F. 7 (81)-Est. IV/58, dated 5-6-58, is also available with the leave sanctioning authority. Moreover the Government servant earns some amount of leave during the period from the date of his last return from leave to the date he again proceeds on leave.

From the aforesaid information it can easily be seen whether there is one month's leave at the credit of the officer.

Hence in granting the advance it is hardly necessary to await the audit officers report. After all what is being paid is only an adjustable advance and not leave salary proper and what has to be ensured is only that no financial risk is involved. The audit officer's report should, however, be awaited where information as above is not available with the Head of Office, and also in doubtful cases.

2. It is also clarified that the advance sanctioned in Government of India's decison No. (9) above should be treated as advance in lieu [of leave salary and there is no necessity for issue of any separate authority from the Accountant General for the drawal of such an advance by a gazetted Government servant.

The above clarifications take effect from the 3rd August, 1960.

[G.I.M.F. Memo : No F. 7 (75)-Est. IV/A/60, dated the 12th January 1961.]

(11) To ensure expenditions payment of leave salary to gazetted Government servants, the following procedure will be followed :—

Verification of leave entitlement

1. The Audit Officer will certify the total amount of privilege leave/earned leave admissible or if the officer has applied for furlough/half pay leave, either by itself or in continuation of privilege leave/earned leave, the total amount of both kinds of leave at his credit. Such leave report will remain current for the next six months provided that leave of extension of leave applied for by an officer on the second or subsequent occasion after the receipt of the aforesaid leave report and before the expiry of six months period or the date of his superannuation which ever is earlier does not exceed the balance of privilege leave/earned leave or furlough/half pay leave as the case may be, already certified by the Audit Officer and does not extend beyond the date of superannuation. For example in a case where the Audit officer certifies says 3 months Earned leave and some half pay leave and the officer concerned avatls himself of 2 months Earned leave on the first occasion and he again applies for 1½ months Earned leave after remaining on duty for 3 months, a fresh leave report should be obtained from the Audit Officer in order to know the exact amount of Earned leave due to the officer concerned.

The period of six months referred to above will count from the date which the admissibility of leave is reported. In other words, the date of commencement as originally taken into account for the purpose of reporting on the tittle to leave will be the deciding factor for the purpose of determining the currency of the report.

Procedure for sanctioning Leave

2 (*a*) *General.* The leave sanctioning authority before sanctioning the leave will ensure that the tittle to leave has been verified by the audit officer, and the leave is promptly notified in the gazette notification or other appropriate orders. The officer on leave should invariably indicate in his pay bill the fact of his being on leave stating *inter alia* the nature as well as the period of leave.

(*b*) *Prepratory to retirement.* In case of grant of leave preparatory to

retirement where the authority sanctioning the leave is unable to satisfy himself from the service records of the officer concerned that he is due to retire on the expiry of the sanctioned leave a formal notification sanctioning the leave. reported as admissible by the Audit Officer, will be issued without being described as 'preparatory to retirement.' All efforts will invariably be made to verify expeditiously the officer's qualifying service in consultation with the Audit Officer and if retirement as contemplated is permissible under the rules, a separate notification permititing the officer concerned to retire on expiry of the leave sanctioned under the previous notification should be issued as soon as possible but not later than four months after the date from which the leave intended to be leave preparatory to retirement was granted. Pending the issue of the notification the Audit officer will treat the leave as leave preparatory to retirement as applied for by the officer, and regulate the leave salary and allowances accordingly. In case it is found that the retirement as contemplated is not permissible under the rules, the fact will be intmated to the Audit Officer also to enable him to take necessary action,

This procedure will be followed in cases where the leave is preparatory to retirement otherwise than on superannuation *i .e.* when retirement is contemplated from a date earlier than the date of superannuation. It will not apply in cases in which the leave sanctioned is leave preparatory to retirement on a superannuation pension as the date of superanuation is ordinarily known to both the Audit Officer and the leave sanctioning authority.

3. This will apply to D. G. O. F's Organization also.

[Army Instruction No. 109 dated the 9th June 1962].

Payment in India

863. Except in the Military Works, Railway and Telegraph Departments, a gazetted officer on leave may draw his allowance at any *treasury in India.

Note. For the purpose of this Article, Myooks and Junior Assistant Registrars in the Co-operative Department in Burma are treated as gazetted officers.

864. If a gazetted officer signs his bill himself, he must either appear in person at the place of payment, or furnish a life certificate signed by responsible officer of Government, or some other well-known and trustworthy person. If he draws his allowances through an authorised agent, the agent, whether he has or has not a power-of-attorney, must either furnish a life certificate as aforesaid, or execute a bond to refund overpayments. A life certificate may be given periodically, a bond being given to cover intermediate payment not supported by the life certificate.

Note.—The proper stamp-duty upon bonds executed under this Article is that chargeable upon Indemnity Bonds according to the first Schedule of the Indian Stamp Act II, of 1899.

Government of India's order.—If the Banker or Agent to whom a Salary Bill is endorsed for payment endorses it again to another Banker or Agent, the Bill is virtually used as a negotiable instrument—A Practice prohibited by Government (Finance Department No : 1375-A, dated 30-3-1896). The cheque should therefore be issued in favour of the party to whose favour the drawer of the bill endorses it.

[G. I. F. D. No : 1375, dated 30-3-1896 and Comptroller General's No : 28, dated 7-4-1896].

Government of India's decision. The President is pleased to decide that the leave salary of a gazetted Government servant, when payable in India should be drawn from the treasury from which his pay was being drawn immediately before procceding on leave.

He should make his own arrangements, where necessary, for getting his leave salary remitted to him.

In a case where a period of leave is followed by transfer, such portion of the leave salary as could not be drawn at the old station, may be drawn at the treasury from which the pay in respect of the new post is drawn.

[G. I. M. F. Memo No. F. 7 (81)-Est. IV/58, dated the 25th April 1961]

*See Government of India's decision below article 864.

865. The leave allowances of a non-gazetted officer on leave in India or on leave out of India when he desires to draw his allowances in India can be drawn only at the treasury where his salary is paid, and under the signature of the head of his office, who is responsible for any overcharges ; no other security is required.

866. The payment of leave allowances of officers and subordinates of the Railway Department and of officers of the Military Works Service and the Telegraph Depertment during leave in India is regulated by special Departmental rules.

Payment out of India

867. *An officer proceeding on leave out of India cannot draw his allowance at the Home or any Colonial treasury unless he is provided with a last-pay certificate or warrant in accordance with the rules laid down in Chapter XLVI.

868. *Leave allowances expressed in rupees, if paid at the Home treasury or in a Colony where the standard of curency is gold shall be converted into sterling at such rate of exchange as the Secretary of State in Council (*now President*) may by order prescribe.

869. The leave allowances of all officers are issued at the Home treasury monthly in arrear on the first day of each calendar month,

They are made up to the following quarterly dates, 31st March, 30th June, 30th September, and 31st December and they are paid in monthly instalment, the first two instalments in each quarter being the net amounts accrued, omitting shillings and pence, and the third instalment being the balance due for the quarter.

Payment is made—

(*i*) to the officer on his personal application ; or

(*ii*) to his banker or other agent, duly authorised under power of attorney, on production of a life certificate, filled up and executed in the manner directed thereon (except in cases where proof of existence is not required owing to the banker having guaranteed the Secretary of State against loss consequent on his dispensing with the production of such proof) ; or

(*iii*) on presentation of a draft, duly filled up and signed by the officer in a form which, with the requisite form of life certificate attached, may be obtained from the India Office, on the officer's written application.

Certificate of leave.

870. *Cancelled.*

871.—873. *Not Printed.*

CHAPTEK XLVI.—LAST-PAY CERTIFICATES AND WARRANTS.

SECTION I—LAST-PAY CERTIFICATES.

874. Except as provided in Article 879, no officer can begin to draw his leave allowances at any treasury in India, or at the Home treasury, without producing a last-pay certificate from the Accountant General of the Province to which he belongs.

Note. In cases of doubt as to the authority that is to issue the last-pay certificate the Accounts Officer from whom the officer receives his pay when he goes on leave will issue the certificate after obtaining all necessary information from any other Accounts Officer that may be concerned.

1. No-demand certificates are not required by an officer going on leave

875. Last pay certificates (and warrants) cannot be issued to Military officers subject to the Military Leave Rules, until Artical 860 has been complied with.

876. Except in respect to Colonial Warrants (Article 888 to 891). this Section does not apply to Military Works and Railway officers whose last-pay certificates are issued under departmental rules.

*Leave salaries are now payable in India.

Extensions and Commutations.

877. If the leave of an officer, whether in or out of India, is extended or commuted, the Audit Officer within whose jurisdiction the officer is employed must, on receiving advice of such extension or commutation, forthwith communicate it to the Audit Officer within whose jurisdiction his leave allowances are drawn. He should also communicate any other circumstances connected with the leave which may be required to be known to the Audit Officer who passes the officer's leave allowances.

Leave in India.

878. †When an officer proceeds on leave from one place to another in India, he should obtain a certificate in Form 16 from the Accountant General of his Presidency or Province. If during leave the officer desires to change the treasury at which he receives payment of his allowances, he must obtain a new last-pay certificate.

879. An officer on-leave who does not leave his district does not require a last-pay certificate ; nor does an officer who leaves his district on leave in India without allowances.

***Leave out of India.**

880. When an officer proceeds out of India on leave with allowances, the Accountant General who audits his pay will, as soon as the leave is gazetted or otherwise notified, send him a letter in Form 12 or 13 with enclosure in Form 14 or 15 as the case may be, requiring him to call at his office or give the necessary information.

881. *If the officer calls at Accountant-General's office, he will be paid up to the day before he leaves India, and will be given a last-pay certificate in Form 16 if he intends to draw his allowances, at the Home treasury, and in Form 17 if he is proceeding to a Colony and intends to draw his leave allowances there.

Note.—An officer who proceeds out of India during the Privilege leave portion of combind leave under Article 232 or during Privilege leave taken by itself, may be granted a last-pay certificate in view to the payment of his allowances at the Home treasury or in a Colony from the commencement of his Privilege leave. In that event, he must draw in India allowances due up to the date of giving up charge of his office.

882. If the officer is unable to call at the Accountant-General's office. the Accountant-General will prepare a bill for his allowances from the end of the month preceding that of his making over charge, to the day before he sails and will (if the officer intende to draw leave allowances at the Home treasury or in a Colony) forward it with the certificate in Form 16 or 17 as the case may be, to the Treasury Officer according to the instruction in Form 18.

Note—See Note under Article 881.

883. With every such last-pay certificate a blank Form 19 will be given on which the officer will report to the Accountant General, from the first port at which the vessel touches, the day of his departure from India.

884. When the Audit Officer delivers, or receives from the Treasury Officer a report in Form 20 that he has delivered, a last-pay certificate to the officer concerned, he will, if the certificate is in Form 16, forward a duplicate of the certificate to the India Office.

885. †When the officer proceeding to England is compelled to leave without a last-pay certificate, the necessary document should be forwarded to him, and a duplicate to the India Office, at the earliest possible date.

886. An officer proceeding to Europe should present his last-pay certificate at the India Office. When he returns to India, he should obtain a last-pay certificate, from the India Office.

*Leave Salary is now payable in India only.

†See Government of India's decision below Article 864 on page 497.

887. A last-pay certificate in Form 16—the 11th and 13th columns and the Notes below it being omitted – is required in the case of an officer proceeding on leave out of India whose leave allowances, payable in India, are required to be paid in a circle of audit other than that under which the officer's appointment is held. If change of treasury is at any subsequent time, desired, a new last-pay certificate in the same form must be issued by the Accountant-General who last paid the allowanee.

†Colonial Warrants.

888—891—*Not Printed.*

Copy of Rules to be furnished.

892. Every officer going on leave out of India should procure from the Accounts Office and take with him a copy of the "Memorandum of information issued for the guidance of officers proceeding on leave (other than Privilege leave taken by itself) out of India."

SECTION II.– RULES FOR PREPARING LAST-PAY CERTIFICATES.

893. In Forms 16 and 17 it should be stated to which Presidency an officer belongs, in which Presidency or Province he is employed, and whether the absentee allowance is chargeable to the Civil or the Military Department.

894· *Cancelled.*

895. Except in the case of Chaplains, allowances should be stated in rupees and not in pounds; and in entering "the rate of absentee allowances". it should be stated, in the first place, without reference to the maximum or minimum applicable, and then. if a maximum or minimum applies or if allowance is such that a future change in the rate of exchange may render a maximum (or minimum) applicable, the words should be added, "subject to a maximum (or minimum) of....., etc".

896. In Form 16 it must be shown whether an officer is entitled to the full amount of Furlough permitted by the rules.

Note :—See Note under Ar.icle 851

897. In column 11 in Forms 16 and 17, the Articles of these Regulations or of the Military Furlough Regulations under which the advance is made should be mentioned.

Amended Certificates.

898. (*a*) **Every corrected last-pay certificate whether original or duplicate should be marked "Amended Certificate". If it becomes necessary to amend a last-pay certificate in Form 16, it should be done by the use of a short corrigendum worded so as to show only the particular item or items in which alterations have been made; this corrigendum should be forwarded by the Accounts Officer at the earliest possible date direct to the India Office.**

(*b*) **The last-pay certificate is issued on the assumption of the correctness of the intended dates of making over charge, and of leaving India. If these dates are changed, the required adjustment of allowances will be made when the officer returns to India, or if necessary, sooner. No alteration may be made in the certificate as issued by the Accountant-General unless there is time to send it to him for alteration.**

(*c*) **In all cases of leave exceeding four months in duration in which an officer elects to draw his leave allowances at the Home treasury, an amended last pay certificate should be sent to the India Office whenever the amount of leave allowances entered in the original last-pay certificate requires correction, unless the officer is known to have started on his return to India. If the amended last-pay certificate**

†Not issued now.

arrives too late at the India Office, it will be returned to the issuing officer in India.

Source from which Absentee Allowance is payable

899. In making entries against the heading "Source from which" etc. the term "Indian Revenues" should be used in all certificates intended to be sent to England, as the term "Imperial Revenues" has there a different signification. If the allowance is not chargeable finally to the Government of India, the Local Administration or Fund from which it is recoverable must be expressly stated.

900. When leave allowances are chargeable according to the Rule of proportions, the following is the service to be thus taken into account :—

(*a*) *Privilege Leave, under Article 246 to 278* :—
Privilege leave; duty without interruption for a period eleven times as long as the Privilege leave.

(*b*) *Long Leave, European and Indian Services, under Chapters XIII and XIV* :—
Furlough on Medical Certificate; the whole continuous service.
Furlough without Medical Certificate; the whole continuous active service.

(*c*) *Military Furlough Regulations of* 1868 :—
Furlough without medical certificate—
First two years (Rule IX) ; actual service in India for eight years.
The rest : actual service in India for six years.

(*d*) *Military Furlough Regulations* :—
Furlough without medical certificate (Rule 1) : proportion of service in India or under the Government of India taken into calculation of service in grant of furlough.

(*e*) *Leave rules for the Indian Army* :—
All leave; the whole pensionable service; but in this case, in calculating the charge to be borne by a foreign and the British Government, the period of service, and not the aggregate salary drawn is taken into account.

(*f*) *Long Leave, Statutory Civil Servants, under Chapter XXVI* :—
Leave on private affairs; service for six years.
Furlough—
First year; service for ten years
Second year; service for eight years.
More than one year; service for eighteen years.

(*g*) *Other cases* :—
In unenumerated cases the whole service in India is counted.

Arrears of Indian Pay and allowances.

901. No entries in regard to arrears of Indian pay and allowances, due to au officer proceeding on leave or on retirement to Europe should be made in his last-pay certificate. Such allowances are not paid at the Home treasury.

Completion of Service

902. The date on which any officer will, during the currency of leave complete the term of service or attain the age after which by any rule he is required to retire from the service, should be shown.

Civil Fund Deductions

903. *Not Printed.*

904. *Cancelled.*

PART. X—PROCEDURE RELATING TO PENSIONS.

CHAPTER XLVII—APPLICATIONS FOR AND GRANT OF PENSIONS.

SECTION I—GENERAL.

905. The rules in this Chapter apply to all officers applying for pension under these Regulations except—

(*a*) **Members of the Indian Civil Service— (Chapter XLIX).**

(*b*) **Chaplains—(Chapter L).**

(*c*) **Judges of the High Courts for whom no special procedure is laid down.**

Government of India's orders. (1) Amendments to Chapter XLVII of the Civil Service Regulations were devised to speed up procedure relating to

applications for and the grant of pensions. It has come to notice that, despite the amendments of the rules, long delays still occur, and that these delays happen because Departments concerned do not, in most cases, give a sufficient degree of priority to pension cases. In order to prevent further cause for complaints on the part of pensioners, it is requested that Administrative Departments concerned should issue instructions to the effect that pension cases should alway be given as high a degree of priority as is possible in future.

[G. I. F. D. Memo No. F. 6(54)—R, II/44, dated 23-11 1944.]

(2) The relevant provisions of the Civil Service Regulations relating to matters of procedure in regard to payment of pension etc., shall continue to apply to Judges of High Court.

[G. I. F. D. No. F.27-IV-C.S.R./27, dated 15th June, 1927.]

(3) The question of timely relief that should be given to families of non-gazetted Government servants in permanent or temporary employ (excluding members of the workcharged establishment and daily rated staff) who had rendered not less than three years' continuous service and who died while in service (whether on duty or on leave with or without pay), in order to enable them (the families) to meet their immediate requirements has been under consideration of the Government. The necessity for such a humane measure has now been accepted and the President is accordingly pleased to authorise Heads of Departments/Heads of offices to sanction to the families of Government servants referred to above. an advance equal to two months, pay, subject to a maximum of Rs. 500 if in the opinion of the Head of Department/Office the family concerned has been left in indigent circumstances upon the death of the Government servant on whom it was dependent, and is in immediate need of financial assistance.

2. In the case of a Government servant who was eligible for the benefits of liberalised pension rules, payment should be made only to the person or persons nominated by him or otherwise eligible (*i. e* where there is no nomination) to receive the death-cum-retirement gratuity in the same proportion as they are entitled to. In the case of a Government servant who was not eligible for the benefits of the liberalised pension rules, but was eligible for the benefits of the contributory Provident Fund or the General Provident Fund, payment should be made to the person or persons, nominated by him in the same proportion as they are entitled to the Provident Fund amount as specified in the nomination. In cases where there are no nominations and there is a family, the amount of advance may be paid to the person or persons entitled to receive the amount under rule 25 (*i*) (*b*) of the Contributory Provident Fund Rules (India), or rule 31 (*i*) (*b*) of the General Provident Fund (C. S.) Rules, as the case may be, and in cases where there is no family, it may be paid to the person or persons entitled to the amount under the Provident Fund Act 1925.

3. In cases of temporary/*quasi*-permanent Government servants and permanent Government servants with less than 5 years qualifying service, the advance should be made to the person or persons eligible to receive death-gratuity under Government of India's decision No. (5) below para 4 of appendix 41 to the Chaudri's Compilation of C. S. R. Volume II as amended from time to time.

4. In ail cases an undertaking should be taken from the person or persons concerned, before the payment is made, that he/she or they agree to the amount being deducted from the death-cum-retirement gratuity, or the Contributory Provident Fund amount or the General Provident Fund amount or the death gratuity under decision No. (5) below para 4 referred to in para 3 above as amended as the case may be, ultimately payable to him/her or them.

5. Payments made under this order shall be debited to "T-Deposits and Advance—Part III Advances not bearing interest—Departmental Advances—Civil Advances (*e*) O. B. Advances (*i*)". The sanction order communicated by the Head of Department/Head of Office shall contain the following particulars :

1. Name of the official (Non gazetted).
2. Designation and office in which the person was last working.

3. Last pay drawn (permanent and officiating).
4. Length of qualifying service.
5. Amount of advance sanctioned.
6. Name of the payee.

Copies of the sanction shall be sent to the Audit Office. Heads of offices will draw the money required on establishment pay bill forms enclosing copy of the sanction and disburse them to the payee(s) specified in the sanction, order. The fact of payment of advance in this behalf should be noted in the L. P. C. sent to Audit Office with the papers relating to the death-cum-retirement gratuity and similar other payments. In cases where submission of L. P. C. has been dispensed with (*e. g.* under Article 913(*b*) C. S. Rs., or under the order contained in decision No. (2) below Article 913 of C. S. R. in the case of payments of anticipatory pension/gratuities etc.), the fact of the payment of the advance should be indicated in the no demand certificate or on page 3 of the pension application or in, the letter forwarding the pension papers to the Audit Officer.

6. Heads of Department/Offices shall see that the advance is adjusted as early as possible, and in any case, within a period of six months from the date of sanction. If the amount of death-cum-retirement gratuity or similar other payment is less than the advance initially sanctioned and if this balance is eventually treated as irrecoverable, the same shall be debited to "57-Miscellaneous (*c*) Irrecoverable temporary loans and and advances written off" under special orders of Government.

[G. I. M. F. Memo. No F. 10(18)-EV(A)/60, dated the 16th December 1960 as amended by G I. M F. Memo. No. F. 10(18)-EV(A)/60, dated the 9th February 1962.]

906. All authorities dealing with applications for pension under these Regulations should bear in mind that delay in the payment of pension involves peculiar hardship. It is essential to ensure therefore that an officer begins to receive his pension on the date on which it becomes due.

907. Every officer shall submit a formal application for pension, in Form 30. An officer should, in his own interest, submit his formal application for pension to the authority specified in Artical 911 or 914, as the case may be, one year in advance of the date of his actual or anticipted retirement :

Provided that : –

(*i*) **In cases in which the date of retirement cannot be foreseen one year in advance the application shall be submitted immediately after the date of retirement is settled; and**

(*ii*) **An officer proceeding on leave preparatory to retirement in excess of one year, shall submit the application at the time of proceeding on such leave.**

Note—This rule is intended to obviate delay in the settlement of claims for pension and to ensure that an officer may not retire under the misapprehension that he has earned a pension which is subsequently found to be inadmissible. There is indeed no limitation on the period after retirement within which an application for pension or gratuity must be submitted : but in the absence of special orders, a pension applied for after the officer has retired begins from the date of application. (See also Article 930.)

Government in India's orders (1) The revised procedure introduced in 1942, went a long way in ensuring quicker disposal of pension cases, but instances are not lacking where considerable delay still continues to occur in the finalisation of pension cases and in the grant of actual pension ; after an officer has retired from service. This question has, therefore, again been subjected to a detailed examination, in consultation, with the Comptroller and Auditor General, with a view to see that such delays are avoided and to ensure that an officer begins to receive his pension from the date on which it becomes due, which is always the objective. As a result of further consideration, the following instructions are issued in regard to some of the points which contribute to the delay in the finalisation of the pension cases :—

(*i*) As soon as a temporary post has become permanent, action should

be taken to determine the officer/officers who would count the temporary service rendered in that post for pension under article 370 C. S. R. Similarly in the case of a temporary service or service in an officiating capacity, it, should be verified, as soon as an officer has become permanent, what portion of his temporary/officiating service would count for pension under Article 370/371 C. S. R. In all such cases, a note should simultaneously be recorded in the Service Book or the History of Services of the officer concerned, over the signature of the Audit Officer, indicating the period or periods which would count for pension under Article 370/371 C. S. R. This fact should also be noted by the Head of office in the Annual Establishment Return on the next available occasion. The administrative authorities should initiate action in these matters and should finalise it in consultion with the Audit Officer.

As regards past cases, the administrative authorities should, as soon after the issue of this order as possible undertake a programme of examination of such cases in order to determine whether the temporary/officiating service rendered by an officer would count for pension under Article 370/371 C. S. R. priority being given in the descending order of age. The Heads of Offices/Departments should ensure that this programme is duly carried out.

(*ii*) Though there is no limitation on the period after retirement within which an application for pension or gratuity must be submitted, article 907 C. S. R. enjoins that an officer should, in his own interest, submit his formal application for pension six months in advance of the date of his actual or anticipated retirement. The preparation of the service statement and the verification of service begin immediately on receipt of the application. It has now been decided that this period should be extended and that an officer should in his own interest, submit his formal application for pension one year in advance of the date of actual or anticipated retirement. The preparation of service statement etc. should also commence immediately on receipt thereof.

Ths papers which should accompany a pension application are detailed in Form 26 of the Civil Service Regulations. On the back of Form 26 are give the detailed instructions as the manner in which pension papers are to be completed. The authorities entrusted with the task of preparing pension papers should note these instructions carefully and should prepare the pension papers in as complete a manner as possible. The Heads of offices/Departments should keep a watch on the progress of all pension cases by obtaining a report about them from their subordinates, month by month, and by insisting on any undue delay being satisfactorily explained. A copy of the report should also be sent to the Audit Officer to enable him to make arrangements for the expeditious disposal of any case pending in the audit office.

(*iii*) Instructions have, in the meantime, been issued by the Comptroller and Auditor General to all Audit Officers under him, to ensure regular verification of service and proper recording of that fact in the Service Book, as enjoined in Rule 81 of the General Financial Rules. The Comptroller and Auditor General has also impressed upon the Audit Officers the imperative need to deal with pension cases at all stages with all possible efficiency and promptitude. He has also issued suitable amendments to his Codes and Manuals enjoining specially that the fact of actual recovery of foreign service contributions should be recorded by the Audit Officer in the service records immediately after the return of a Government servant from foreign service. In view of this, the administrative authorities should also ensure that foreign service contributions are recovered and that the annual verification of service, as enjoined in Rule 81 of the General Financial Rules, is carried out regularly. The pension cases should also be dealt with by the administrative authorities concerned as expeditiously as possible so as to reduce delay to the minimum.

As regards past cases of deputation on foreign service, the administrative authorities should now verify with reference to the relevant records and in consultation with the Audit Officers, if necessary, whether foreign service contributions were recovered. If not, steps should be taken to recover the contribu-

tions now. The cases of persons who have already retired and whose pension has already been sanctioned need not. however, be reopened.

Note.—The procedure laid down in this decision is not intended to bring in operation any new type of check. The intention is to speed up pension cases and to complete what ever checks necessary immediately after confirmation instead of postponing these until after retirement of the person concerned. Thus even the cases pertaining to the period prior to the issue of the above decision have to be scrutinised and the necessary note recorded under para 1(*i*) of this decision to be recorded after the signatures of the Audit Officer

The expression programme of examination in sub-para 1 (*i*) of the decision is intended to imply that the past cases for facility of check are to be sent to the Audit Officer in batches according to the phased programme so that work may not get accumulated in the audit office.

As regards the old cases, it is clarified that the intention is that the Audit Officer is to exercise all the requisite checks at the earlier stage for recording the certificate which he would do in this respect at the time of pension papers are ultimately received after the retirement of the person concerned. This is only to avoid trouble and delay.

[Comptroller and Auditor General of India U. O. No. 2503-Admn. II/424 57, dated 23-11-1957].

(2) *Omitted.*

(3) In order No. (1), the adminittrative authorities were requested to do their utmost to minimise delay in the finalisation of pension cases, so that the pension might be sanctioned from the date it became due.

2. The instructions contained in order No : (1) and the provisions of article 906 of the Civil Service Regulations enjoin upon all the authorities dealing with applications for pension to ensure that an officer begins to receive his pension on the date on which it becomes due ; never the less cases have been occuring where sanction of pension has been unduly delayed, causing hardship to the individuals concerned.

3. Delay in sanctioning pension frequently occurs on account of the preparation of applications for pension not being taken in hand sufficiently in advance of the date of retirement of the officer concerned, and also on account of the preparation and check of such applications being entrusted to persons who do not have an adequate knowledge of the rules. regulations and procedural instructions on the subject. In several cases, a number of Departments/offices are concerned and the responsibility for finalisation of the cases gets consequently diffused and cases are allowed to drift.

4. As a further step to minimise delay in such cases, it has been decided that a particular Officer in each Ministry should be designated as the officer who will be charged with the responsibility of progressing all pension cases in the Ministry and to whom all cases of delay in the finalisation of pension cases should be reported. Such an officer should be furnished with periodical reports regarding all pension cases and the progress thereon from time to time. He would contact the Accounts Officers concerned, where necessary, with a view to ensuring expeditious disposal of pension cases at that end and would also bring any special cases of delay to the notice of the Secretary in the Ministry concerned with a view to the necessary remedial measures being adopted.

It is suggeted that what ever convenient, the officer who is in charge of the O & M work of the Ministry or the work concerned with welfare measures for the staff might be nominated to undertake this function.

5. Ministries are also requested to examine the question of similarly designating suitable officers for the purpose in such of the attached & subordinate offices under them which have large establishments under them and in which delay in the finalisation of pension cases is likely to take place.

[G. I. M. F. Memo : No : F. 7(76)-E. V/57, dated the 1st February, 1958].

(4) It is noted with concern that delays are still taking place in the finalization of pension cases. Detailed cases-studies made have revealed the need for additional measures as also the desirability of reiterating the existing instructions. The decisions reached are set out in the following paragraphs for the guidance of all concerned.

1. *Responsibility for initiating action*—In each Department and office

an officer of appropriate rank should be specifically charged with the resposibility for initiating action in due time regarding the completion of pension records and documents. As the first step in that direction he should have a list prepared every six months, *i. e.*, on the 1st January and 1st July of all officers, gazetted or non-gazetted, who will attain the age of superannuation tweleve to eighteen months hence. The attention of every such Government servant should be drawn to the provisions of Article 907 to 911, C. S. R. and he should be advised to make a formal application for pension at least one year in advance of the date of his anticipated retirement in order to avoid the possibility of any delay in the commencement of his pension. A copy of the list referred to in decision No. (4-A) below should also be sent to the Accountant General concerned.

3. *Form of application for pension*—There is at present no, form of application for pensions. A standard form called Form CSR-30 is accordingly being prescribed for the purpose. All applications for pension should in future be submitted in the prescribed form and should be accompanied by the information anddocuments mentioned therein.

4. *Check-list*—To ensure that all necessary steps involved in the finalisation of pensioncases are taken well in time and simultaneously, a *proforma* called "Check List" and a form of 'Progress Statement' are being introduced *(Annexures II and III). As soon as the list referred to in paragraph 2 has been prepared or an intimation is received about the death of a Government servant, a "Check List" should be started for each such case and the information and documents already available checked up with the *pro forma* item by item. A note of the items in respect of which complete information is not available should be made in column I of the 'Progress Statement' and necessary steps initiated simultaneously to collect the missing information or to complete the necessary formalities. A watch on their finalisation should be kept by noting the progress made in column 2 of the Progress Statement at weekly or other suitable intervals.

5. *Annual verification of service (Rule 81), GFR.* One of the commonest causes of delay is omission on the part of administrative authorities to verify the service regularly in terms of paragraph 81 of the GFR. This necessitates references being made to the authorities concerned at the time of the preparation of the pension papers years after the service to be verified was rendred and often leads to delays on account of difficulties in tracing old records etc. To ensure compliance with the instructions in future it has been decided that by the end of April every year, head of office should furnish to his next superior officer a certificate to the effect that services rendered by all members of non-gazetted staff of his office during the preceding financial year have been verified and certificates of verification recorded in the respective Service Books.

If, in any case, it is found necessary at the time of retirement to make references to more than one authority, a separate verification memorandum should, to save time, be sent out to each authority concerned simultaneously instead of sending the service book itself to them one after the other. On return the verification memoranda can be pasted in the service book against the relevant entries.

6. *Verification of service by audit.* Article 916, CSR. lays down that the preparation of the service statement and its verification by the Accountant General concerned shall be taken up six months before an officer is due to retire. It has been decided to raise the period to one year. All administrative authorities are requested to ensure that these steps are actually taken one year in advance of the date of superannuation and are not postponed till the officer has actually submitted his formal application for pension.

7. *Special pays.*—It has been found that the reasons for the grant of

*See pages 510 to 513 of this Volume.

special pay are generally not indicated and the question whether the special pay would count for pension or not is decided simultaneously or soon after the issue of the sanction as required in Finance Ministry's Memorandum No. F. 11(10)-E-III/53, dated the 5th March, 1953. The importance of scrupulous observance of these instructions is emphasised once again.

8. *Emoluments for the period of leave taken during officiating service.*—If a Government servant, who is officiating in a higher post or is holding a higher temporary post and would continue to do so for more than two years up to the date of his retirement, takes any leave during the last three years of his service, the question whether he would have continued to hold the higher post if he had not proceeded on leave should be examined and necessary certificate should be recoded by the sanctioning authority at the time of the grant of leave. Such certificates should always accompany the pension papers.

9. *Service Books*—(*i*) The Service Books of permanent non-gazetted Government servants who are officiating as gazetted officers are often found incomplete at the time of their retirement. Under the rules the service book of such a Government servant should remain in the custody of the head of office in which he holds a permanent and substantive non-gazetted post and entries should continue to be made by that office regularly about any changes in pay, etc. which would have accrued to him had he continued to hold his permanent post. An entry about the date of transfer to the gazetted post will also be made in red ink at an appropriate place across the page and another similar entry about his reversion from gazetted post when it takes place. A full record of the service in the gazetted-post itself will be kept and its verification done by the Accountant General concerned. When such a Government servant is confirmed in a gazetted post, his service book should be transferred for custody to the Accountant General concerned, after making an entry about such confirmation.

(*ii*) The form of Service Book provides separate column for "Substantive pay" and officiating pay." The split-up of the pay into the two elements should always be shown whenever a permanent Government servant is officiating in a higher post.

10. *Recovery of Government dues*—Sanctions to pension are frequently delayed pending recovery of any outstanding Government dues *e.g.* over issues of pay, allowance or leave salary, outstanding recoveries on account of house rent, advances for conveyance, house building or other purposes, and any other dues the precise amount of which is yet to be assessed. It is imperative that every effort should be made to settle and recover such dues from the Government servant concerned by the date of his retirement.

However, if any dues remain unassessed and unrealised for any reasons any of the following courses may be adopted :—

(*i*) The retiring Government servant may be asked to furnish a surety of a suitable permanent Government servant. If the surety furnished by him is found acceptable the payment of his pension or gratuity or his last claim for pay etc., and the issue of last pay certificate should not be withheld.

A form of the bond to be signed by the surety is enclosed (Annexure IV.) [*See page 513*].

(*ii*) If the retiring Government servant is unable or unwilling to furnish a surety, a suitable cash deposit may be taken from him or only such portion of the gratuity as may be considered sufficient may be held over till the outstanding dues are assessed and adjusted.

In all such cases effort should be made to settle the outstanding dues within a period of three months so that the release of the surety or the final payment of the Government Servant's dues is not unduly delayed.

11. * * * * *

12. * * * * *

13. The Ministry of Home Affairs, etc. are requested to circularise these instructions as widely as possible among officers under their administrative control and also to ensure that they are scrupulously observed by all concerned. Superior officers, when inspecting offices under their control. should also make it a point to satisfy themselves that these instructions are being complied with in practice.

[G.I.M.F. Memo : No. 7 (6)-EV/58, dated the 9th March 1959 as amended *vide* Memo : of even number date the 4th March 1960, 24th June 1960 and No. F. 38(5)-EV/60, dated 1-9-60].

PART II.

Death-cum-retirement Gratuity/Family Pension

To be used where death takes place while in service)

Section-A

1. Name of the Government servant.
2. Date of birth.
3. Date of first appointment to Government service.
4. Date of death.
5. Is proof of death in the form of a death certificate issued by municipal authorities etc. available ? (Proof of death to be insisted upon in case of doubt only).

Section-B D.C.R. Gratuity.

6. Is it clearly established that the officer had completed 5 year's qualifying service or more at the time of his death ?
7. Does a valid nomination in respect of the death-cum-retirement gratuity exist (vide para 4 (2) of the Ministry of Finance O. M. No. F. 3 (1)-Est. (Spl)/47, dated 17-4-50) ?
8. If so, the name of the nominee/nominees and his/her/their relationships to the deceased Government servant.
9. If no valid nomination exists, names of the members of the family to whom the gratuity will be payable in equal shares and their respective relationships to the deceased Government servant (vide the Ministry of Finance O. M. No. 20 EV/57, dated 19-2-57.
10. Has intimation in the form prescribed been sent calling for a formal claim for the death-cum-retirement gratuity ?
11. If so, has an application in Form 'H' been received ?
12. Emoluments of the officer on the date of death.
13. Amount of death-cum-retirement gratuity admissible.

Section C—FAMILY PENSION

14. Had the officer completed :
    (*a*) not less than 20 year's qualifying service on the date of his death, or
    (*b*) less than 20 year's qualifying service but not less than 10 year's qualifying service on the date of his death ?
15. If the case falls under item 14 (*b*), has the special sanction of Government been secured to the grant of family pension to the family (vide para 7 of the Ministry of Finance O. M. No. 20 (2)-EV/56, dated 22-5-57) ?
16. Does a valid nomination in respect of the family pension exist (vide para 5 (6) of the Ministry of Finance O.M. No.

3 (1)-Est. (Spl)/47, dated 17-4-50) ?

17. If so, the name of the nominee and his/her relationship to the deceased Government servant ?
18. Has intimation regarding the admissibility of family pension been sent to the person entitled to it ?
19. If no valid nomination exists, the persons to whome iamily pension is payable and his/her relationship to the deceased Government servant (vide para 5 (5) of the Ministry of Finance O. M. No. 3 (1)-Est. (Spl)/57, dated 17-4-50).
20. Has the application in 'Form F' been received ?
21. Date from which family pension is to take effect and period for which and the date upto which it will be tenable (vide para 5 (1) (*a*) of the Ministry of Finance O. M. No F 3 (1) Est (Spl)/47, dated 17-4-50, as substituted by para 5 of the O.M. No. F. 20 (2)-EV/56, dated 22-5-57),
22. Amount of family pension admissible (*vide* para 5 (2) of the Ministry of Finance O.M. No. F. 3 (1) Fst (Spl)/47, dated 17-4-50, as substituted by para 5 of the O.M. No. F. 20 (2)-EV/56, dated 22-5-57),

PART III

Death-cum-Retirement Gratuity/Family Pension.

(To be used where death takes place after retirement)

Section-A

1. Name of the Government servant.
2. Date of retirement,
3. Date of death : Is proof of death in the form of a death certificate issued by municipal authorities etc. available ?
4. Date from which pension took effect.
5. Amount of pension/gratuity sanctioned on retirement.
6. Amount of death-cum retirement gratuity sanctioned on retirement.
7. Total amount drawn/admissible by way of pension and gratuity till the date of death,
8. whether any portion of the pension had been commuted ?

Section-B Residuary Gratuity

9. Is the family of the deceased pensioner eligible for the payment of difference between 12 times the emoluments of the deceased pensioner and the amount shown against item No, 7 (vide para 3(4) of the Ministry of Finance O.M. No. F. 3(1)-Est (Spl)/47,dated 17-4-50
10. If so, does a valid nomination in respect of death-cum-retirement gratuity exist (vide para 4(2) of the Ministry of Finance O M. No. F, 3 (1)-Est (Spl)/47, dated 17-4-50) ?
11. Name of the nominee/nominees and his/her/their relationships to the deceased Government servant.
12. If no valid nomination exists names of the members of the family to whom the residuary gratuity will be payable (in equal shares) and their respective relationships to the deceased pensioner (vide Minisrty of Finance O.M, No. F. 20 (5)-EV/57, dated 19-2-57,
13. Had intimation in the prescribed form been sent calling for a formal claim for the residuary gratuity ?
14. If so, has an application in 'Form H' been received ?

Section-C Family Pension

15. Is the family of the deceased pensioner eligible for

family pension in terms of para 5 (1) (*b*) of the Ministry of Finance O.M. No. F. 3(1)-Est (Spl)/47, dated 17-4 50. as substituted by para 5 of the O.M, N. 20 (2)-E/V56, dated 22-5-57 ?

16. If so, does a valid nomination in respect of family pension exist (vide para 5(6) of the Ministry of Finance O.M. No. F. 3(1)-Est (Spl)/47, dated 17-4-50 ?
17. If so, name of the nominee and his/her relationship to the deceased Government servant.
18. If no valid nomination exists, the person to whome family pension is payable and his/her relationship to the deceased pensioner (*vide* para 5(5) of the Ministry of Finance O. M. No. F. 3(1)-Est (Spl)/47, dated 17-4-50)
19. Has intimation regarding the admissibility of family pension been sent to the person/persons entitled to receive it ?
20. If so, has an application in Form F' been obtained ?
21. Date from which family pension is to take effect and period for which and the date upto which it will be tenable (vide para 5 (1) (*b*) of the Ministry of Finance O.M. No F. 3 (1)-Est (Spl)/47. dated 17-4-50, as substituted by para 5 (2) of the O.M. No. 20 (2)-EV/56, dated 22-5-57).
22. Amount of family pension admissible (*vide* para 5 (2) of the Ministry of Finance O.M. No. F. 3 (1)-Est (Spl)/47. dated 17-4-50, as substituted by para 5(2) of the O.M. No. 20 (2)-EV/56, dated 22-5-57).

ANNEXURE II

*CHECK LIST

PART I GENERAL

1. Name of the officer.
2. Date of birth.
3. Date of first appointment to Government service.
4. If service under Government is not continuous, date from which continuous service commenced.
5. Date of first confirmation under the Government.
6. Date of retirement/death.
7. In case of death, is any proof in the form of death certificate issued by municipal authorities etc., available ? (Proof of death to be insisted upon in the case of doubt only).
8. Total qualifying service.
9. (*a*) Verification of service.
   (*i*) Does the service book contain the annual certificates of verification of service for all periods ?
   (*ii*) If, not the periods for which the certificates have not been recorded.
   (*b*) Steps taken to verify the "unverified" portions of service.
   (*i*) Whether the local acquittance rolls, pay bills etc. for the unverified portion of service, have been looked into.
   (*ii*) If the period of service in question has been rendered by the officer in other office (*a*)/ department(s) has (have) the head(s) of the office(s)/Department(s) been contacted in the matter ?
   (*iii*) If it be found impossible to verify the same otherwise, has the affidavit of the applicant and the evidence been obtained and accepted by the competent authority (Article 915 CSR ?
10. (*a*) Pension rules by which governed.
    (*b*) Does a valid option for the above rules exist ?
11. Foreign Service :
    Have the pensionary contributions in respect of periods of foreign service, if any, been recovered ? If not, specify the periods.

*As substituted by G. I. M. F. Memo - No: F. 18 (9)-EV/(C)/63, dated the 24th July 1963.

12. Military/War Service :
Details of any periods of military/war service which qualify for civil pension (*vide* article 356, 357C, 357D CSR).

13. Suspension :
Was the officer ever under suspension ? If so, do orders exist regarding counting of such period(s) for purposes of pension ?

14. Anticipatory Payments ;
If the pension sanctioning authority sees reason to believe that the pension/gratuity cannot possibly be sanctioned by the due date, has he furnished to the Audit Officer the full information to enable him to authorise anticipatory payments ?

PART II

PENSION/GRATUITY AND DEATH-CUM-RETIREMENT GRATUITY.

1. (*a*) Has the application for pension in Form 30 CSR been received, if not has the officer been asked to apply ?
   (*b*) Type of pension applied for (*e g*. superannuation, retiring, invalid or compensation pension).
2. If the officer has applied for superannuation pension, has he completed the prescribed age ?
3. Formalities to be observed for the grant of pension /gratuity other than superannuation pension/ gratuity :—
   (*a*) Compensation pension/gratuity.
      (*i*) Was the permanent post held by the officer abolished ?
      (*ii*) Was any equivalent post not offered ?
   (*b*) Invalid pension/gratuity :
      (*i*) Has the officer applied for invalid pension /gratuity as prescribed in Article 442 CSRs.
      (*ii*) Has the certificate in the prescribed form under Article 445/447 CSRs been obtained ?
   c) Retiring pension/gratuity :
      (*i*) If the officer has applied for retiring pension, has he completed the prescribed length of qualifying service ?
      (*ii*) If the officer is governed by Article 465/ 465A CSR have the orders of retirement been passed by the appropriate authority after following the prescribed procedure (has the resignation of the officer been accepted by the competent authority ?)
      (*iii*) If the officer is governed by the Liberalised Pension Rules, was the requisite notice of 3 months given to him by the appropriate authority/ did the officer give the requisite notice of 3 months (vide para 2(2) of the Finance Ministry O.M. No. 3(1)-Est (Spl)/47 dated 17-4-50) ?
4. (*a*) Is the officer entitled to the benefit of counting full officiating emoluments for pension under Article 486-B CSR ?
   (*b*) If so, have the neceseary certificates been obtained from the competent authority in respect of any periods of leave, foreign service, deputation etc., that but for going on leave etc , the officer would have officiated in the post in question ?
5. (*i*) Are any Government dues of the categories (*a*) to (*d*) below recoverable from the officer ? If so, steps taken to recover them.
      (*a*) over-drawn pay and allowances,
      (*b*) any advances (*e.g*. motor car advance etc.)
      (*c*) arrears of house rent,
      (*d*) miscellaneous.

(*ii*) Have steps been taken to recover from the officer (*a*) any liveries issued to him (*b*) C.H.S. Card (*c*) identity card (*d*) Secret Box Keys or (*e*) Library books.

6. Documents to be forwarded :
Is the List of enclosures referred to in Form 26 CSR complete ?

PART III

Death-cum-Retirement Gratuity/Family Pension

(To be used where death takes place while in service

SECTION A

(*D.C.R. Gratuity*)

1. Is it clearly established that officer had completed 5 year's qualifying service or more at the time of his death ?
2. If there is a valid nomination for d.c.r. gratuity -the name(s) of the nominee/s) and his/her/their relationship(s) to the deceased officer.
3. If no nomination exists ths names of the members of the family to whom the gratuity will be payable in equal shares and their respective relationships to the deceased officer (vide Finance Ministry O M. No. 10(1)-EV(A)/ 60 dated 22-6-60 read with O.M. No. 10(1)-EV(A)/60 dated 14-2-61)
4. (*a*) Has the intimation in the prescribed form been sent calling for a formal claim for the death-cum-retirement gratuity ?
   (*b*) If so, has an application in 'Form H' been received ?

SECTION B

(*Family Pension*)

5. Had the officer completed :
   (*a*) not less than 20 years' qualifying service on the date of his death, or
   (*b*) less than 20 year's qualifying service but not less than 10 year's qualifying service on the date of his death ?
6. If the case falls under item 5 (*b*) is the pension sanctioning authority satisfied that the criterion prescribed in O. M. No. F. 23(27)-EV/59 dated 9-12-60 are fiulfilled ?
7. If there is a valid nomination for family pension-the name of the nominee and his/her relationship to the deceased officer.
8. (*a*) Has intimation regarding the admissibility of family pension been sent to the person entitled to it ?
   (*b*) Has the applIcation in 'Form F' been received ?
9. If no valid nomination exists the person to whom family penson is payable and his/her relationship to the deceased officer (vide para 5 (5) of the Ministry of Finance O. M. No. 3 (1)-Est (Spl)/47 dated 17-4-50) ?

PART IV

Death-cum-Retirement Gratuity/Family Pension

(To be used where death takes place after retirement)

SECTION A.

1. Date from which pension took effect.
2. Amount of pension/gratuity sanctioned on retirement.
3. Amount of death-cum-retirement gratuity sanctioned on retirement.
4. Arrears of pension/gratuity/d.c.r. gratuity due.
5. Whether any portion of the pension had been commuted.

SECTION B

(*Residuary Gratuity*)

6. Is the family of the deceased pensioner eligible for the payment of difference between 12 times the emoluments of the deceased pensioner and the amount shown against item No. 4 (vide page 3 (4)

of the Ministry of Finance O. M. No. F. 3 (1)-Est (Spl)/47 dated 17-4-50 ?

7. If there is a valid nomination for the d. c. r. gratuity-the name(s) of the nominee(s) and his/her/their relationship(s) to the deceased officer.
8. If no valid nomination exists-the name of the family to whom the residuary gratuity will be payable (in equal shares) and their respective relationships to the deceased pensioner (vide Ministry of Finance O. M. No. 10 (1) EVA/60 dated 22-6-60 read with O. M. No. 10 (1) EVA/60 dated 14-2-61).
9. (*a*) Has intimation in the prescribed form been sent calling for a formal claim for the residuary gratuity ?
   (*b*) If so, has an application in 'Form H' been received ?

SECTION C.

(*Family Pension*)

10. Is the family of the deceased pensioner eligible for family pension in terms of para 5 (1) (b) of the Ministry of Finance O. M. No. F. 3 (1)-Est (Spl)/47 dated 17-4-50, as substituted by para 5 of the O. M. No. F(2)-EV/56 dated 22-5-57 ?
11. If there is a valid nomination for family pension the name of the nominee and his/her relationship to the deceased officer.
12. If no valid nomination exists-the person to whom family pension is payable and his/her relationship to the deceased pensioner (vide para 5 (5) of the Ministry of Finance O. M. No. F. 3 (1)-Est (Spl)/47 dated 17-4-50)
13. (*a*) Has the intimation regarding the admissibility of family pension been sent to the person entitled to receive it ?
   (*b*) If so, has an application in 'Form F' been obtained ?

[G.I.M.F. Memo. No. F-18 (9)-E.V (C)/63, dated the 24th July 1963.]

ANNEXURE III

Progress Statement

Item No.————— of the Check List :

Action taken :
Position as on————
Position as on————

Item No.————— of the Check List :

Action taken :
Position as on————
Position as on————

ANNEXURE IV

Form of

†SURETY BOND

In consideration of the President of India (hereafter called the "Government" which expression shall include his successors and assigns) having agreed to settle the final accounts of Shri/Shrimati ..... without production of a 'No Demand Certificate' from the Director of Estates and the New Delhi Municipal Committee/ Delhi Municipal Corporation. I ..... hereby stand surety (which expression shall include my heirs, executors, Administrators, legal representatives and assigns) for payment by the said..... .....of rent and other dues in respect of the residence now allotted to him/her by Government and also for any residence that may be allotted or that was allotcd to the said .....from time to time by Government.' I, the surety, further agree and undertake to indemnify the Government against all loss and damage until delivery of vacant possession of the above-said residence is made over to the Government.

I hereby also stand surety for any amounts that may be due by the said..... ..... to Government by way of overpayment of pay, allowances, leave salary, advances for conveyances, house-building or other purposes, for any amouuts which may be paid or payable by Government under or in respect of any guarantees given by Government on behalf of the said..... ....., or any other dues whatsoever of the Government.

†[As substituted by G. I. M. F. Memo. No F. 7(6)EV/58, dated the 18th September 1961 as amended by Memo. of even number dated the 3rd November 1961.]

The obligation undertaken by me shall not be discharged or in any way affected by any extension of time or any other indulgence granted by the Government to the said.....and the Government shall have the fullest liberty without affecting the guarantee to postpone for any time and from time to time any of the powers exercisable by it against the said.....and either to enforce or forbear any of its rights against the said.....and I will not be released from the liability under this guarantee by any exercise of the Government of the liberty with reference to the matters aforesaid or by reason of any other forbearance act or omission on the part of the Government or any indulgence by the Government to the said .....or by any other matter or things whatsoever which under the law relating to sureties shall, but for this provision, have the effect of so releasing me from my such liability.

This guarantee shall remain in force till

(*i*) the 'No Demand Certificate' is issued by the Director of Estates in favour of the said.....

(*ii*) the Head of office in which the said.....was last employed and in case he/she was drawiug pay and allowances on Gazetted Government servants bill forms, the concerned audit officer has certified that nothing is now due to the Government from the said.....and

(*iii*) the 'No Demand Certificate' is issued by the Delhi Municipal Corporation/ New Delhi Municipal Committee in favour of the said.....in respect of water and electricity dues in case Government had given a guarantee for these dues, on behalf of the said.....

The stamp duty on this instrument shall be borne by the Government.

Signature of the Surety.

Signed and delivered by the
said surety at .....this
....day of .....
in the presence of :

I. Signature.
Address and occupation of witness.

2. Signature.
Addsess and occupation of witness.

Certified that Shri/Shrimati..... ..... is a permanent Government servant.

Signature of the Head of (he Department or the Office in which the Surety is employed.

*The above bond is accepted.

(Signature and designation) for and on behalf of the President of India.

(4-A) According to para 2 of decision No. (4) above which every office/ Department has to prepare a list every six months on the 1st January and 1st July in respect of all officers, gazetted and non-gazetted, who will attain the age of superannuation twelve to eighteen months hence with a view to initiating action in due time regarding the completion of pension records and documents. A proforma in which the said list should be prepared and sent to the concerned Audit authorities is enclosed for the guidance of all concerned

Copies of the above mentioned lists prepared as on the 1st January and 1st July of every year should be sent to the concerned Audit Authorities not later than the 31st January and the 31st July respectively of the same year.

[G. I. M. F. Memo No. F. 7(6)-EV/58, dated the 4th May 1960 as amended by Memo. No. F. 7(6)EV/58 (Part II), dated the 27th September 1963]

LIST OF OFFICERS EMPLOYED IN THE OFFICE/DEPARTMENT _____ AS ON 1ST JANUARY 19 /1ST JULY 19 , WHO ARE DUE FOR SUPERANNUATION BETWEEN 1ST JANUARY TO 30TH JUNE/1ST JULY TO 31ST DECEMBER OF THE NEXT OFFICIAL YEAR.

(To be sent to the concerned Audit authorities by the 31st January/31st July at

*The Surety bonds already executed in the form hithertofore in use need not, however, be revised.

The alternatives occuring in the form of the surety bond should be clearly scored out and the inapplicable words deleted before the bond is accepted, for and on behalf of the President of India, by the pension sanctioning authorities.

the latest.)

Serial No.	Name of officer.	Date of birth.	Appointment held in officiating capacity, scale of pay etc.	Appointment held in officiating capacity, scale of pay, etc.	Date of superannuation.	If on extension of service, the date of expiry of the present extension.	The No. and date of communication with which attention of the officer has been invited to Arts 907 to 911, CSRs.	Whether the officer has made a formal application for pension, if so, the date of receipt of such application.	Provident Fund Account Number.
1	2	3	4	5	6	7	8	9	10

(4-B) It has been noticed that there is a tendency to postpone submission of formal applications for pension till a late date. This is probably due to the belief that applications made earlier may prejudice chances of extension of service This belief is wholly unfounded, because decisions as to extension of service rest entirely on the exigencies of public interest and have no connection at all with applications for pension.

All officers should, therefore, be reminded that subject to provisos (*i*) and (*ii*) to Article 907, it is in their own interest to submit formal applications for pension as soon as they complete 54 (**now 57*) years of age, regardless of the possibility of an extension of their service being taken up for consideration at that time or later. Ministries of the Home Affairs etc. are requested to impress the importance of this on all officer working under them.

Their attention should also be drawn to Article 930 of the Civil Service Regulations which lays down that apart from special orders, a pension, other than a Wound or Extraordinary pension, is payable from the date on which the pensioner ceases to be borne on the establishment, *or* from the *date of his application*, whichever is *later*.

[G. I. M F. Memo. No F-17(4)EV(C)/61, dated the 29th June 1961.]

(5) It has been decided to do away with the distinction made in para 10 of order No. (4) above between pre-1938 entrants who elected the option at para 2 (*c*) of Governmet of India's decision No. (2) below para 9 in appendix 41 and others. Accordingly in the case of the former class of Government servants also a portion of the gratuity as may be considered sufficient may be held over till the outstanding dues are assessed and adjusted, in case a surety as provided in sub para (*i*) or a suitable cash deposited under sub-para (*ii*) as the case may be, is not forthcoming.

[G. I. M. F. Memo : No 7(6)-EV/58, dated the 24th June, 1959.]

(6) Paragraph 10 of decision No. (4) regarding expedititious disposal of pension cases which provides that in a case where any Government dues remain unassessed and unrealised on the date of retirement of a Government servant, any of the following courses may be adopted :—

(*i*) The retiring Government servant may be asked to furnish a surety of a suitable permanent Government servant. If the surety furnished by him is found acceptable the payment of his pension or gratuity or his last claim for pay etc., and the issue

*See Government of India's decision No. 3 below Article 913 on page 525.

of last pay certificate should not be withheld.

(*ii*) If the retiring Government servant is unable or unwilling to furnish a surety, a suitable cash deposit may be taken from him or only such portion of the gratuity as may be considered sufficient may be held over till the outstanding dues are assessed and adjusted.

In this connection it is considered desirable that the amount which the retiring Government servants are asked to deposit or those which are withheld from the gratuity payable to them are not disproportionately large and that such amounts are not withheld or the sureties furnished are not bound over for unduly-long periods. To that end it has now been decided that the following principles should be observed by all the concerned authorities :—

(*a*) The cash deposit to be taken or the amount of gratuity to be withheld should not exceed the estimated amount of the outstanding dues plus 25% thereof. In cases where it is not possible to estimate the approximate amount recoverable from the retired Government servant, the deposit to be taken or the portion of gratuity to be withheld should be limited to 10% of the amount of death-cum-retirement gratuity or Rs. 1,000, which ever is less.

(*b*) Efforts should be made to assess and adjust the recoverable dues within a period of 3 months from the date of retirement of the Government servant concerned. In any case the cash deposit taken or the amount withheld from gratuity should not be held back or the surety bound over beyond a period of two years after retirement of the Government servant. After lapse of the period of two years, the dues assessed upto that time should be adjusted against the cash deposit taken or the amount withheld from gratuity, if any, and the balance released to the pensioner. Similarly in cases where the pensioner had furnished a surety, the surety should be released after lapse of a period of two years from the date of retirement of the Government servant concerned, after recovering the dues upto that time.

(*c*) If some dues recoverable from a retired Government servant come to light more than two years after his retirement, by which time normally the surety would have been released, or the cash deposit or the amount withheld from gratuity would have been refunded, the question whether recovery of the irrecoverable amount should be waived or the recovery made from the Government servant resposible for not assessing and effecting the recovery in time should be considered on merits.

[G. I. M. F. Memo No.F. 7 (6)-EV/58, dated the 24th February 1960.]

Note. A question has been raised about the head of acccount to which the cash deposits obtained from retiring Government servants to cover the outstanding dues should be credited.

The matter has been considered in consultation with the Budget Division of Finance Ministry and it has been decided that the said cash deposits should be classified under a new minor head "Cash Deposits by retiring Government servants" opened for the purpose under "T.Deposits and Advances Part II-Deposit not bearing Interest-Departmental and Judicial Deposits-Civil Deposits." The accounting procedure indicated above has been laid down by the Comptroller and Auditor General under Article 150 of the Constitution with the approval of the President.

[G.I.M.F. Memo No. 7 (6)-BV/58, dated the 13th December 1962.]

(7) As a further step to cut down delays in the finalisation of pension cases and to simplify the pension procedure, it has been decided that the practice of issuing formal letters of sanctions to pensions should be discontinued. Under the revised procedure the pension sanctioning authority will record his orders in the Third Page of the Application for Pension (Form C. S, R. 25,) before forwarding it to the Audit Officer. After due verification, the Audit Officer will issue the necessary Pension Peyment Order on the authority of the orders recorded by the pension sanctioning authority in the pension application.

Normally applications for pension in Form C. S. R. 25 will be forwarded by the administrative authorities to the Audit Officers some time before date of retirement of the officers concerned. In such cases a portion of qualifying service at the end will remain unverified at the time of issue of the Pension

Payment Order by the Audit Officer, and as such pension will be authorised by the Audit Officer only provisionally. In these cases the pension sanctioning authorities will be responsible for sending to the Audit Officer a further report as to the satisfactory service rendered by the officer for the remaining period as also for reporting to him the occurrence of any event which has a bearing on the amount or payment of pension within a week of the date on which the officer retires. In this connection attention is invited to the provisions of Article 920(2) (Revised) of the Civil Service Regulations.

The new procedure outlined above, will come into force with immediate effect. However, cases in which applications in Form C. S. R. 25 have been forwarded to the Audit Officers before the 1st Aprit. 1960, should be finalised in accordance with the procedure hithertofor in force. * * *

Para 10 of decision No. (4) above. lays down the procedure to be followed in cases where some Government dues are out-standing against a pensioner. In this connection attention is invited to the instructions contained in decision No. (6) above.

[G. I. M. F. Memo : No. F. 38 (5)-EV/60, dated the 25th March 1960.]

(8) It has been decided that the practice of issuing formal letters of sanction for the grant to the family of a deceased officer of death-cum-retirement gratuity/residuary gratuity and family pension (in cases other than those falling under paras 6 and 7 of Government of India's decision No. 1-A below para 5 in appendix 41, where the Government sanction is necessary) should be discontinued. Henceforth, instead of issuing a formal letter of sanction to gratuity/family pension after receipt of audit report, the pension sanctioning authority will record its final orders on the application for gratuity/family pension before forwarding it to the Audit Officer for verification. As a result of the above decision, the procedure for the sanction and payment of death-cum-retirement gratuity/residuary gratuity and family pension (in cases other than those falling under paras 6 and 7 referred to above will now be as follows :—

On receipt of an application (Form 'H') for death-cum-retirement gratuity /residuary gratutity-appended as Annexure V to decision No. (9) below para 5 in appendix 41 and Form 'F' for family pension-in appendix 41 the Head of the Office/Department will draw up a statement of services of the deceased officer in the Second Page of Form 25. The statement of services along with the orders of the pension sanctioning authority (in forms given as Annexure I and II) on the application together with other relevant documents will be forwarded to the Audit Officer. * * * * After due verification, the Audit Officer will authorise the pay ment of the amount of death-cum-retirement gratuity/residuary gratuity and/or issue the family pension payment order on the authority of the orders recorded by the pension sanctioning authority.

2. The new procedure outlined above, will come into force with immediate effect. However, cases which have been forwarded to the Audit Officers before the date of issue of this decision should be finalised in accordance with the procedure hithertofore in force.

3. In view of the revised procedure the standard forms for issue of sanctions to death-cum-retirement gratuity/residuary gratuity and family pension introduced *vide* Annexures VI and VII decision No. (2) below Article 907 will stand cancelled.

[G. I. M. F, Memo : No, F. 38(5)-EV/60, dated the 1st September 1960 as amended by Memo : of even numbers dated the 7th April 1961, 30th March 1962 and 31st December 1962].

ANNEXURE 1.

(A) *Remarks by the Receiving Authority,*

1. As to character and past couduct of the deceased officer
2. Explanation of any suspension or degradation.
3. Regarding any gratuity already received by deceased officer (See Chapter (XXI).

4. Any othe remarks.
5. Specific opinion of the receiving Authority whether the service claimed is established and should be admitted or not.
(See Articles 912 (*ii*) & 917 (*a*) (*ii*).

(B) *Order of the sanctioming Authority.*

(*a*) The undersigned having satisfied himself that the service of late Shri/Shrimati/Kumari ..... has been thoroughly satisfactory, hereby orders the grant of death-cum-retirement gratuity/residuary gratuity, which may be accepted by the Accountant General as admissible under the rules, to the person mentioned in clause (*c*) below.

or

(*a*) The undersigned having satisfied himself that the service of late Shri/Shrimati/Kumari.....has not been thoroughly satisfactory hereby order that the Death-cum-retirement gratuity/residuary gratuity which may be accepted by the Accountant General admissible under the Rule to the persons mentioned in clause (*c*) below, shall be reduced by the specified amount or percentage indicated below :—

Amount or percentage of reduction in gratuity. .....

(*b*) A sum of Rs..... .....on account of..... ..... . is to be held over from the death-cum-retirement gratuity/residuary gratuity till the outstanding dues are assessed and adjusted.

(*c*)

Name of the person	*Address*	*Relationship with the deceased officer.*	*Amount of share of death-cum-retirement gratuity.*
1.			
2.			

This order is subject to the condition that should the amount of gratuity as authorised by the Accountant General be afterwards found to be in excess of the amount to which the person concerned is entitled under the rules, he/she will be called upon to refund such excess.

(*d*) The death-cum-retirement gratuity/residuary gratuity payable at..... ..... Treasury/Post Office and is chargeable to..... ... ...

Date.....

Signature and designation of the Sanctioning Authority

Note :—In the case of residuary gratuity, the service of the deceased officer would have already been verified and the expression "having satisfied..... ..... thoroughly satisfactory in clause (*a*) above, would not be used.

(C) *Audit enfacement.*

(1) Total period of qualifying service which has been accepted for the grant of death-cum-retirement gratuity/residuary gratuity with reasons for disallowances if any, other than disallowances if any of service the reasons for which are recorded by the Audit officer in the Second Page

Note :—Service for the period commencing from and upto the date of retirement has not yet been verified, this should be done before the Pension Payment Order is issued.

2. Amonnt of death-cum-retirement gratuity/residuary gratuity that has been admitted.
3. Amount of death-cum-retirement gratuity/residuary gratuity admissible after taking into account the reduction in gratuity made by the authority sanctioning such gratuity.
4. The amount of death-cum retirement gratuity is payable to the nominee..... ...../the following members of the family of the deceased in equal shares/proportionately as show below.—

(*i*)
(*ii*)
(*iii*)
(*iv*)

5. Head of account to which the death-cum-retirement gratuity/residuary gratuity is chargeable

Acccountant General.

ANNEXURE II.

(A) *Remarks by the Receiving Authority.*

1. As to character and past conduct of the deceased officer.



2. Explanation of any suspension or degradation.
3. Regarding any pension already received by deceased officer (See Chapter XXI].
4. Any other remarks.
5. Specific opinion of the Receiving Authority whether the service claimed is established and should be admitted or not.

(See Articles 912 (*ii*) and 917 (*a*) (*ii*) of Civil Service Regulations.)

(B) *Order of the Sanctioning Authority.*

The undersigned having satisfied himself that the service of late Shri/Shrimati/Kumari.....has been thoroughly satisfactory hereby orders the grant of a family pension of Rs.....per mensem for the period from..... to.....to Shri/Shrimati/Kumari..... (here state relationship) of the said late Shri/Shrimati/Kumari.....which may be accepted by the Accountant General as admissible under the rules.

or

The undersigned having satisfied himself that the service of late Shri/Shrimati/Kumari.....has not been thoroughly satisfactory, here by orders that the family pension of Es..... per mensem for the period from.....to..... which may be accepted by the Accountant General as admissible under the rules to Shri/Shrimati/Kumari..... (here state relationship) of the said late shri/Shrimati/Kumari ..... shall be reduced by the specified amount or precentage indicated below :—

Amount or percentage of reduction in family pension .....This order is subject to the condition that should the amount of family pension as authorised by the Accountant General be afterwards found to be in excess of the amount to which the person concerned is entitled under the rules, he/she will be called upon to refund such excess.

The family pension is payable at..... Treasury/Post office and is chargeable to.....

Signature and Designation of the Sanctioning Authority

Note : In cases where death takes place after retirement, the service of the decesaed officer would have already been verified and the expression "having satisfied... .....thoroughly satisfactory "above, would not be used.

(C) *Audit enfacement.*

1. Total period of qualifying service which has been accepted for the grant of family pension with reasons for disallowances if any other than disallowances if any of service the reasons for which are recorded by the Audit Officer in the Second Page.

Note :—Service for the period commencing from and upto the date of retirement has not yet been verified ; this should be done before the Pension Payment Order is issued

2. Amount of family pension that has been admitted.
3. Amount of family pension admissible after taking into account the reduction in pension made by the authority sanctioning pension.
4. The family pension is payable to Shri/Shrimati/Kumari..... son/widow/ daughther of the deceased and is tenable for the period from ....to .....or upto the date of death/marriage or re-marriage (in the case of a female member), which ever event occurs earlier
5. Head of account to which the family pension is chargeable.

Accountant General.

(9) In future, a displaced Government servant who is eligible for pension under the Pension Payment Scheme, may be asked to execute an agreement in the form appended as Annexure I to G. I. decision No. 1 below Article 921. Similarly. a member or members of the family or a deceased displaced Government servant may be asked to execute an agreement in the form appended as Annexure II to decision No. (1) *ibid.*

2. It has also been decided that stamp duty payable on the agreement bonds will be borne by the Government. The agreement bond should, therefore be executed on a plain paper.

3. The agreement bond duly executed should be forwarded along with Form CSR 25 to the Audit Officer and this fact should be mentioned in the third page of the aforesaid form.

4. Displaced Government servants or the members of their families who

have not so far executed the agreement bonds on stamped paper, may be asked to execute the agreement bond on plain paper in the appropriate Annexure to Government of India's decision No. (1) below Article 921.

5. These orders will also apply to displaced Government servants of the former Bahawalpur and Khairpur States who are eligible for grant of pension under the Pension Payment Scheme.

[G. I. M F. Memo No. F- 16(12) E.V. (C)/63, dated the 4th October 1963.]

(10) According to Government of India's decision No. (7) above the pension sanctioning authority records his order in the Third Page of the Application for Pension before forwarding it to the Audit Officer and the latter, after due verification, issues the necessary Pension Payment Order. A doubt has arisen as to the basis on which the Pension Payment Order should be issued in cases where the pension found admissible by audit is less than the pension found admissible by the competent authority *vice versa*. It is accordingly clarified that since the pension sanctioning authority merely conveys its orders for the grant of full pension and/or gratuity as admissible under the rules, or indicates the amount of percentage by which the full pension or gratuity should be reduced, the Pension Payment Order should be issued on the basis of the amount calculated and accepted by the Audit Officer.

[G. I. M. F. Memo No. F 24(66)-EV/60, dated the 28th April 1961.]

(11) Under the provisions of clause 1 of Article 918 and clause 2 of Article 920 of the Civil Service Regulations, Audit Officers may issue authority for the payment of pension and gratuity provisionally, not more than a fortnight in advance of the date on which an officer is due to retire.

A question has been raised as to how in such cases any overpayments detected at the time of scrutiny of the Last Pay Certificate, which will be received after the retirement of the officer, are to be recovered if death-cum-retirement gratuity has been paid by them.

It has been decided that to cover such contingencies, the Audit Officer will withhold from the gratuity, 10 percent of the amount of gratuity or Rs. 1000, whichever is less. Officers not entitled to gratuity will be required by the pension sanctioning authority to make a suitable cash deposit, not exceeding Rs. 1000 (Rupees one thousand), in any case, before the provisional Pension Payment Order is issued to them.

But in cases in which, under the provisions of paragraph 10 of Government of India's decision No. (4) below Article 907, as amplified by decision No. (6), the officer concerned has furnished a suitable surety or an amount has been ordered to ae withheld from the gratuity or the officer has made a suitable cash deposit, no further amount may be withheld from the gratuity by the Audit Officer and the officer will not be required to make an additional cash deposit.

It follows that the fact of a surety furnished in terms of decision No. (4) above should be mentioned in communications forwarding pension applications to the Audit Officer.

[G. I. M. F. Memo No. F. 17(9) E.V.(C)/61, dated the 30th September 1961]

(12) Instances have come to the Government's notice, in which the amount of pension/gratuity etc. required revision *after* the orders of pension sanctioning authority were recorded on page 3 of the Application for Pension, consequent on refixation of pay on an option exercised by the officers concerned, in favour of the revised scales of pay under the Central Service (Revised Pay) Rules, 1960.

In this connection, attention is invited to decision No. (10) above. According to this the pension sanctioning authority conveys only its orders for the grant of *full* pension and/or gratuity as admissible under the rules, or indicates the amount of percentage by which the full pension or gratuity should be *reduced*. But the Pension Payment Order is issued on the basis of the amount calculated and accepted by the Audit Officer. The question is whether it is necessary to obtain fresh orders of the pension sanctioning authority in cases of the type referred to in para 1.

It is accordingly clarified that since the subsequent charges in average emoluments and retirement benefits do not affect the earlier orders of pension sanctioning authority, it is not necessary to obtain its orders again. It will be enough if audit is informed about the changes in average emoluments and their effects on retirement benefits, by means of a letter, with which should accompany a copy of the orders of revision of pay.

[G.I.M.F. Memo No. F. 17 (10)-EV (C)/61, dated the 15th December 1961.]

(13) In accordance with the provisions of part (B) of Annexure II appended to decision No : (3) above the sanctioning authority while conveying sanction for family pension has to indicate the exact amount of family pension and the period of currency of the same. A doubt has arisen as to the basis on which Family Pension Payment Order should be issued in cases where the family pension found admissible by the audit is less than the pension found admissib'e by the competent authority or *vice-versa*. It has accordingly been decided that Family Pension Payment Order should be issued on the basis of the amount/period of currency calculated and accepted by the Audit Officer.

[G.I.M.F. Memo No. F 38 (5)-EV/60, dated the 30th June 1962.]

(14) Para 9 of decision No. (3) below Article 907 clearly lays down the manner in which the Service Books of non-gazetted officers who are officiating as gazetted officers are to be maintained. It also provides that when such an officer is confirmed in a gazetted post his service book should be transferred for custody to the Accountant General concerned after making an entry about such confirmation.

It has, however, been brought to notice that the administrative authorities have been sending the Service Books to the concerned audit officers without completing them in all respects. This results in protracted correspondence and delay in finalising pension cases. It is, therefore, emphasized that the administrative authorities should ensure that all the entries *i. e.*, entries of verification of service, changes in pay etc., are made upto date before the Service Books are transferred to the audit officers concerned. The audit officer should also ensure that the Service Books are complete in all respects before they are restored to the proper places. If he finds certain deficiencies in a particular Service Book he shall promptly send it back to the administrative authority concerned for getting the defects rectified.

These orders issue after consultation with the Comptroller and Auditor General.

[G.I.M.F. Memo. No. F. 18(6) EV(C)/63, dated the 23rd April 1963].

(15) The question of issue of 'No Demand' certificate by the Delhi Municipal Corporation and/or the New Delhi Municipal Committee has again been examined in consultation with these two local bodies. It has been decided that full particulars of the Government accommodation occupied by the Government servant during the last four years of his service prior to the date of his retirement/death shall be furnished by the head of office where the Government servant served last before retirement/death :—

(*i*) In the case of the Delhi Municipal Corporation, in duplicate one copy being sent to the Assessor & Collector, Delhi Municipal Corporation, Delhi and the other copy to the General Manager, Delhi Electric Supply Undertaking, Delhi Municipal Corporation, Delhi, and

(*ii*) In the case of the New Delhi Municipal Committee, to the Secretary, New Delhi Municipal Committee.

3. The said head of office should, where necessary, refer to the other heads of offices where the Government servant served during the last four years of his service. This item of work should be taken up along with other action for the preparation of pension papers one years before the Government servant is due to retire.

4. On receipt of this communication the concerned authorities of the Delhi Municipal Corporation/New Delhi Municipal Committee will examine if any dues are pending in respect of water and electricity charges against the Government servant concerned and thereafter shall furnish to the said head of office the necessary 'No Demand' certificate if no dues are recoverable from the Government servant in respect of water and electricity charges for this period or shall intimate to that head of office the actual amount of dues in respect of these charges payable by the Government servant concerned and the period to which it relates. The head of the office concerned shall there after make necessary arrangement for the payment of these dues. On receipt of such payment the necessary 'No Demand' certificate will be issued by the concerned local body.

[G.I.M.F. Memo. No. F 17(8)—EV (C)/62, dated the 17th January 1964].

908. The Audit Officer shall send to every Gazetted Officer a copy of Articles 907 to 911 one year in advance of the date on which the officer attains his age of superannuation, or as soon as possible before the date from which he has formally sought permission to retire, if earlier, with the remarks that there is likely to be delay in the commencement of his pension if he does not submit formal application as soon as the rules permit.

Comptroller and Auditor General's Orders. Article 908 C.S.R. was specially introduced along with the general revision of Chapter XLVII of the C.S.R. in 1942 with the specific object of ensuring that pensions are sanctioned in time to enable retiring officers to begin to draw their pension as soon as it falls due and preventing hardship to the pensioners concerned consequent on delays in finalization. On late, there has been an increasing number of complaints regarding delays in finalization of pension cases and some questions have also been asked in Parliament in this connection. The retirements of this Article have therefore, assumed a special significance. The provisions of the Article should be strictly complied with so long as it is in force, even though it may be considered as imposing on the Audit Officer a basically executive responsibility.

Apart from asking for a strict compliance with Article 908 C. S. R. the Comptroller and Auditor General would like to take this opportunity to impress once again on the heads of Accounts Offices and their Officials the imperative need to deal with pension cases at all stages with all possible efficiency and promptitude. This need is all the greater in the case of claim of non-gazetted and other subordinate officials who may have no easy access to the higher officials.

[Comptroller and Auditor General's Memo. No 262-Admn. II/I-Admn. 1/51, dated the 2nd March, 1953.]

909. Questions affecting the pension or pensionable service of an officer which for their decision depends on circumstances known at the time shall be considered as soon as they arise

Any question which for their decision depends on possible circumstances that may arise in future or on hypothetical conditions may be raised or discussed as soon as the permissible period for submission of formal application for pension under Article 907 begins.

910. Except in cases covered by the first sentence of the preceding Article or in individual cases under specific orders of the Government of India or the Local Government, an Audit Officer may not give advice upon any questions connected with the claim of an officer to pension until the permissible period prescribed in Article 907 for the submission of formal application for pension begins.

Auditor General's decision. The advice given by an Audit Officer under the provisions of Article 910, Civil Service Regulations to a Government servant who proposes to proceed on leave preparatory to retirement and who desires information regarding his claim to pension should be as authoritative as it

would be if it were given in a pension report on the application of a Government servant who has actually retired from service. It is therefore essential that the material necessary for a report on pension should in these cases be prepared and on the basis of that material a formal and binding report made.

[Auditor General's No, 516-Admn. 177-35, dated 11th December, 1935,]

SECTION II.—APPLICATIONS.

A—Gazetted Officers.

911. A Gazetted officer shall submit a formal application for pension to the Head of the Department. If the officer is himself the Head of the Department, he shall submit the application in Form 25 direct to the Local Government, no formal application being necessary.

Auditor General's decision. (1) In accordance with the procedure laid down in Article 911 C.S.R- an officer of the Indian Audit and Accounts Service will submit his formal application to the office of the Comptroller and Auditor General in the first instance. That office after filling in 3rd page of the Pension Application (C. S. R. Form 25) will forward it to the office of the Accountant General, Central Revenue. for certificate and report as to the amount of pension admissible. The application will then be resubmitted to the office of the Comptroller and Aduitor General for his sanction.

[Auditor General's U. O. No. 2769-E/892-23, dated 10th June, 1924.]

(2) It has been decided by the Comptroller and Auditor General of India that since the date from which the grant of family pension is to take effect is invariably specified in the sanction by the sanctioning authorsty, the production of the Last Pay Certificate is not necessary in the case of family pension under Extra-ordinary Pension Rules. The provisions of rules 1 below para 155 of the Audit Manual would, not, therefore. be applicable in such cases. This decision will also apply in the case of family pensions granted under the Liberalised Pension Rules.

[Comptroller and Auditor General of India's letter No. 867-admn. II/49-Admn, 1/54 dated 10th July, 1954].

912. (*i*) The authority receiving the formal application in Form 30 shall immediately draw up the application in Form 25 in accordance with the instructions embodied in Form 26, Even where the formal application has not been received the Head of the Department shall draw up the applicatian in Form 25 as soon as it becomes known that an officer is due to retire within one year or has proceeded on leave preparatory to retirement and shall not delay it till the officer has actually submitted the formal application for pension. In the later case entries against items 14, 16, 17 and 18 on the First Page of Form 25 shall not be filled up at the initial stage. The relevant entries shall be made soon after the formal application is received. However, if by the time the formal application is received, the application in Form 25 has already been sent to the Audit Officer, the formal application shall immediately be forwarded to the Audit Officer who will complete the necessary entries.

(*ii*) He shall certify on page three of the Form whether the character, conduct and past services of the applicant are such as to entitle him to the favourable consideration of Government. He shall also record there his own opinion whether the service claimed has been established and should be admitted or not.

(*iii*) All periods of leave suspension, etc, which are not reckoned as service should be carefully recorded on the form.

(*iv*) If the application is for an invalid pension, requisite medical certificate shall be attached to the application.

Note. If the medical examination of the applicant was not conducted on the date on which he ceased to perform duty the authority competent to sanction the pension may accept a medical certificate bearing a later date.

Government of India's decisions. (1) See Government of India's decision Nos. (23) and (24) below Article 459.

913. (*a*) **After completing the application in the manner prescribed in the preceding Article it should be forwarded along with the necessary documents to the Audit Officer with a forwarding letter in Form 26 through the authority empowered to sanction the pension.**

(*b*) **If the applicant for pension (not gratuity) is no longer in active service, a last pay certificate shall be attached to the application except when he retires from service while on leave out of India and draws his leave salary at or through the Home treasury and also desires to draw his pension from the same source.**

(*c*) **The Local Government, the Heads of Department or any other authority competent to fill the post vacated by the retiring officers shall be competent to sanction pension. Such authority shall, after due consideration of the facts of the case and having due regard to the provisions of Article 470, record on the application his orders as to whether the service has been satisfactory and is approved for grant of the full pension admissible under the rules or whether the service has not been thoroughly satisfactory and what reduction should for that reason be made from the full pension or/and gratuity admissible under the rules. The pension sanctioning authority shall keep a copy of the application before forwarding the same to the Audit Officer.**

Note.—Notwithstanding anything in this clause, the Comproller and Auditor General shall be the authority competent to sanction pension of officers of the Indian Audit and Accounts Service.

(*d*) ***In the case of an officer part of whose service has been rendered in non-gazetted posts the service book and the statement of non-gazetted service in the second page of Form 25, shall also accompany the pension papers sent to the Audit Officer.**

(*e*) **The pension sanctioning authority has the special responsibility of ensuring that the application in Form 25 with his orders is sent to the Audit Officer in time enough to enable him to issue the pension payment order not later than the date on which the officer is due to retire.**

Auditor General's Orders. (1) The production of Last pay Certificate is not necessary in the case of family pension payable under the Liberalised Pension Rules, 1950 *vide* Comptroller and Auditor General's of India's letter No. 167-Admn. II/46-Admn, 1/54 dated 10-7-1954.

Government of India's decisions. (1) *Omitted.*

(2) There is a good deal of difference between payment of gratuity to a retiring officer and payment to a deceased officer's family. It has, therefore, been decided in consultation with the Government of India, that the production of Last Pay Certificate should be insisted upon before authorising payment of gratuity to a retiring Government servant.

[Comptroller and Auditor General's letter No 318 Adm. II/56-57, dated the 12th February 1958 to the address of all the Accountants General copy received with Auditor General's Memo. No. 962-NGE/117-58, dated the 30th Appril 1959].

(2) When a pension application in Form No. 25 C.S.R. is forwarded to the Audit officer, it is to be accompanied by a Last Pay Certificate if the applicant for pension is no longer in active service (*vide* Article 913 (*b*) of the CSR. and item 5 of the List of Enclosures in Form No. 26 C. S. R.). In other cases the Last Pay Certificate is furnished to the Audit Officer later seperately, to enable him to authorise the payment or release of pensions. In practice the Audit Officers insist on the production of the Last Pay Certificate not only before payment of final pension, but also before payment of anticipatory pension, anticipatory gratuity and commuted value based on anticipatory pension. Insistence on the production of Last Pay Certificates before anticipatory

*As amended by G. I. M. F. Notification No. F-18(4)-EV(C)/63, dated 30th December 1963.

payments, more often than not results in delays in making these payments, thereby defeating the very purpose which such anticipatory payments are intended to serve, namely, to provide immediate interim relief to the pensioner as soon as he retires and before his pension is finally sanctioned. To obviate hardship resulting from such delays, it has been decided by the Government, in consultation with the Comptroller and Auditor General, that from now on, the Audit Officers will not ask for the Last Pay Certificates before making or authorising payment of anticipatory pension, anticipatory gratuity (including death-cum-retirement gratuity) and commuted value based on anticipatory pension.

2. In order to ensure that where anticipatory payments are made or authorised without production of the Last Pay Certificate the payments commence from the correct date ; it has been decided that after a Government servant actually retires from service, a Gazette notification (if he was a Gazetted Officer) or a formal order (if he was a non-gazetted officer) notifying/intimating the fact of his retirement from the specified date should be issued within a week from the date of retirement. A copy of every such order should be forwarded to the Audit Officer concerned immediately after issue. Necessary provision in the Civil Service Regulations is being made separately.

3. If at the time of sanction of anticipatory pension, anticipatory gratuity or commutation of a portion of anticipatory pension, any Government dues recoverable from a pensioner remain unassessed or unrealised, the instructions contained in paragraph 10 of decision No. (4) below Article 907 will *mutatis mutandis* apply.

4. The revised procedure outlined in paragraph 2 and 3 above will come into force with immediate effect. This procedure will apply also to pending cases, where payments of anticipatory pension, anticipatory death-cum-retirement gratuity or commuted value based on anticipatory pension are proposed to be made after the issue of this decision.

[G I. M. F. Memo. No F. 25(22)EV/60, dated the 29th June 1960].

(3) Article 912 and 916 of the Civil Service Regulations require the Head of the Department/Office to initiate action in the pension case of an officer one year before the date on which he is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement which ever is earlier.

The age of compulsory retirement of General Government servants has been raised from 55 to 58 years, subject to certain exceptions. *vide* decision No. (IAA) below Article 459 C. S. R The retirement of an officer is, however, possible, on three months' notice, either of his own accord or at the discretion of the appointing authority, at any time after the officer attains the age of 55 years as provided for in para 6 of the decision under reference. A doubt has been raised as to whether action to prepare and process the pension case of an officer should be initiated after his attaining the age of 54 years or 57 years.

The existing rules do not provide that the processing of pension cases should be taken up as soon as an officer completes a particulars age, but they simply require that the action should be started one years in advance of the actual or anticipated date of his retirement. Accordingly it is clarified that in the case of an officer whose normal age of compulsory retirement is 58 years, there is no need for initiating action in his pension case as soon as he attains the age of 54 years but, in the changed circumstances, it should be done on completion of the age of 57 years or as soon as he proceeds on leave preparatory to retirement or it becomes known that he would retire, as required by the rules. So far as the officer is concerned, he will be required to submit formal application for pension as required under Articles 907, 911 and 914 of the Civil Service Regulations.

This issues with the concurrence of the Comptroller and Auditor Ceneral of India.

[G. I. M. F. Memo. No. F. 18(3)-EV(C)/63, dated the 9th May 1963].

B – Non-Gazetted Officer.

Verification of Service,

914. A Non-Gazetted officer shall submit a formal application for pension to the Head of the Office.

Auditor General's decision. It has been decided that in cases where the pension already sanctioned has to be enhanced as the result of fresh fact coming to notice at a later date, neither a fresh application as prescribed in Article 914, Civil Service Regulations is necessary, nor a fresh application in Form 25, C. S. Rs., with all its elaborate entries should be called for. It would suffice, for purposes of audit if only an attested copy of the fresh and third pages of the original application in Form No. 25 C. S. Rs. is submitted to the Audit Officer with revised figures filled in against entries Nos. 10, 11 and 12 only (average emoluments, proposed pension and proposed gratuity) so as to enable him to record the revised report at the proper place on the third page of the application.

[Comptroller and Auditor General of India, letter No. 357-A/54-52, dated the 22nd April 1952.]

***915. Except as provided in Article 916, on receipt of the formal application in Form 30, the Head of the Office shall immediately prepare a statement of the applicant's service in the second page of Form 25 in accordance with the instructions embodied in Form 26 and there after proceed as follows :—**

(*a*) **He shall go through the service book and the service roll, if any, and satisfy himself whether the annual certificates of verification for the entire service are recorded therein. In respect of the unverified portion or portions of service, he shall arrange to verify it or them, as the case may be, with reference to pay bills, acquittance rolls or other relevant records and record the necessary certificates in the service book or service roll, as the case may be.**

(*b*) **If the service for any period is not capable of being verified in the manner specified in clause (*a*), that period of service having been rendered by the officer or department, a reference shall be made to the head of that office or, as the case may be, of the department in which the officer is shown to have served during the period for the purposes of verification.**

(*c*) **If any portion of service rendered by an officer is not capable of being verified in the manner specified in clause (*a*) and (*b*), the officer shall file an affidavit in plain paper stating that he had in fact rendered that period of service and shall also furnish all relevant details and evidence in support of that. The authority competent to sanction pension of that officer shall admit that portion of service after taking into consideration the statements in the affidavit and evidence produced by that officer in support of the same, if that authority is satisfied that the officer had really rendered that portion of service.**

Government of India's decisions.† *Omitted.*

916. The preparation of the service statement and the verification of service in the manner set out in the preceding Article shall be undertaken by the Head of the office one year before the date on which an officer is due to retire on superannuation or on the date on which

*Substituted by G. I. M. F. Notification No. F. 18(4)-EV (C)/63, dated the 30th December 1963.

†Omitted in view of the revised Article 915.

he proceeds on leave preparatory to retirement, whichever is earlier and shall not be delayed till the officer has actually submitted the formal application for pension.

Government of India's decisions. *Omitted.

917. (*a*)(*i*) **After completing the verification in the manner indicated in Article 915, the Head of the Office shall draw up the application in Form 25. This should be done irrespective of the fact whether a formal application for pension has been received from the officer or not. If at the time the application in Form 25 is drawn up, a formal application from the officer has not yet been received, entries against itemes 14, 16, 17 and 18 on the First Page of Form 25 shall not be filled up at that stage. The relevant entries shall be made soon after the formal application is received. However, if by the time the formal application is received the application in Form 25 has already been sent to the Audit Officer, the formal application shall Immediately be forwarded to the Audit Officer who will complete the necessary entries.**

(*ii*) **The Head of the Office shall also follow directions contained in clause** (*ii*) **to** (*iv*) **of Article 912.**

(*iii*) **In any case in which it becomes necessary to resort to the procedure prescribed in clause** (*c*) **of Article 915 he shall record on the application the exact nature of the investigation made and the conclusions arrived at.**

(*b*) **He shall then arrange, with the application, all the documents relied upon for the verification of the service claimed in such manner that they can be conveniently consulted, and forward them with a covering letter in Form 26 together with the officer's service book, and service roll, if any and the statement in the second page of Form 25 duly completed up to date [and the last pay certificate if necessary—***See* **Article 913** (*b*)] **through the authority empowered to sanction the pension to the Audit Officer.**

(*c*) **The authority competent to sanction the pension shall follow procedure in clause** (*c*) **of Article 913.**

SECTION III.—SANCTION.

918 (1) **On receipt of the pension papers passed on to him under the provisions of Article 913 or 917, the Audit Officer shall apply the requisite checks and record his audit enfacement on the third page of the application in Form 25, showing the total period of qualifying service which has been verified and accepted for the grant of pension or/and gratuity, the amount and the date from which it/they is/are admissible, etc. If the pension is payable in his circle of audit, he shall thereafter prepare the pension payment order on the basis of the orders of the pension sanctioning authority and the audit enfacement, but shall not issue it more than a fortnight in advance of the date on which the officer is due to retire The fact of issue of the pension payment order shall be promptly reported to the pension sanctining authority, and the pension papers which are no longer required returned to him. The application in Form 25 shall be retained for record in the Audit Office**

(2) **If the pension is to be paid in another circle of audit, the Audit, Officer shall send a copy of the pension application with the orders of the sanctioning authority and his audit enfacement, along with the last pay certificate, if received, to the audit officer of that circle who shall prepare the necessary pension payment order and take further action as indicated in clause** (1).

Note—If the pension papers are plainly incorrect or incomplete, the Audit Officer shall return them promptly for correction or explanation.

*Omitted in view of revision of Article 915 of the Civil Service Regulations.

(3) The Audit Officer shall record briefly in the second page of Form 25 his reasons for disallowing any service claimed. Any other disallowances should be recorded in the audit enfacement on the third page with reasons therefor.

Government of India's decisions – (1), to (4), *Omitted.*

(5) The report on the title to pension in respect of officers of the Pool Cadre will be made by the Accountant General, Central, Revenues.

[G.I M.F. Note dated the 7th August 1947 in the case of Mr. R. S. Symons and No. 332-S. EV/51, dated the 11th October 1951].

(6) It has been decided by the Comptroller and Auditor General of India that so long as a sanction purports to issue from the officer, who is competent to accord it, and the endorsement to Audit is made under the signatures of a Gazetted Officer authorised to sign such letters in terms of Rule 28 of the General Financial Rules, 1963, Audit is not concerned whether the sanction in question was or was not seen by the competent authority personally. In fact in all such cases, it is always assumed that the authority competent to accord sanctions accepts full responsibility for all the sanctions issued in its name.

[Comptroller and Auditor General's U. O. No. 997-Admn. II/286-A/54 dated 2nd August 1954.]

Auditor General's decisions (1) Intimation of the issue of a Pension Payment Order, whether in respect of pensions authorised within the same audit circle or issued on the authority of another Accounts Officer, should in all cases be sent to the pensioner direct. Intimations are to be sent by the Accounts Officer in the case of Gratuity Orders also both to the sanctioning authority and to the Gratuitant. For this purpose it should be seen that in respect of cases reported by the Audit Office the address is given in the application for pension or gratuity and in respect of cases transferred to one audit office for payment by other Offices, the address is given in the authorities for payment.

(2) and (3). *Omitted.*

(4) *Not printed.*

(5) *Omitted.*

(6) Under Article 918 (1), Civil Service Regulations read with Article 15 *ibid*, the Audit Officer in whose circle of Audit a Government Servant holds his non-tenure permanent posts substantively at the time of retirement is responsible for reporting on the title to pension of the Government servant concerned. As it can not be stated with any certainty as to against which particular permanent post a Class I Officer of the Income Tax or Indian Customs and Central Excise Department was confirmed, it has been decided by the Comptroller and Auditor General that the title to his pension should be reported by the Audit Officer in whose Circle of audit he was serving at the time of retirement. The previous Audit Officer may, if necessary, be consulted in respect of the emoluments for the last 3 years of the officer's service.

It has also been decided by the Comptroller and Auditor General that the publication of the History of Services of all the officers of Class I Income Tax, Indian Customs and Central Excise Departments should be entrusted to the Accountant General, Central Revenues, New Delhi.

[Comptroller and Auditor General's Circular letter No. 1784-85-Admn/445/50, dated the 11th July 1951].

(7) It has been decided in consultation with the Government of India that the procedure indicated below should be followed in regard to the various points raised in the letter appearing as annexure to this decision.

2. As the payment of pension to former employees of Sind and North West Frontier Province under the pension payment scheme is being segregated in the accounts under a distinct minor head "Pensions to former employees of Sind and North West Frontier Province" subordinate to the major head "65-Pensions and other Retirement Benefits'' it will be necessary to keep the accounts of death-cum retirement gratuity and family pension paid under the scheme also segregated. This may be done by opening three separate

detailed heads under that minor head for the purpose *viz.* (*i*) Pension ; (*ii*) Gratuity ; and (*iii*) Family Pension.

3. Payment of commuted value of pensions under the scheme should be exhibited under a distinct minor head "Payment of commuted value of pensions to former employees of Sind and North West Frontier Province" under the major head "120 Payments of Commuted Value of Pensions". The total equated payments in respect of each year's commutation should be debited to a separate detailed head "Equated payments of commuted value of pensions transferred from Capital etc." to be opened under the minor head "Pensions to former employees of Sind and North West Frontier Province" subordinate to the major head "65 Pensions and Other Retirement Benefits" by credit to (*i*) a distinct deduct minor head "*Deduct*—Capital portion of equated payments out of revenue on account of commuted value of pensions of former employees of Sind and North West Frontier Province" under the major head "120" for the capital portion of the payment ; and (*ii*) "16 Interest on Debt and other obligations-*Deduct*-Interest portion of equated Payments on account of commuted value of pensions" for the interest portion of the payments.

4. In respect of former employees of Sind and North West Frontier Province who have retired or will retire from the Posts and Telegraphs Department, debit for the entire amount of pensions drawn by such pensioners from the Posts and Telegraphs Department, may be passed on by the Posts and Telegraphs Accounts officers concerned to the Accountant General, Central Revenues for debit to the minor head "Pensions to former employees of Sind and North West Frontier Province" in the Civil books ; and at the same time an adjustment may be made between Posts and Telegraphs and Civil Departments in respect of the capitalised value of the shares of pensions debitable to the Indian Posts and Telegraphs Department. The adoption of this procedure will involve a slight departure from the method of adjustment indicated in rule 30 of the Incidence of Pension Rules in Section B (IV) of Appendix 3 to the Account Code, Volume I. Similarly in cases where pensioners who are former employees of Sind and North West Frontier Province draw their pensions from the Civil Departments but a share of their pension is debitable to the Indian Posts and Telegraphs Department the capitalised value of such shares of pensions should be adjusted between the Civil and the Posts and Telegraphs Departments.

[Comptroller and Auditor General's letter No. 371-Part/27-57, dated the 14th October 1958].

ANNEXURE

Copy of letter No. PNIII-1-1-7-58/Vol. II/4192, dated 17-3-1958 from the Accountant General, Cental Revenues, New Delhi, to the Comptroller and Auditor General of India, Mathura Road, New Delhi.

"With the issue of the Govt. of India Ministry of Finance Memo No. 47(3)/EV/57 dated the 23rd August, 1957 (*Incorporated as decision No 1 below Article 921* permanent displaced Government servants from Sind and North West Frontier Province who retire on or after 23-8-57 are entitled to death cum retirement gratuity under Liberalised Pension Rules. The head of account to which such gratuites are to be debited has not however, been indicated and may please be intimated.

Further, permanent displaced Government servants are eligible to commute pension as permissible under the rules *vide* para 3 (*xi*) of the Govt. of India, Ministry of Finance Memo quoted above. The head of account to which the commuted value of pension in the case of displaced persons is to be debited may also please be intimated.

The Deputy Accountant General, Posts and Telegraphs has intimated in his letter No. G. (659)/NE-III Pen, dated 5th February 1958 that no separate head of account for debiting the provisional pension to the former employees of Sind and N. W. F. P. who have retired or will retire from Posts and Telegraphs Department, has been prescribed. It is therefore, presumed that all such payments under the Provisional Pension Scheme as well as under the Government of India, Ministry of Finance Memo referred to above will continue to be debited against the "Central Civil Estimates". This may please be confirmed."

919. *Cancelled.*

920*. (1) Should the amount of pension granted to an officer be

*As amended by G.I.M.F. Notification No. 24 (33)-EV/60, dated the 8th August 1960.

afterwards found to be in excess of that to which he is entitled under the Regulations, he shall be called upon to refund such excess. For this purpose the officer concerned shall be served with a notice by the pension sanctioning authority, requiring him to refund the excess payments within a period of two months from the date of receipt by him of the notice. On his failure to comply with the notice the pension sanctioning authority shall order that such excess payment shall be adjusted by short payments of pension in future, in one or more instalments, as the authority may order.

(2) (*a*) **In cases where a portion of qualifying service at the end has remained unverified at the time of issue of the pension payment order by the Audit Officer due to the fact that the pension application was sent to the Audit Officer before his date of retirement, the Audit Officer will authorise the pension provisionally in the first instance.**

(*b*) **If after the pension application in Form 25 has been forwarded to the Audit Officer any event occurs-which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Audit Officer by the pension sanctioning authority. If no such event has occured, a report to that effect together with a certificate as to the satisfactory nature of the service rendered by the officer after the pension application was originally forwarded, shall be sent to the Audit Officer within a week from the date on which the officer retires. At the same time details of any Government dues outstanding against the officer, and the steps taken to safeguard the interest of the Government in this behalf shall also be intimated to the Audit Officer.**

(3) **When a Government servant has retired from service, if he was a Gazetted Officer a notification in the Gazette or if he was a non-Gazetted Officer an order, shall be issued specifying the actual date of retirement within a week of such date, and a copy of every such order shall be forwarded to the Audit Officers immediately.**

Provided that in cases where a notification in the Gazette regarding grant of leave preparatory to retirement to a gazetted officer has been issued a further notification that the officer actually retired on the expiry of such leave shall not be necessary unless the leave is curtailed and the retirement is for any reason antedated or postponed.

Government of India's orders. (1) *Omitted.*

(2) Note (*since deleted*) below clause (1) of Article 920 of the Civil Service Regulations required that a declaration in the form appended as Annexure 'B' to it shall be obtained from the legal heir(s) or member(s) of the family of the deceased Government servant or pensioner, as the case may be before sanctioning family pension service gratuity, death-cum-retirement gratuity, arrears of pension or gratuity.

It has now been decided to dispense with the requirement of such a declaration henceforth. It is, however, brought to the notice of all concerned that the family pension is subject to revision on the same being found in excess of what the recipient is entitled under the rules. Accordingly in case it is found that the amount of family pension sanctioned to a person is in excess of what he/she is actually entitled to under rules, the following procedure shall be followed.

The person concerned shall be served with a notice by the pension sanctioning authority requiring him/her to refund the payments within a period of 2 months from the date of receipt by him/her of the said notice. On his/her failure to comply with the notice the pension sanctioning authority shall order that such excess payments shall be adjusted by short payments of family pension in future in one or more instalments as that authority may

order.

[G.I.M.F. Memo No. 24 (66) EV/60, dated the 12th April 1962].

921. (*a*) If any interpretation of the rules is involved, or if any indulgence not provided for by the rules is proposed, the Local Government shall, unless they are competent to dispose of the matter, submit the case with their opinion and recommendation to the Government of India in the Administrative Department concerned

Note. In respect of such recommendations *see* orders printed as Appendix 9.

(*b*) Until the orders of the Government of India are received a recommendation for any special indulgence shall never be communicated, directly or indirectly, to the officer concerned.

(*c*) An application in Form 25, together with the statement of service in the second page of that Form or in Form 22, as the case may be, shall accompany every special recommendation made under this Article.

Government of India's decisions. (1) 1. * * * *

2. There have been persistent demands of late from associations of displaced Government servants for the grant of full pension under the Liberalised Pension Rules instead of a pension restricted to 90 percent of the full pension under the Civil Service Regulations. The position has accordingly been reviewed and the President has been pleased to sanction the following revised pensionary arrangement for displaced Government servants.

3. (*i*) Full pension, calculated on the basis of qualifying service rendered in Pakistan, combined with service rendered under the Government of India, whether in a temporary or a permanent capacity, shall be granted to displaced Government servants who—

(*a*) Were in pensionable service under the Government of Sind or the N. W. F. P.

(*b*) migrated permanently to India owing to the peculiar circumstances prevailing after the 15th August 1947 in Sind, and after the 1st March 1947 in the N. W. F. P.

(*c*) were appointed under the Government of India before attaining the age of 55 years, and

(*d*) retire or are retrenched or are invalided from service under the Government of India or retire on a retiring pension under article 465 or article 465A, of the Civil Service Regulations.

(*ii*) Pension in accordance with these orders will also be allowed to persons who, under the stress of circumstances attendant on partition had sought and obtained retirement, or leave preparatory to retirement, in advance of the age of superannuation before they migrate to India, but not to those who had formally retired on superannuation or been permitted to proceed on leave preparatory to such retirement. The latter will draw their pension from Pakistan Government and, pending the receipt of their dues from that country, interim relief from the Government of India under the scheme administered by the Ministry of Rehabilitation.

(*iii*) Persons who are already receiving pension under the Provisional Pension Payment Scheme will be admitted to full pension from the respective dates from which they retired in India subject to their executing fresh agreement as laid down in sub-para (*xii*). The arrears due in respect of such of the pensioners under that Scheme as have since died will be payable to theirs legal heirs, on their executing an agreement as laid down in the aforesaid sub-para.

(*iv*) In cases where service records are not complete and no acceptable collaterall evidence is available, proportionate pension may be sanctioned at the discretion of the pension sanctioning authority, taking into account whatever acceptable pensionary data may be forthcoming.

(*v*) Displaced Government servants who retire on or after the date of issue of these orders and who had been, or are confirmed in posts under the

Government of India will be allowed pension under the provisions of the Liberalised Pension Rules promulgated in appendix 41 as amended from time to time.

The pension of other displaccd Government servants, *i.e.* those who retire without confirmation under the Government of India or, having been confirmed under the Government of India, retire before the date of issue of these orders (other than Class IV employees) will be regulated under the provisions of the Civil Service Regulations *in toto*, including the grant, where admissible, of special additional pension and higher maximum scale of pension as laid down in article 474A thereof or in the Superior Civil Services Rules, as the case may be.

(*vi*) The pension of Class IV displaced Government servants will be calculated in accordance with the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, 1936, provided that a Class IV Government servant who has been confirmed in a post under the Government of India and who retires on or after the date of issue of these orders will get pension in accordance with the provisions of the Liberalised Pension Rules, as amended from time to time.

(*vii*) The general principles enunciated in articles 486 and 487 of the Civil Service Regulations will apply for the purpose of calculating emoluments for pension of a displaced Government servant whether governed by the Liberalised Pension Rules or the Civil Service Regulations. If, however, a displaced Government servant has not been confirmed in a post under the Government of India after migration, or having been so confirmed has not completed three years' service therein after confirmation, his pension will be calculated for the entire period of three years, or, as the case may be, for the remaining period of three years, on the basis of the substantive emoluments drawn in a permanent post held by him under the Government of Sind/N. W. F. P. In calculating emoluments of the permanent post under the Government of Sind/N.W.F.P. account will be taken of any increments that would have accrued in the applicable time-scale if the employee had continued to serve in that post, but not of any hypothetical promotions. Where a displaced Government servant who has been confirmed under the Government of India was in receipt of higher substantive emoluments in Pakistan than in India, the average emoluments should be calculated with reference to the substantive emoluments in Pakistan.

The emoluments calculated in the manner indicated above will be increased to the extent permissible under article 487B, Civil Service Regulations, provided that the conditions for eligibility to the concession under that article are satisfied.

(*viii*) All kinds of leave availed of in Sind/N.W.F.P. and in India will qualify for pension to the extent permissible under articles 407 and 408 of the Civil Service Regulations. The limits prescribed in article 408 of the Civil Service Regulations will apply to the entire service rendered in Sind/N.W.F.P. as well as in India.

(*ix*) All past cases where leave availed of in Sind/N.W.F.P. and India has been assessed for the purpose of pension in a manner different from that indicated in sub-para (*viii*) above will be reviewed and the pension revised accordingly.

(*x*) The procedure relating to application for and grant of, pension under these orders will be regulated by the relevant rules in the Civil Service Regulations.

(*xi*) Displaced Government servants who may be granted pension under these orders will be eligible to commute a portion of their pension to the extent permissible under the rules under which their pensions may be or may have been sanctioned.

(*xii*) Since, in the event of a satisfactory agreement being reached with the Government of Pakistan, persons who receive pensions or arrears thereof

under these orders or under the orders contained in the Ministry of Home Affairs Office Memorandum No. 31/119/52-DGS, dated the 31st January, 1953 may subsequently become entitled to pensionary benefits from the Government of Pakistan in respect of the service rendered by them before migration, payments made under these orders would be subject of the persons concerned giving an undertaking to apply for any pensionary benefits which might become due to them under any future agreement with the Government of Pakistan and to credit the amounts thus received to the Government of India. Accordingly, every displaced Government servant who is sanctioned a pension under these orders shall execute an agreement in the form appended as Annexure I to this decision. A fresh agreement in the form at Annexure I will also be signed by those who have already signed a similar agreement under scheme promulgated with the Ministry of Home Affairs' Office Memorandum No. 31/119/52-DGS dated the 31st January, 1953. As regards pensioners who have since died, the difference between the full and the partial pension due in respect of them, will be payable to their legal heirs on execution by the latter of an agreement in the form appended as Annexture II. The agreements shall be drawn up on a non-judicial stamp paper of the appropriate value.

* * * * *

[G. I. M. F. Memo No. F. 47(3)-EV/57, dated the 23rd August 1957 as amended by Memo No. 16(12)-EV(C)/63, dated the 4th October 1963].

ANNEXURE I

THIS DEED made the ... ... day of ... ... one thousand nine hundred and sixty ... ... BETWEEN ... ... son of ... ... of ... ... at present employed as ... ... in the Ministry ... ... at present employed as ... ... (hereinafter called the 'Principal debtor' which expression shall where the context so admits, include his heirs, executors, administrators and representatives) of the first part and . . . . . son of . . . . . of . . . . . (hereinafter called the Surety which expression shall, where the context so admits, include his heirs, executors, administrators and representatives) of the second part and the President of India (hereinafter) called the 'Government' which expression shall, where the context so admits, include his successors and assigns) of the third part.

WHERE AS the Principal debtor, on his retirement from the service of the Government of India is eligible for the grant of pension and death-cum-retirement gratuity in accordance with the orders contained in the Ministry of Finance Office Memorandum No. F, 47 (3)-EV/57, dated the 23rd August, 1957, as amended from time to time, in respect of pensionable service rendered by him under the former Provincial Government of Sind N. W. F. P. combined with the service rendered under the Government of India. WHERE AS the Government in pursuance of the aforesaid orders will sanction and make payment of pension and death cum-retirement gratuity from the date of retirement of the Principal debtor. AND WHEREAS in the event of death of the Principal debtor while in service, the Government will sanction to the family of the Principal debtor, death benefits as may be admissible under the relevant rule.

AND WHEREAS in tne event of death of the Principal debtor after retirement, Government also undertake to disburse to the family the arrears of pension and death-cum retirement gratuity which remained underawn on the date of death, and WHEREAS the Government further agree to the family being paid any amount which may be due to it on the death of the Principal debtor.

NOW THESE PRESENTS WITNESS that in pursuance of the aforesaid agreement and in consideration of the Government agreeing to make such payments as aforesaid, the Principal debtor and Surety jointly and severally agree and undertake to refund on demand by the Government forthwith and without demur any sum which is discovered at any time not to be due to the principal debtor or which is discovered to be in excess of the amount due to him under the said orders (the decision of the Government as to the amount so to be refunded shall be final). The Principal debtor further undertake that he will have no claim whatsoever in respect of any pension which may be sanctioned or which has already been sanctioned to him by the Government of West Pakistan, in respect of pensionable service rendered in the territory now included in Pakistan. The Principal debtor further agree to the full amount of the said pension sanctioned or to be sanctioned by the Government of West Pakistan being received, retained and appropriated absolutely by the Government of India with effect from the date of its sanction.

ANDIT IS HEREBY agreed and declared that the Principal debtor and the Surety will at all times save harmless and keep the Government effectually indemnified

against all action proceedings, claims, demands, and expenses which may be brought or made against the Government or which tne Government may sustain or incur by reason of the Government making such payments to the Principal debtor in pursuance of the aforesaid orders.

AND IT IS FURTHER AGREED and declared that the liability of the surety hereunder shall not in any way be impaired or discharged by reason of the time being granted or for any forebearance, act or omission of the Government or any person authorised by them towards the Principal debtor (whether with or without the consent or knowledge of the surety) nor shall it be necessasy to sue or to take action against the Principal debtor before suing or taking action against the Surety.

AND IT IS further agreed that the stamp duty payable on this agreement will be borne by the Government.

IN WITNESS WHEREOF the Principal debtor and the Surety have set their respective hands and the President of India has caused Shri . . . on his behalf to set his hand the day and the year first above written.

Signed by . . . . . Signature of.
in the prssence of . . . Principal de btor
Signed by the said . . . . Signature of surety
in the presence of . . .
Signed by . . . Signature of the officer
for and on behalf of the . . executing the deed on be-
President of India. half of the President of India,

ANNEXURE II

THIS DEED made the . . . . day of . . . one thousand nine hundred and sixty . . . BETWEEN . . . . . the widow/the son(s)/ daughter(s) of . . . . . son of . . . . . (hereinafter called the "Principal debtor" which expression shall, where the context so admits include her/his/ theirs, executors, administrators and representatives) of the fist part and . . . . . son of . . . . . (hereinafter called the Surety which expression shall where the context so admits include his heirs, executors, administrators and representatives) of the second part and the President of India (hereinafter called the Government which expression shall where the context so admits include his successors and assigns) of the third part.

WHEREAS the Government in pursuance of the orders contained in the Ministry of Finance Office Memorandum No. F. 47(3)-EV/57 dated the 23rd August 1957, as amended from time to time, has sanctioned and agreed to make payment of :-

(*i*) family pension for Rs. . . . . p, m. from . . . . . to . . . .
(*ii*) death cum retirement gratuity for Rs. . .
(*iii*) arrears of pension for Rs . . . .

to the Principal debtor in respect of permanent and pensionable service rendered by the late . . . . . under the former Provincial Government of Sind/N.W.F.P. and the Government of India.

NOW THESE PRESENTS WITNESS that in consideration of the Goverement agreeing to make such payment as aforesaid to the Principal debtor, the Principal debtor(s) and the Surety jointly and severally agree and undertake to refund on demand by the Government forthwith and without demur the above sum or any time not to be due to the Principal debtors(s) or which is discovered at anytime to be in exess of the amount due to him/them (the decision of the Government as to the amount so to be refunded shall be final.)

The Principal debtor also agrees that he will have no claim whatsoever in respect of pension already sanctioned or which may be sanctioned by the Government of West Parkistan, to the late Shri . . . . in respect of service rendered in the West Pakistan and he further agrees that the full amount of the said pension sanctioued or to be sanctioned by the Government of West Pakistan be received, retained and appropriated absolutely by the Government with effect from the date of its sanction.

AND IT IS HEREBY agreed and declared that the Principal debtor(s) and the surety will at all times save harmless and keep the Government effectually indemnified against all actions, proceedings, claims, demands, damages and expenses which may be brought or made against the Covernment or which the Government may sustain or incur by reason of the Government making the said payment to the Principal debtor in pursuance of the aforesaid orders.

AND IT IS FURTHER AGREED and declared that the liability of the Surety hereunder shall not in any way be impaired or discharged by reason of time being granted or for any forbearance, act of omission of the Government or any person authorised by them towards the principal debtor (whether with or without the consent or knowledge of the Surety) nor shall it be necessary to sue or take action against the Surety.

AND IT IS further agreed that the stamp duty payable on this agreement will be borne by the Government-

IN WITNESS WHEREOF THE said Principal debtor(s) and the said Surety have set their respective hands and the President of Iudia has caused Shri . . . . . on his behalf to set his hand the day and the year first above written

signed by . . . . . (Signature of
in the presence of . . Principal debtor(s)
. . . . . .
Signed by the said . . . .
in the presence of , ... Signature of Surety)
. . . . . .
Signed by . . . . . (Signature of the Officer
for and on behalf of the executing the deed on
President of India. behalf of tee President).

[G. I. M. F. Memo. F. 16 (12)-EV(C)/63, dated the 4th October 1963]

(1-A) According to sub-paragraphs (*v*) and (*vi*) to para 3 of decision No, (1) above displaced Government servants who retire on or after the 23rd August 1957, while holding permanent posts under the Government of India. are allowed pension under the provisions of the Liberalised Pension Rules, Other displaced Government servants, *i.e.* those who retire without confirmation under the Government of India or having been confirmed under the Government of India, retired before the 23rd August 1957, get pension under the provisions of the Civil Service Regulations *in toto*, or the Superior Civil Service Rules' or the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, 1936, as the case may be.

2. The President has now been pleased to decide that the benefits of the Liberalised Pension Rules should be extended to those displaced Government servants who had been confirmed in posts under the Government of India but died/retired on or after the 17th April 1950 (the date on which the Liberalised Pension Rules came into force) but before the 23rd Augnst 1957 and were eligible for or granted pensions under the Civil Service Regulations or the Central (Class IV) Service (Gratuity Pension and Retirement) Rules, 1936

3. The following decision will apply to the Displaced Government servants referred to in para 2 above :—

(*i*) In the case of displaced Government servants referred to in para 2 above who died in service during the period from 17th April 1950 to the 22nd August 1957 (both days inclusive) while holding permanent posts under the Government of India, their families will be allowed death benefits in accordance with the provisions of the Liberalised Pension Rules subject to the adjustment of death gratuity admissible and paid under Ministry of Home Affairs Office Memorandum No. 31/7/55-DGS, dated 31st August 1955, or any other retirement benefit allowed to the persons concerned.

(*ii*) Such of the displaced Government servants of the category referred to in para 2 above as were eligible for the grant of pension under the Civil Service Regulations or under the Central (Class IV) Services (Gratuity. Pension and Retirement) Rules 1936. but have not so far been sanctioned pensions or have died before the sanction of pensions, will be sanctioned pensions in accordance with the provisions of the Liberalised Pension Rules in force on the dates of their retirement.

(*iii*) Displaced Government servants who are already in receipt of pensions in accordance with the provisions of the Civil Service Regulations, or Central (Class IV) Services (Gratuity, Pension and Retirement) Rules 1936, may apply in the prescribed form (as per Annexure A to this decision) to the Heads of Offices concerned, *within six months of the date of issue of this decision* for the grant of pension, under Liberalised Pension Rules, in case the grant of pension and death-cum-retirement gratuity under the Liberalised Pension Rules is to their advantage. Having applied for the grant of pension under the Liberalised Pension Rules, it shall not be open to displaced Government servant to withdraw his application.

(*iv*) Retired displaced Government servants applying for the grant of pension under the preceding sub-paragraph shall be granted pension and death-cum-retirement gratuity under the Liberalised Pension Rules with effect from the respective dates of retirement in accordance with the rules in force on the dates of their retirement. The difference between the amount of pension

sanctioned under the Civil Service Regulations or Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, 1936, and the Liberalised Pension Rules will be recovered in a lump sum out of the amount of death-cum-retirement gratuity. In a case where the amount of pension overdrawn by the employee cannot be adjusted against the amount of the death-cum-retirement gratuity, the pensioner will have to refund to Government the excess amount drawn in a lump sum before his pension is sanctioned under the Liberalised Pension Rules.

(*v*) In the case of a displaced Government servant who died after retirement, but was actually receiving on the date of his death, pension in accordance with the provisions of the Civil Service Regulations or the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules 1936, or dies within a period of six months from the date of issue of this Office Memorandum without sumbitting the application prescribed *vide* para. 3 (*iii*) above, his family may apply to the Head of Office under whom the deceased last served, for the grant of death benefits under the Liberalised Pension Rules. The pension of such a pensioner will be recalculated in accordance with sub-para. (*iv*) above and death-cum-retirement gratuity/family pension will be sanctioned if otherwise admissible to the family.

(*vi*) Recalculation of pension for the purpose of preceding sub-paras. (*iv*) and (*v*) may be made with the help sf the statement appended as Annexure 'B' to this decision.

4. The President has also been pleased to decide that a displaced Government servant who retired or died in service, during the period from the 17th April 1950 and 22nd August 1957 (both days inclusive) while holding permanent post under the Government of India and was sanctioned or was eligible for pension under the Superior Civil Services Rules and special additional pensions under Article 475-A of the Civil Service Regulations will be eligible for the grant of pension under the Liberalised Pension Rules in the manner and in accordance with the provisions made in the preceding paragraphs.

5. The above orders will also be applicable to the employees of the former Bahawalpur State who retired from service after having been confirmed in a post under the Government of India and are eligible for pension in accordance with decision No. (8) under this Article.

6. The family/legal heirs of displeaced employees who are sanctioned arrears of pensions, death cum-retirement gratuity/family pension in accordance with these orders shall be required to execute an agreement in the form as per Annexure II to decision No. (1) or Annexure II to decision No. (8) below Article 921 as the case may be.

7. Displaced employees who are sanctioned pensions in accordance with para. 3 (*iii*) of this Office Memorandum shall execute a fresh agreement in the form appended as Annexure I to decision No. (1) or Annexurre I to decision No. (8) as the case may be.

8. In respect of displaced Government servants who have been sanctioned pensions or are sanctioned pensions in accordance with the Liberalised Pension Rules, the amount of death-cnm-retirement gratuity should appropriately be indicated in the Annexure I to decision No. (1) above or Annexure I to decision No. (8 below Articl 921 as the case may be. Similarly, in the Annexure II to the aforesaid decision, the amount of death-cum-retirement gratuity and the family pension should also be appropriately mentioned.

9. The heads of the Offices from whose service any such displaced Government servants retired will immediately bring to the notice of such retired displaced Government servants, or in cases where the displaced Government servants themselves may have since died, to the notice of their families, the contents of this decision wherever possible.

[G. I M F. Memo. No. F 47 (3)-EV/47, dated the 31st January 1959]

ANNEXURE A

To

The... . .. .
Minisitry of..... . .....
Department..... .....

Sir,

With reference to para. 3 (*iii*) of the Ministry of Finance Office Memorandum No. F. 47(3)-EV/57, dated the 31st January 1959, I beg to request that the pension of Rs..... sanctioned to me vide letter No..... .....dated..... with effect from .....under the old pension rules may be revised with effect from the date of my retirement in accordance with the provisions of the Liberalised Pension Rules.

2. I hereby agree to the difference between pension sanctioned under the old pension rules and that payable under Liberalised Pension Rules being adjusted against the amount of death-cum-retirement gratuity in one lump sum and in case the entire amount of pension overdrawn cannot be adjusted against the amount of death-cum-retirement gratuity, I undertake to refund the excess in one instalment.

3. I have carefully studied the Liberalised Pension Rules, and the advantages and disadvantages accruing from the aforesaid rules and also the old pension rules have duly been assessed by me with the help of the statement at Annexure 'B'

4. I also confirm that the request made in the preceding paragraphs in final and irrevocable.

Yours faith fully.
Signature
Post held at the time retirement
Address :—

Comparative statement showing benefits admissible under the old Pension Rules and the Liberalised Pension Rules.

1.	Average emoluments during the last three years.	X
2.	No of qualifying years of service.	Y
3.	Emoluments last drawn.	Z
4.	Pension including special additional pension sanctioned under old pension rules.	A
5.	Period for which pension sanctioned under the old Pension Rules already drawn, *i. e.* from the date on which pension was sanctioned till the date of application	P
6.	Amount of pension sanctioned under old pension Rules already drawn.	$A \times p = Ap$
7.	Pension under Liberalised Pension Rules.	$X \times \frac{Y}{80} = \frac{XY}{80}$ (Subject to a maximum of $\frac{30}{80}$)
8.	Total pension payable under Liberalised Pension Rules with effect from the date on which pension under the old pension rules was sanctioned.	$p(\frac{XY}{80})$
9.	Difference between items (6) and (8) above.	$Ap - p(\frac{XY}{80} = p)$ $(A - \frac{XY}{80})$
10.	Death-cum-retirement gratuity under Liberalised Pension Rules.	$\frac{9}{20} \times Y \times Z = \frac{9YZ}{10}$

(*i*) If the amount shown against item (10) is greater than the amount shown against item (9), the difference will be payable to the person concerned.

(*ii*) If the amount shown against item (10) is *less* than the amount shown against item (9), the difference will be recoverable from the person concerned, in *one* instalment.

(*iii*) In the case of a pensioner who has already died and his case falls under (*ii*) above the family pension, if otherwise admissible, will be sanctioned only if the amount recoverable under *(ii)* above is adjustable against family pension.

(1AA) It has been reported that a number of displaced Government servants having applied for grant of pension under the Liberalised Pension Rules in terms of para. 3 (*iii*) of Government of India's decision No : (1-A) above failed to execute fresh agreement bonds as required under para. 7 of the decision Eligibility for the grant of pension under the Liberalised Pension Rules is subject to the requirement of para 7 of the decision being complied with. It has, therefore, been decided that such of the displaced Government servants as have failed to execute fresh agreement bonds, will continue to get pension as already sanctioned under the Old Pension Rules and they and/or their families will not be eligible for the grant of any death-cum-retirement gratuity or family pension under the Liberalised Pension Rules.

[G. I. M. F. Memo : No : F. 36(57)-EV-60, dated the 28th December 1960]

(1—B) The benefits of the Liberalised Pension Rules have been extended under decision No : (1-A) to displaced Government servants who, while holding permanent post under the Government of India, retired on or after the 17th April, 1950 but before the 23rd August, 1957 and were sanctioned pensions in accordance with the Civil Service Regulations in *toto*/or the Central Class IV Services (Gratuity, Pension and Retirement) Rules, 1936. The aforesaid orders also provide for the recalculation of pensions in the manner prescribed in Annexure 'B' thereto in cases where the displaced Government servants opt for the Liberalised Pension Rules. In this connection, doubts have been raised as to how the cases of such displaced Government servants should be regulated where the maximum amount of pension that could be commuted under the Liberalised Pension Rules turns out to be less than the amounts already commuted from pensions granted under the Civil Service Regulations or the Central Class IV Services (Gratuity, Pension and Retirement) Rules, 1936. The question has been considered and the Government of India are pleased to decide as under.

If any officer who opts for the Liberalised Pension Rules, in terms of the aforesaid orders, had commuted more than 1/3rd of the pension, he may be required to refund the commuted value of the excess pension commuted, in case the gratuity amount has already been paid ; otherwise this amount should be deducted from the gratuity amount where it is still to be paid.

[G. I. M. F. Memo : No : F. 20(47)—EV/59, dated the 27th January 1960]

(2) In accordance with Para 3(*viii*) of decision No. (1) above all kinds of leave availed of in Sind/N. W. F. P. and India by displaced Government servants qualify for pension to the extent permissible under articles 407 and 408 of the Civil Service Regulations. In this connection difficulty may be experienced in the verification of leave availed of in Sind/N. W. F. P. in cases where service records are not forthcoming, and also where it is not possible for a Government Servant to recollect precisely the details of the leave availed of by him during the entire period of his service in Pakistan. It has, therefore, been decided that in such cases the person concerned may be required to file a sworn affidavit, duly attested, indicating the period of extraordinary leave if any, availed of by him during his service in Sind/N. W. F. P.. and also certifying that the earned leave/leave on average pay, exceeding 90 days/4 months at a time together with leave on half pay/half average pay and other leave with allowances availed of by him in Sind/N. W. F. P. did not exceed such and such period in terms of year, months and days In such cases it may be presumed that the maximum leave with allowances availed of by the Government servant during the course of his service in Pakistan was as stated by him in the affidavit. To this will be added spells of similar leave taken by him in India and the limits prescribed in article 408 of the Civil Service Regulations applied on the basis of the entire service in India and Pakistan.

A simple form of the affidavit to be signed in this connection is given in the Annexure to these orders.

[G. I. M. F. Memo No. F. 47(14). E. V./57, dated the 21st December 1957.]

ANNEXURE.

AFFIDAVIT.

I, ...Son of..... ..... residing at .... do hereby solmonly declare that to the best of my knowledge and belief, while employed under the Government of Sind/N. W. F. P., I availed myself of extraordinary leave for a total period of .... years..... ... .months and .....days, and that the earned leave/leave on average pay exceeding 90 days/4 months at a time together with leave on half pay/half average pay and other leave with allowances availed of by me did not exceed..... years..... months and... ..... days

I understand that in the event of this declaration being proved to be false or inaccurate in any material respect, I shall render myself liable, among other consequence to the complete stoppage of my pension.

Signature of Government servant.

Attested

Oath Commissioner
or
Magistrate 1st Class.

(3) The question as to what retirement benefits may be extended to those displaced Government servants who are appointed after migration against permanent non-pensionable posts carrying C. P. F. benefits, has been under consideration of the Government of India for some time past. Normally when a person holding a pensionable post substantively is transferred to a post carrying C. P. F. benefits, he is allowed to retain his pensionary rights. On the same analogy, therefore the President has been pleased to decide that those displaced Government servants who held pensionable posts substantively prior to partition may be allowed to retain their pensionary rights when appointed to posts carrying C. P. F. benefits.

The amount of subscription to the Contributory Provident Fund where it has already been deducted will be credited with interest thereon to the C P F. account of the subscriber and the Government contribution with interest thereon re-credited to Government.

[G. I M H. Affairs Memo : No 31/64/54-D. G. S dated the 31st July 1954 circulated with G. I. M F. endorsement No, F. 9(3)-E. V/53 dated the 14th January 1955].

(4) *Not printed.*

(5) The Government of Sind revised the pay scales of their employees in 1946 with the retrospective effect from 1st April 1944: Similarly the Government of N. W. F. P. introduced revised scales of pay for their employees with effect from 1st August 1948. In this connection a question has been raised as to whether the benefit of revised pay scales can be given for the purpose of calculation of pension to such of the displaced Government servants whose average emoluments for purposes of pension have to be calculated with reference to their substantive emoluments in Sind/N. W. F. P., but who could not actually draw pay in the revised scales as they migrated to India either before the revised scales had been promulgated or before they could have their pay fixed in the new scales and draw arrears on that account.

The displaced Government servants from Sind/N. W. F. P. have already been allowed the benefit to the revision of pay scales for the purpose of fixation of pay in India even though their pay had not actually been refixed by the Government of Sind/N.W.F.P. in the revised scales. It has, therefore, been dicided that such displaced Government servants should also be allowed the benefit of the revised pay scales for the purpose of calculation of average emoluments for pension in terms of para 3 (*vii*) of decision No : (1) below this Article.

[G.I M.F. Memo. No F. 47 (16)-EV/57 dated the 24th January 1958]

(6) Doubts have been raised in certain quarters in regard to the exact scope of the various provisions of decision No. (1) above, the following clarifications in the matter are accordingly issued.

2. The decision does not supersede entirely the orders contained in the Ministry of Home Affairs Office Memorandum No. 31/119/52-DGS, dated the 31st January, 1953, or other procedural instructions issued inconnection therewith. All previous orders and procedural instructions already issued in this behalf by the Ministry of Home Affairs therefore continue to apply to the extent they are not inconsistent with the orders contained in the decision No. (1) or with such supplementary orders as may hereafter be issued in this connection.

3. A question has been raised whether the category of displaced Government servants who are mentioned in para 3 (*ii*) of the decesion and who had retired from the service of the Government of India before the issue of the said decision are also eligible for pension under the said orders. Although it was not the intention that persons who retired before the 23rd August, 1957 should be allowed pension in accordance with the decision it has been decided with a view to avoidance of hardship to the individuals concerned that they may be allowed pensions under the said decision from the respective dates of their retirement from service under the Government of India.

4. The benefit to article 487-B of the Civil Service Regulations will be available even to a displaced Government servant who may not be holding

a permanent lower post under the Government of India. The intention is that the emoluments for pension will be calculated with reference to the substantive emoluments drawn in India or Pakistan, as the case may be, and the increase over the substantive emoluments will be allowed subject to the conditions and to the extent prescribed under article 487B, C.S.R.

5. Under the Ministry of Home Affairs Office Memorandum No. 31/53/54-DGS. dated the 16th August, 1954, the benefit of dearness pay counting for pension is not admissible to a displaced Government servant who has not been confirmed under the Government of India. A doubt has been raised whether in the case of such person holding a higher officiating appointment under the Government of India, the officiating emoluments as calculated under article 487-B. C. S. Rs., should be increased by the appropriate amount of dearness pay drawn in the officiating post. In view of the position stated in the preceding paragraph, it is permissible to raise the officiating pay by the appropriate amount of dearness pay notwithstanding the fact that no benefit of dearness pay is admissible in respect to the substantive emoluments which the Government servant would have drawn had he continued in the service of Government of Sind/N. W. F. P. and retired therefrom.

6. In view of the provision made in para 3 (*x*) of decision No. (1) it will not now be necessary for the third page of the Application for Pension to be signed in all cases by the Joint Secretary or the Secretary of a Ministry. The pension may now be sanctioned by the authority specified in article 919. (1) of the Civil Service Regulations and all certificates required in connection with the grant of pension may also be signed by that authority.

7. The pension of a displaced Government servant who held a permanent Class III post under the Government of Sind/NWFP and who retires while holding a permanent or temporary Class IV post under the Government of India may be determined with refernce to the emoluments drawn in the permanent Class III post in Pakistan, if the pension thus worked out is to the advantage of the person concerned.

8. It has been decided that the agreement in the form appended as Annexure I or Annexure II to decision No. (1) may be executed by the pension sanctioning authority for and on behalf of the President. In this connection attention is invited to the Ministry of Law Notification No. S.R.O. 4012 dated the 17th December, 1957 under which agreements relating to the grant of provisional pension to displaced Government servants can be entered into by the authorities sanctioning the pension.

9. * *

10. In cases where displaced Government servants had rendered foreign service in areas now in Pakistan, and there is no entry in the service book (or History of Service) to the effect that the leave and pensionary contributions had been recovered from the foreign employer, waiver of pensionary and leave contribution may be presumed by the competent authority and the period of foreign service treated as qualifying for pension.

11. The expression' 'qualifying service rendered in Pakistan' used in para 3 (*i*) of decision No. (1) above means service which is treated as qualifying under the Civil Service Regulations. One-half of the continuous temporary service, rendered in Sind/N. W. F. P. which was followed by confirmation will also be treated as qualifying service under para 7 of the Liberalised Pension Rules in respect of such of the displaced Government servants who by virtue of the provision contained in para 3 (*v*) of the decision referred to above may be eligible for pension under the provisions of the aforesaid Rules.

[G. I. M. F. Memo. F. 47 (1)-EV/58, dated the 22nd May, 1958]

(7) A questlon has been raised whether the concession allowed by decision No : (5) will be admissible only to persons who retire on or after 24th January, 1958 *i.e.* the date of issue of the orders, or whether it will have retrospective effect and will be admissible even to those who retired before the aforesaid date. It is intimated for information that the intention is that the orders referred to should have full retrospective.

[G. I. M. F. Memo : No. F. 47 (16)-EV/57 dated the 2nd August, 1958].

(8) Representations have been made to Government from time to time on behalf of displaced employees of the late Bahawalpur State who, after migration, secured employment under the Government of India, for the grant of pension to them in respect of the pensionable service rendered in the late Bahawalpur State followed by service rendered under the Government of India. It has been urged that displaced employees of the Bahawalpur State might be treated on a par, with the displaced Goverment servants of Sind and N. W. F. P. in the matter of grant of pension and that the scheme govering the grant of pension to displaced Government servants from Sind and N. W. F. P. might be made applicable to the displaced employees of the Bahawalpur State also.

2. The matter has been carefully considered. There are recognizable differences between the service rendered under the Princely State like Bhawalpur and the service rendered in that was formerly known as British India, and the Government of India are unable to concede that the service rendered under the late Bhawalpur State is on a par with service rendered under the Sind/N.W.F. P. Government. However, recognising that purely on humanitarian grounds the case of Bahawalpur employees deserves favourable consideration, the President has been pleased to decide, on ***ex-gratia*** grounds, that displaced employees of the late Bahawalpur State, who were in permanent and pensionable service of that State, and who, on migration to India after the 14th August, 1947, secured employment under the Government of India, may be granted pension, on retirement from the service of the Government of India, in accordance with the terms and conditions prescribed in decision No. (1) below Article 921, as clarified in decision No. (6) below Article 921.

3. In cases where service records are not available, the unverified service rendered in the Bahawalpur State will be verified in accordance with the procedure laid down in Article 915.

4. Pension sanctioned under para 1 will be paid from the respective dates of retirement of the individuals. As regards persons who have since died, the arrears of pensions or gratuity, if any admissible, will be payable to their legal heirs or members of their family in accordance with the extent orders. In either case, the recipient(s) will be required to execute an agreement bond in the apporpriate from (*vide* Annexures I and II).

5. The sundry procedural instructions issued by the Ministry of Home Affairs in connection with the provisional pension payment scheme for displaced Government servants from Sind and N. W. F. P., which are not inconsistent with the orders contained in decision No. (1) above, will be applicable *mutatis mutandis* to the grant of pension to displaced employees of Bahawalpur State also.

[G. I. M. F. Memo No. F. 47(7) E.V./57, dated the 21th August 1958.]

ANNEXURE I

THIS DEED made the .....day of.....one thousand nine hundred and sixty ....BETWEEN..... son of .....of..... .....(hereinafter called the 'Principal debtor, which expression shall, where the context so admits, include his heirs) executors, administrators and (representatives of the first part and..... .....son of ..... of..... hereinafter called the Surety which expression shall where the context so admits include his heirs, executors, administrators and representatives) of the second part and the President of India (hereinafter called the Government' which expression shall, where the context so admits, include his successors and assigns) of the third part.

WHEREAS the Principal debtor has applied to the Government for payment to him from time to time of moneys on account of pension in accordance with the orders contained in the Ministry of Finance Office Memorandum No. 47 (7)-EV/57, dated the 28th August, 1958 in respect of permanent pensionable service rendered by him in Pakistan AND WHEREAS the Government in pursuance of the aforesaid orders has sanctioned and agreed to make payment of a pension of Rs. .....per month with effect from ..... on the Principal debtor and the Surety giving such indemnity as is hereinafter mentioned.

NOW THESE PRESENTS WITNESS that in pursuance of the aforesaid agreement and in consideration of the Government agreeing to make such payments as aforesaid the Principal debtor and the Surety jointly and severally agree and undertake to refund on demand by the Government forthwith and without demur any sum which is

discovered at any time not to be due to the Principal debtor or which is discovered at any time to be in excess of the amount due to him under the said orders (the decision of the Government as to the amount so to be refunded shall be final) or on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liabilities in respect of former employees of the former Bahawalpur, State the whole or such amount of pension paid to the Principal debtor under the aforesaid orders as may be determined by the Government of India as the liabilty of the Government of Pakistan. The Principal debtor and the Surety also undertake jointly and severally that on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liability in respect of former employees of the former Bahawalpur State the Principal debtor shall apply in the manner laid down for payment of pension or other benefits due to him from the Government of Pakistan and in the event of his failure to apply for such pension or benefits within the time prescribed, shall cease to be eligible to draw pension sanctioned by the Government of India and refund the full amount of such pension already drawn, or such portion thereof as may be determined by the Government of India.

AND IT IS HEREBY agreed and declared that the Principal debtor and the Surety will at all times save harmless and keep the Government effectually indemnified against all actions, proceedings; claims, demands, damages and expenses which may be brought or made against the Government or which the Government may sustain or incur by reason of the Government making such payments to the Principal debtor in pursuance of the aforsaid orders.

AND IT IS FURTHER AGREED and declared that the liability of the Surety hereunder shall not in any way be impaired or discharged by reason of time being granted or for any forbearance, act or omission of the Government or any person authorised by them towards the Principal debtor (whether without the consent or knowledge of the Surety) nor shall it be necessary to sue or take action against the said Principal debtor before suing or taking action against the Surety,

IN WITNESS WHERE OF the said Principal debtor and the said Surety have set their respective hands and the President of India has caused..... .....on his behalf to set his hand the day and the year first above written.

Signed by..... ....
in the presence of..... .....
....
Signed by the said..... .....
in the presence of..... .....
Signed by ....
for and on behalf of the President of India.

(Signature of Principal debtor

(Signature of Surety)

Signature of the officer executing the deed on behalf of the President of India).

ANNEXURE II

THIS DEED made the..... .....day of ....one thousand nine hundred and sixty ..... BETWEEN..... ..... the widow/the son(s) of..... ..... son of ....(hereinafter called the Principal debtor(s) which expersion shall, where the context so admits include her/his/their heirs, executors, administrators and representatives) of the first part and .... son of... .....)hereinafter called the Surety which expression shall where the context so admits include his heirs, executors, administrators and representatives) of the second part and the President of India (hereinafter called the Government which expression shall where the context so admits include his successors and assigns) of the third part.

WHEREAS .... son of..... ..... (hereinafter referred to as the deceased) after having retired from the service of the Government of India died on the ....day of.....

AND WHEREAS the said deceased at the time of his death became eligible for pension in accordance with the orders contained in the Ministry of Finance. Office Memorandum No. F 47 (7)-E. V/57 dated the 28th day of August, 1958 (hereinafter referred to as the said order).

AND WHEREAS a sum of Rs... .....was due to the deceased on account of pension sanctioned in accordance with the said order.

AND WHEREAS the Principal debtor(s) has/have represented to the Government that he/she/they is/are (here state relationship)..... ..... and as such is/are entitled to service the said sum of Rs.

AND WHEREAS the Principal debtor(s) has/have/applied to the Government for the payment of the sum of Rs.

AND WHEREAS the Government have on the aforesaid representation of the said Principal debtor(s) agreed to accede to the said request on the Principal debtor(s) and the surety giving such indemnity as is hereinafter mentioned.

NOW THESE PRESENTS WITNESS that in pursuance of the aforesaid agreement and in consideration of the Government agreeing to make such payment as aforesaid the Principal debtor(s) and the Surety jointly and severally agree and undertake to refund on demand by the Government forthwith and without demur the above sum or any portion thereof which is discovered at any time to be due to the Principal debtor(s) or which is discovered at any time to be in excess of the amount due to him/

them (the decision of the Government as to the amount so to be refunded shall be final) or, on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liabilities in respect of former employees of the former Bahawalpur State the whole or such amount of arrears of pension paid to the Principal debtor(s) under the aforesrid orders as may be determined by the Government of India as the liability of the Government of Pakistan.

AND IT IS HEREBY agreed and declared that the Principal debtor(s) and the Surety will at all times save harmless and keep the Government effectually indemnified against all actions, proceedings, claims, demands, and expenses which may be brought or made against the Government or which the Government may sustain or incur by reason of the Government making said payment in pursuance of the aforesaid order to the Principal debtor on his/her/their representation that he/she/they is/are the proper heirs of the deceased and as such entitled to the said amount.

AND IT IS FURTHER AGREED and declared that the liability of the Surety hereunder shall not in any way be impaired or discharged by reason of time being granted or for any forbearance, act of omission of the Government or any person authorised by them towards the Principal debtor(s) (whether with or without the consent or knowledge of the Surety) nor shall it be necessary to sue or take action against the said Principal debtor(s) before suing or taking action against the Surety.

IN WITNESS WHEREOF THE said Principal debtor(s) and the said Surety have set their respective hands and the President of India has caused.....on his behalf to set his hand the day and the year first above written.

Signed by..... Signature of Principal
in the presence of..... debtor(s)
.....

Signed by the said.....
in the presence of..... (Signature of Surety)
.....

Signed by..... (Signature of the officer
for and on behalf of the President executing the deed on
of India. behalf of the President)

(8-A) According the agreement bonds prescribed in para 3(*xii*) of Government of India's decision No. (1) below Article 921 have to be executed by the pension sanctioning authority for and on behalf of the President. The pension sanctioning authorities have been authorised to execute the agreement bonds for and on behalf of the President under Article 299 of the Constitution, *vide* S.R.O. 4012 issued by the Ministry of Law. Instances have been brought to the notice of Finance Ministry where the agreement bonds have been executed on behalf of the President by authorities lower than the Pension sanctioning authority prior to the issue of the orders dated the 22nd May, 1958. A doubt, therefore arose whether such agreement bonds would be legally valid.

The matter has been examined in consultation with the Ministry of Law and the President is pleased to decide that in all past cases wherein the agreement bonds have been excuted by an authority lower than the pension sanctioning authority, the displaced Government servants should be required to execute *fresh agreement bonds* which should be signed by the appropriate pension sanctioning authority for and on behalf of the President. The President is further pleased to decide that the cost of the stamp paper on which the fresh agreements are to be drawn up shall be borne by the Departments concerned,

[G.I.M.F. Memo : No. F. 36(1).EV/60 dated the 2nd December 1960]

(9) It has been decided that in a case where service book is available, no action need be taken to verify the unverified portion of service provided valid entries exist for the unverified period of service and the continuity of service is established on the basis of those entries.

The cases of the type referred to in the preceding paragraph, which have already been referred by the administrative authorities to the Officer-in-charge, Central Claims Organisation, Ministry of Works, Housing and Rehabilitation will be returned to them. As and when the cases are received by the pension sanctioning authorities they should make an entry in the service book indicating that in accordance with the orders contained in this decision, the necessity to verify the unverified portion of service rendered prior to migration has been dispensed with. Cases pending with the administrative authorities need not be referred to the Central Claims Organisation and should be dealt with accordingly.

[G.I.M F. Memo. No. F. (16)9-EV(C)/63, dated the 29th June 1963]

Note.—It has been decided that the provisions of aforesaid Office Memorandum No : F 16 (9) E V- (C)/(63, dated the 29th June 1963 will *mutatis mutandis* apply to the former employees of the Chief Commissioner's Province of Baluchistan who after migration retired from the service of the Government of India.

[G.I.M. F. Memo. No. F. 16(9)-EV(C)-63 dated the 10th October 1963]

(10) Requests have been received from the displaced employees of the last Khairpur State (West Pakistan) for the grant of pensionary benefits. The President has been pleased to decide on *ex-gratia* grounds that displaced employees of the last Khairpur State, who were in permanent and pensionable service of that State, and who, on migration to India after the 14th August, 1947, secured employment under the Government of India, may be granted pension, on retirement from the service of the Government of India, in accordance with the terms and conditioned prescribed in Government of India's decision No. (1) above, as modffied from time to time.

2. In cases where service records are not available, the unverified service rendered in the Khaipur State will be verified in accordance with the procedure laid down in decision No. (9) above.

3. Pension sanctioned under para 1 will be paid from the respective dates or retirement of the individuals As regards persons who have since died, the arrears of pensions or gratuity, if any, admissible, will be payable to their legal heirs or members of their family in accordance with the extent orders. In either case, recipient (s) will be required to execute an agreement in the appropriate from (*vide* Annexure I or II to this decision),

4. The sundry procedural instructions issued by the Ministry of Home Affairs in connection with the provisional pension payment scheme for displaced Government servants from Sind and N.W.F.P., which are not inconsistent with the orders contained in decision No. (1) above will be applicable *mutatis mutandis* to the grant of pension to displaced employees of Khapirpur State also.

[G.I.M.F. Memo : No. F. 20 (9)-EV/59 dated the 7th April 1959].

ANNNXURE I

THIS DEED made the..... day of..... one thousand nine hundred and sixty..... Between..... son of ..... of ..... (hereinafter called the 'Principal debtor' which expression shall, where the context so admits, include his heirs, executors, administrators, representattives) of the first part and..... son of ..... of ..... (hereinafter called the surety which expression shall where the context to admits, include his heirs, executors administrators and representatives of the second part and the President of India (hereinafter called the 'Government' which expressions shall, where the context so admits, include his successsors and assigns) of third part.

WHEREAS the Principal debtor has applied to the Government for payment to him from time to time of moneys on account of pension in accordance with the orders contained in the Ministry of Finance Office Memorandum No. 20(9)-EV/59,dated 7th April 1959 in respect of permanent pensionable service rendered by him in Pakistan AND WHEREAS the Government in pursuance of the aforesaid orders has sanctioned and agreed to make payment of a pension of Rs... per month with effect from..... .....on the Principal debtor and Surety giving such indemnity as is hereinafter mentioned.

NOW THESE PRESENTS WITNESS that in pursuance of the aforesaid agreement and in consideration of the Government agreeing to make such payments as aforesaid, the Principal debtor and the Surety, jointly and severally agree and undertake to refund on demand by the Government forth with and without demur any sum which is discovered at any time not to be due to the Principal debtor or which is discovered at any time to be in excess of the amount due to him under the said orders (the decision of the Government as to the amount so to be refunded shall be final) or on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liabilities in respect of former employees of the former Khairpur State the whole or such amount of pension paid to the Principal debtor under the aforesaid orders as may be determined by the Government of India the liability of the Government of Pakistan. The Principal debtor and the Surety also undertake jointly and severally that on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liability in respect of former employees of the former Khairpur State the Principal debtor shall apply in the manner laid down for payment of pension or other benefits due to him from the Government of Pakistan and in the event of his failure to apply for such pension or benefits within the time prescribed shall cease to be eligible to draw pension sanctioned by the Government of India and refund the full amount of such pension already drawn, on sueh portion thereof as may be determined by the Government of India.

AND IT IS HEREBY agreed and declared that the Principal debtor and the Surety will at all times save harmless and keep the Government effectually indemnified against all actions, proceedings, claims, demands, damages and expenses which may be brought or made against the Government or which the Government may sustain or incur by reason of the Government making such payments to the Principal debtor in pursuance of the aforesaid orders.

AND IT IS FURTHER AGREED and declared that the liability of the Surety hereunder shall not in any way be impaired or discharged by reason of time being granted or for any forbearance, act or omission of the Government or any person authorised by them towards the Principal debtor (whether with or without the consent or knowledge of the Surety nor shall it be necessary to sue or take action against the said Principal debtor before suing or taking action against the Surety.

IN WITNESS WHEREOF the said Principal debtor and the said Surety have set their respective hands and the President of India has caused... ... . on his behalf to set his hand the day and the year first above written.

Signed by..... .... (Signature of Principal debtor)
in presence of..... ....
....

Signed by the said (Signature of Surety)
in the presence of..... .....
Signed by .... (Signature of the officer executing the deed on behalf of the President of India.
for and on behalf of the
President of India.

ANNEXURE II

THIS DEED made the.....day of..... one thousand nine hundred and sixty.....BETWEEN..... the widow/the son(s) of... .....son of.....(hereinafter called the "Principal debtor(s)" which expression shall, where the context so admits, include her/his/theirs, executors, administrators and representatives) of the first part and.....son of.....(hereinafter called the surety which expression shall where the context so admits include his heirs, executors, administrators and representatives) of the second part and the President of India (herein. after called the Government which expression shall where the context so admits include his successors and assigns) of the third part

WHEREAS.....son of..... (hereinafter referred to as the deceased) after having retired from the service of the Government of India died on the.....day of.....

AND WHEREAS the said deceased at the time of his death became eligible for pension in accordance with the orders contained in the Ministry of Finance, Office Momorandum No. F. 20 (9)-EV /50 dated the 7th day of April 1959 (hereinafter referred to as the said order).

AND WHEREAS a sum of Rs.....was due to the deceased on account of pension sanctioned in accordance with the said order.....

AND WHEREAS the Principal debtor (s) has/have represented to the Government that he/she/they is/are (*here state the relationship*) and as such is/are entitled to receive the said sum of Rs.

AND WHEREAS the principal debtor(s) has/have applied to the Government for the payment of the said sum of Rs.....

AND WHEREAS the Government have on the aforesaid representation of the said Principal debtor(s) agreed to accede to the said request on the Principal debtor(s) and the surety giving such indemnity as is hereinafter mentioned.

NOW THESE PRESENTS WITNESS that in pursuance of the aforesaid agreement and in consideration of the Government agreeing to make such Payment as aforesaid, the Principal debtor(s) and the Surety jointly and severally agree and undertake to refund on demand by the Government forthwith and without demur the above sum or any portion thereof which is discovered at any time not to be due to the Principal debtor(s) or which is discovered at any time to be in excess of the amount due to him/them (the decision of the Government as to the amount so to be refunded shall be final) or, on an agreement being reached between the Government of India and the Government of Pakistan regarding pensionary and other liabilities in respect of former employees of the former Khairpur State the whole or such amount of arrears of pension paid to the Principal debtor(s) under the aforesaid orders as may be determined by the Government of India as the liability of the Governent of Pakistan.

AND IT IS HEREBY agreed and declared that the Principal debtor(s) and the Surety will at all times save harmless and keep the Government effectually indemnified against all actions, proceeding, claims, damages demands and expenses which may be brought or made against the Government or which the Government may sustain or incur by reason of the Government making the said payment in pursuance of the aforesaid order to the Principal debtor in his/her/their representation that he/she/they is/are the proper heirs of the deceased and as such entitled to the said amount.

AND IT IS FURTHER AGREED and declared that the liability of the Surety hereunder shall not in any way be impaired or discharged by reason of time being granted

on for any forbearance, act of omission of the Government or any person authorised by them towards the Principal debtor(s) (whether with or without the consent or knowledge of the Surety) nor shall it be necessary to sue or take action against the said Principal debtor(s) before suing or taking acton against the Surety.

IN WITNESS WHEREOF THE said Principal debtor(s) and the said Surety have set their respective hands and the President of India has caused..... on his behalf to set his hand the day and the year first above written.

Signed by..... .....
in the presence of.....
..... - .....
Signature of Principal debtor (s)

Signed by the said
in the presence of.....
.....
(Signature of Surety

Signed..... - ...
for and on behalf of
President of India.
(Signature of the officer executing the deed on behalf of the President

(11) The Accountant General, Central Revenue raised certain points relative to orders contained in Government of India's decision No. (6) below Article 921 of this Compilation. The Government of India decided :—

(*i*) that the provisions made in paras 4, 5, and 7 of the decision, have retrospective application and that past cases are to be reopened and decided in accordance with these provisions.

(*ii*) that the expression "may be determined with reference to the emoluments drawn in the permanent Class III post in Pakistan occuring in para. 7 of the decision, implies that the pension is to be determined with reference to the emoluments which the person concerned would have drawn had he continued in the service of the Pakistan Government and retired from there on attaining the age of superannuation while holding his substantive Class III post. The benefit of the increments that would have accrued in such a case will also be allowed, *vide* para 3 (*vii*) of decision No. (1) above.

(*iii*) that the provision made in para 7 of decision No (6), should be taken to be by way of a relaxation of the principles of article 398 of the Civil Service Regulations. Therefore service rendered in India by a Class IV employee who was holding a permanent Class III post in Sind/NWFP will count as service in a superior post, as a special case.

[G. I. M. F., D. O. No. F. 47 (1) EV/58, dated the 13th October 1958].

(12) A question has been raised whether permanent displaced employees of Local Funds (as defined in Article 33 of the Civil Service Regulations) from Sind and N.W.E.P., who, on migration to India, took up employment under the Central Government may be admitted to the Pension Payment Scheme for the permanent displaced Government servants from those Provinces sanctioned in *Government of India's decision No. (1) above.* The President has been pleased to decide that those displaced permanent employees of Local Funds in Sind and N.W.E.P. in whose case it is proved beyond doubt that their service under the Local Funds was permanent and pensionable and that they were transferrable to Government service, under Article 802-805 of the Civil Service Regulations (or corresponding regulations of the Provincial Government), and further that pension contributions on their behalf, payable in terms of Article 802, Central Service Regulations were duly paid by the Local Fund concerned to the Provincial Government, may be admitted to pensionary benefits in accordance with the Pension Payment Scheme for permanent displaced Government servants sanctioned in decision No. (1) referred to above, as amended from time to time.

* * * * *

[G. I M. F. Memo No. F. 36 (4)-EV/60. dated the 2nd March, 1960 as amended by memo of even number dated 21-7-60.]

(13) According to Government of India's decision No ; (1) above displaced

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*Deleted in view of revision of Article 915 C S.R. and Government of India's decision No : (9) below Article 921.

permanent Government servants from Sind/N.W.F.P. who have been or are confirmed in the posts under the Government of India are allowed pension under the Liberalised Pension Rules promulgated in Appendix 41 as amended from time to time. The displaced Governments servants who held permanent posts under the Sind/N.W.F.P. Governments and retire without confirmation under the Government of India are sanctioned pensions under the provisions of the Civil Service Regulations or the Superior Civil Services Rules or the Central (Class IV) Service (Gratuity, Pension and Retirement) Rules, 1936, as the case may be. Further the term 'qualifying service rendered in Pakistan', used in para 3 (*i*) of decision No : (1) above has been explained in sub para 1(*ii*) of decision No : (11) below Article 921 C.S.R. Thus the present position is that one-half of the continuous temporary service rendered in Sind/N.W.F.P. etc., which was followed by confirmation prior to migration to India is treated as qualifying service under para 7 of the Liberalised Pension Rules in respect of such of the displaced Government servants as are sanctioned pension under the provisions of these rules.

2. Under the recent orders issued on the basis of the recommendations of the Pay Commission and the proviso to Article 368 of the CSR as continuous temporary or officiating service in a post *under the Government of India* if followed without interruption by confirmation in the same or in another post borne on establishments other than those mentioned in items (*i*) to (*iii*) therein, counts in full as qualifying service for pension. A doubt has been raised whether the aforesaid orders will also apply to temporary or officiating service rendered by permanent displaced Government servants from Sind/N.W.F.P. prior to their migration to India.

3. The matter has been carefully examined and the Government of India confirm that the benefit of the aforesaid orders will be admissible to the displaced Government servants who held permanent posts in Sind/N.W.F.P. prior to their migration to India and retire from service of the Government of India on and after the 22nd April 1960.

4. The provisions contained in the preceding paragraphs shall also apply to the displaced employees from the late Bahawalpur and Khaipur States.

[G. I. M. F. Memo : No. F 36 (16)-EV/60, dated the 26th August 1960.]

(14) A question has been raised, whether Note 2 below article 486-A of the Civil Service Regulations are applicable to the displaced Government servants from Sind and N. W. F. P. who, on migration, retired/retire from the service of the Government of India.

It is clarified for the information of the Ministry of Home Affairs etc. that Finance Ministry's Office Memorandum dated the 18th December 1958 was meant to cover the cases of *non-displaced* temporary Government servants who are confirmed in a substantive appointment for the first time during the last three years of their service It does not apply to displaced Government servants from Sind and N. W. F. P. because in their cases the Government of India have recognised notionally the 'lien' which they held prior to migration under Government of Sind/N. W. F. P. for the purpose of pensionary benefits admissible under Government of India's decision No. (1) above.

The position in so far as displaced Government servants are concerned is that the emoluments for pension will continue to be determined in accordance with the provisions of para 3(*vii*) of decision No. (1) above and that the provisions of Finance Ministsy's Office Memorandum No. 12 (44)-EV/58, dated *18th December 1958* or Note below article 486-A of the Civil Service Regulations will not apply to them.

[G. I. M. F. Memo : No. F. 20 (45) EV/59. dated the 14th June 1961].

(15) Cases have come to notice in which in the absence of an authoritative definition of the term "displaced Government servant", difficulties have been experienced by Ministries/Departments in deciding on the legitimacy of claims of certain employees to service benefits and other facilities to which this class of persons are entitled. The Ministry of Finance, etc., are informed

that the following categories of persons are to be treated as displaced Government servants :—

(*i*) persons who were employed under the Central Government of undivided India and, having opted for service in India, became surplus to requirements as a result of the constitutional changes (including non-Muslim employees of the Baluchistan) ;

(*ii*) persons who were employed under the Central Government of undivided India and opted for service in Pakistan, but had to return to India or could not proceed to Pakistan owing to the conditions which prevailed in Pakistan ; and.

(*iii*) persons who were employed under the Provincial Governments of Sind and North-Western Frontier Province and who migrated to India before the 15 April 1949 owing to the conditions prevailing in Pakistan.

Note. The time limit of 15-4-1949 for migration will not apply to displaced Government servant from Sind and N.W F.P. for the purpose of pension under Home Ministry's O.M. 31/119/52-DGS dated the 31st January 1953.

[G.I.M.H Affairs Memo No 51/36/57 DGS dated the 6th May 1957].

(16) In view of the wording of the "Note" to desion No (15) above a view has been expressed in certain quarters that the benefits of the Pension Payment Scheme as envisaged in decision No. (1) above are available to the displaced Government servants from Sind and N.W.F.P. regardless of the date of migration. The whole question has, therefore, been re-examimned and it has been decided that only displaced Government servants from Sind and N.W.F.P. who migrated to India upto the 31st Deccmber, 1951 will be eligible for the grant of pensien in accordance with the provisions of decision No. (1) above. Cases of displaced Government servants migrating to India after the 31st December, 1951 will not be covered by the aforesaid orders, but will be examined on merits. Pension will be sanctioned in such cases only after the break in service has been condoned with the concurrence of Finance Ministry.

[G.I.M F. Memo No. 15 (15) EV (C)/61, dated the 11th January 1962.[

SECTION IV.—ANTICIPATORY PENSIONS

***922 (*a*) When an officer whose pension is payable in India is likely to retire before his pension can be finally assessed and settled in accordance with the provisions of the preceding Section of this Chapter, the Audit Officer shall sanction the disbursement of pension to which, after the most careful summary investigation that he can make without delay, he believes the officer to be entitled. If the sanction is given by an Audit officer, other than the Accountant General, he shall send a copy of his order to the Accountant General for issuing instructions to the treasury concerned for disbursement of the pension.**

(*b*) When an officer whose pension is payable in England is likely to retire befor his pension can be finally assessed and settled, the Audit Officer shall after the most careful summary investigation that he can make without delay, report to the High Commissioner for India, through the authority competent to sanction the pension and the Local Government, the minimum amount to which he believes the officer to be entitled. The High Commissior shall, then sanction the immediate disbursement of the amount reported or such smaller amount as may be deemed proper.

(*c*) The disbursement of pension under clause (*a*) or cluse (*b*) shall be subject to revision on the completion of the detailed investigation and enquiries, if any. If the amount of pension granted to an officer under claue (*a*) or clause (*b*) be afterwards found to be in excess of that to which he is entitled under the Regulations, he shall be called upon to refund such excess. For the purpose of recovering the excess,

*As substituted by G. I. M. F. Notification No- F. 4 (35)-EV (C)/63, dated the 9th August 1963.

if any, the officer concerned shall be served with a notice by the pension sanctioning authority requiring him to refund the excess payment within a period of two months from the date of receipt by him of the notice. On his failure to comply with the notice the pension sanctioning authority shall order that such excess payment shall be adjusted by short payments of pension in future, in one or more instalments, as that authority may order.

Government of India's decision :—(1) In the case of anticipatory pension it is not contemplated that the entire service should be verified beforehand, but it should be seen that *prima facie* there is no reason to suppose that any portion of service does not qualify for pension.

[Paragraph 478 of the India Supplement to C, S. R. (5th Edition).]

(2) Paragraph 3 of decision No. (2) below Article 913 provides that if at the time of sanction of anticipatory payments any Government dues recoverable from a pensioner remain unassessed or unrealised, the instructions contained in paragraph 10 of decision No. (4) and decision No. (6) below Article 907 will apply.

In this connection it has been represented that sub-clause 2 (*e*) of Finance Ministry's Office Memorandum No. 3 (29)-Est (Spl) /50 dated the 8th June, 1951, already provides for withholding of one-fourth of the amount of anticipatory d. c. r. gratuity, and that withholding of further amounts from it on account of outstanding Government dues is liable to cause hardship and delay in the payment of anticipatory pension etc It has been suggested that the amount of anticipatory gratuity withheld under Finance Ministry's Memorandum of 8th June, 1951 should be sufficient to cover the risk of overpayment of gratuity as well as any unreaslied Government dues.

Tne President is accordingly, pleased to order that (*i*) in cases in which d. c. r. grauity is payable, no amount over and above the amount withheld in accordance with the provisions of Office Memorandum of 8th June, 1951, should be withheld on account of outstanding Government dues. (*ii*) In cases, however, in which the pension sanctioning authority indicates in the Third Page of the Application for pension, an amount which is more than one-fourth of the amount of anticipatory gratuity, to be withheld from the d. c. r. gratuity, the amount so indicated should be withheld from the anticipatory gratuity. (*iii*) In cases in which no death-cum retirement gratuity is payable, the instructions referred to in para 3 of decision No (2) below Article 913 will continue to apply.

It has been observed that the instructions contained in sub-para 2 (*e*) of the Office Memorandum dated the 8th June, 1951 have not been interpreted uniformly by audit officers. It is accordingly clarified that one-fourth of the amount of anticipatory d. c. r. gratuity is required to be generally withheld when authorising such payments.

[G.I.M.F. Memo No. F 25 (22)-EV /60, dated the 12th February, 1962].

923. If the Audit Officer considers it likely that in a case contemplated in the preceding Article the officer would be entitled to gratuity only, he may sanction the disbursement of not more than three-fourths of the amount of such probable gratuity to which, after the most careful summary investigation that he can make without delay, he believes the Government servant to be entitled.

If the amount of gratuity disbursed proves to be larger than the amount found actually due upon completion of the inquiries, the gratuitant shall not be required to refund any excess actually disbursed to him except as provided in Chapter XXI.

924 The payment of the anticipatory pension should be so arranged that it is not delayed beyond the first day of the month following the month in which the officer is due to retire.

925. **Omitted.*

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*Vide G. I. M. F. Notification No. F. 4 (35) EV (C)/63, dated the 9th August 1963.

926. To enable the Audit Officer to exercise the jurisdiction entrusted to him under Article 922, the authority whose duty it is to sanction the pension, if he sees reason to believe that the pension cannot possibly be sanctioned by the date on which the officer is due to retire, shall furnish to the Audit Officer without delay the fullest information regarding the officer's service, the probable amount of pension, etc., unless the pension papers containing such information are already in the possession of the Audit Officer.

927—929. *Cancelled.*

CHAPTER XLVIII—PAYMENT OF PENSIONS.

SECTION I.- GENERAL RULES.

930. Apart from special orders, a pension, other than a Wound or Extraordinary pension under Part VI, is payable from the date on which the pensioner ceased to be borne on the establishment, or from date of his application, whichever is later. The object of this latter alternative is to prevent un-necessary delay in the submission of applications. The rule may be relaxed, in this particular, by the authority sanctioning the pension when the delay ie sufficiently explained.

1. The pensions of an officer who under Article 436, has received a gratuity in lieu of notice is not payable for the period in respest of which the gratuity is paid.

Government of India's decisions. (1)—An officer who has taken leave without pay in the hope of being able to resume duty and who subsequently decides that his health will not permit of his return should not be regarded as entitled to pension from the commencement of his leave without pay.

[G. I. F. D. No. 867 C S. R., dated 22-7-1915]

(2) In the case of a man superannuated but on special duty in England his pension in the absence of special order should commence from the date of termination of his special duty.

[Para 482 of the India Supplement to C. S. R. (5th Edition)].

(3) When leave without pay has been granted at an officer's own request and for his own advantage, retirement under the premature retirement rules should not take effect from a date which involves the cancellation of such leave.

[G. I. F. D. No. F/209-C. S. R /25, dated 6th July, 1925].

(4) The interpretation of the word "application" as used in the fourth line of Article 930, Civil Service Regulations, is not the application referred to in Article 911 and 913 of the Regulations, but any formal application for pension which an officer may submit to his superior officer either before or after retirement and the date of this application should be entered on the fourth page of Form No. 25 (Pension).

Anticipatory pension should be granted from the date of retirement.

[Para 484 of India Supplement to C S. R. (5th Edition)].

(5) So far as the Pension Rules in the C. S. R. are concerned, the Nationality has no bearing on the sanction or payment of pension *vide* A.G.C.R., UO. No. PNII-/OTry/57-58/709 dated 5-5-1958 in G,I.M.F. File No. F. 7 (49)-EV/58.

931. The preceding Article applies to ordinary, not to special, cases. If under special circumstances, a pension is granted long after an officer has retired, retrospective effect should not be given to it without the special orders of the Government which granted it ; in the absence of special orders such a pension takes effect only from the date of sanction.

Government of India's decision. The Word 'Government' in Article 931 of the Civil Service Regulations refers to Government in the Ministry of Finance.

[G. I. M. F. No. 2796-EV/53, dated the 25th April 1953].

932. In cases where considerable delay has occurred in making application for a Wound or Injury pension, it will be granted only from the date of the report by the Medical Board, and no application for

gratuity or pension will be entertained unless submitted within five years of the wound or injury.

93 . *Deleted.*

933A. *Omitted.*

934. Except where specifically otherwise provided all pensions shall be payable in rupees in India :

Provided that, in the case of a non-Indian officer who entered service before the 10th September, 1949 and who on retirement takes up his residence in the United Kingdom or in any of the territories mentioned in Appendix 15, payment of pension, except death-*cum*-retirement gratuity and family pension admissible under the New Pension Scheme, may be made in sterling through the High Com missioner for India in the United Kingdom or through any of the authorities mentioned in Appendix 15, for the period of such residence at the minimum rate of conversion of 1s. 9d. to the rupee :

Provided further that Indian pensioners who retired from service before the 12th June, 1956 and who before that date took up residence in the United Kingdom or in any of the territories mentioned in Appendix 15, shall continue to enjoy the concession of conversion of their pensions into sterling at the minimum rate of 1s. 9d. to the rupee during the continuance of their residence in the United Kingdom or those territories, as the case may be.

Provided further that the minimum rate of conversion of 1s. 9d. to the rupee shall not apply to those territories included in Appendix 15, where the Indian rupee is either legal or current tender or whose currency is at par with the Indian rupee.

Explanation. **for the purposes of this article and articles, 934A, 934B, 934C, 934D, and 935, the expression 'non Indian' means a person who on the date of his retirement was a citizen of a country other than India.**

Government of India's decisions (1) Under the old article 934 CSRs. payment of pension could be made in Nepal in rupees. Since the ammended article does not specifically provide for the payment of pension in Nepal to pensioners retiring from the Government of India, a doubt has been expressed as to whether existing arrangements for payment of pensions in Nepal could be continued.

It has been decided that pending a decision on the general issue as in para 1 above, which is under consideration of the Government of India, the existing arrangements for the payment of pensions in Nepal may continue as before in respect of persons retiring from the Government of India.

[G I.M.F. Memo, No F.6(18)/59, dated the 22nd October, 1959].

Note :—Doubts have been expressed as to whether the payment envisaged above includes payment of gratuity. It is accordingly clarified that the intention of the orders is to cover payment of gratuity/death-cum-retirement gratuity as well

[G.I M F. Memo: No. F 6 (18)EV/59, dated the 27th April 1960].

(2) On a question having been raised whether a pensioner is entitled to the payment of pension in U K. under the ammended Article 934 of the C.S.R. if he acquires citizenship rights under the British Nationality Act after retirement it was decided that the pensioner is not entitled to the concession under the amended Article 934 and he should make his own arrangements for getting his pension in U.K. through the normal banking channels.

[G I M F. letter No. 3913-E.V (C)-59, dated 30-9-1959 to the address of Accountant General, Bangalore in File No. 5 (26)-EV/59].

(3) The payment of pensions to State Government pensioners outside India is to be regulated under the corresponding rules and orders of the State Governments. However, since such payments involve foreign exchange, it is necessary to ensure that any rules and orders that may be issued by the State Governments in this regard should be examined from foreign exchange angle also It is accordingly suggested that, if there is no objection, the Government of India Ministry of Finance (Department of Economic Affairs) may be consul-

ted by the State Government on all questions relating to payment of pensions outside India, before any rules or orders in this regard are issued by themselves.

[G.I.M.F. Memo: No. F. 6 (25)-EV/59, dated the 25th February 1960]

(4) The result of the amendment to Article 934 which came into force with effect from the 12th June, 1956 was that Indian pensioner who after retiremant took up residence in the United Kingdom or in any of the territories mentioned in Appendix 15 to the Civil Service Regulations on or after 12th June, 1956, no longer remained entitled to the erstwhile concession of receiving their pension in those countries through the High Commissioner for India in the United Kingdom or through the authorities mentioned in Appendix 15 and to the conversion of their pension into sterling at the minimum rate of Is. 9d. to the rupee. This also meant that is during any period on or after 12th June, 1956, any of these pensioners received payment of pension converted into sterling at the minimum rate of 1s. 9d, to the rupee, they should be called upon to refund the overpayment resulting from the difference between that rate and the current rate of exchange.

2. With a view to removing the hardship caused to pensioners in this connection the President has been pleased to decide in partial relaxation of the second proviso to Article 934 of the Civil Service Regulations, that Indian pensioners who after retirement or while on leave preparatory to retirement took up residencc in the United Kingdom or in any of the territories mentioned in Appendix 15 to the Civil Service Regulations, during the period from 12th June, 1956 to 17th July, 1958 may receive their pension through the High Commissioner for India in the United Kingdom or through any of the authorities mentioned in Appendix 15 *ibid*, in sterling *converted at the current rate of exchange*. The President has also been pleased to order that recovery of any overpayments resulting from payment of pension to these pensioners at the conversion rate of 1st. 9d. to the rupee, in respect of any period between 12th June, 1956 and 17th July, 1958, shall be waived. In cases where overpayments on this account for the said period have been already recovered, the same shall be refunded. Any such overpayment relating to periods after 17th July, 1958 shall, however, be recovered.

3. The lumpsum payable on commutation of a part of pension in the case of the pensioners who have been allowed to receive payment of pension abroad, in relaxation of Article 934 of the Civil Service Regulations, as in the preceding paragraph or under some separate orders shall be payable in India only.

[G.I.M F. Memo : No F. 9 (14)-EV/57, dated the 2nd July 1960].

(5) In the case of a pensioner who retired from service before the 26th January 1950 but who did not take up residence in the U.K. etc. until after the 12the June, 1956, eligibility for drawal of pension in sterling at the conversion rate 1*s*. 9*d*. under the first proviso to Article 934, C.S. Rs. may be determined with reference to the following criterie, namely :—

(*i*) If the pensioner can establish from documentary evidence that while he was in service in India he was by virtu of his non-Indian nationality admitted to any special benefits which at that time were admissible to persons of non-Asiatic domicile only. Such as the special leave rules, overseas pay, home leave passages, etc. he may be treated as a 'non-Indian.'

(*ii*) A pensioner who is able to prove from documentary evidence or other wise that he had acquired the citizenship of a country other than India prior to the 12th June, 1956 also may be admitted to the benefit, of drawal of pension in sterling at the special conversion rate.

All other pensioners who retired from service before the 26th January 1950, but took up residence in the U.K , etc. on or after the 12th June 1956, should be dealt with under the main rule without specifically investigating the question of their eligibility for Indian citizenship.

2. The above critera may be adopted as a rough and ready method However, it should not be understood that all persons, who are unable to satisfy the two critera, are *ipso facto* Indian citizen. That privilege can only

be claimed by a person who satisfies the provision of Article 5 of the Constitution.

[Shri Devi Diyal Bhatia, Deputy Secretary to Government of India, Ministry of Finance D.O. No. 638-D.S. (R II)/60, dated the 4th Feburary 1960 to the address of Shri P.K. Rau Chief Accounts Officer. High Commissioner of India, 55. Jermyu Street, London S.W I.]

(6) In partial modification of Article 934 of the Civil service Regulations the Government of India are pleased to decide that the disbursement of pensions of Indian Government pensioners may be made by the Indian Consulate at Mascat.

[G I.M.F. letter No. 6631-EV/A/58 dated the 28th October 1960 in file No F 25 (20) EV/60]

934A. A non-Indian pensioner who entered service before the 10th September 1949 who has been residing in India and who proceeds to a place outside India with the object of taking up residence there, shall be entitled to convert his pension at the minimum rate only from the date when he quits India.

934B. A non-Indian pensioner who entered service before the 10th September 1949 who within six months of his retirement leaves India with the object of takig up residence elsewhere shall be entitled to convert his pension at the minimum rate from the date to which it has been paid in India or, if no payment has been made there, from the date of its commencement

934C. A non-Indian pensioner who entered service before the 10th September 1949 who has been allowed to convert his pension at the minimum rate and who returns to India and continues to draw his pension through the High Commissioner for India in the United kingdom or through any of the authorities mentioned in Appendix 15, shall be allowed the benefit of the minimum rate for six months from date of such return.

934D. The pension of non-Indian pensioner, who entered service before and 10th September, 1949 who is entitled to the minimum rate and who has commuted any portion after the 4th December, 1928, shall be converted at the rate of exchange prescribed by the President, and to the resulting pension shall be added, so long as he remains entitled to the minimum rate, the difference between the values of the full pension (less any portion commuted before the 5th December, 1928) converted at that rate and at the rate of exchange prescribed by the President, respectively.

935. The minimum rate shall apply to gratuities paid to non-Indian officers who entered service before the 10th September 1949 residing out side India, but where the service of an officer to whom a gratuity is granted terminates in India, his gratuity shall be paid in India.

Transfers betwecn England and India.

***936. Transfer of a pension from India to the United Kingdom (where it is payable through the High Commissioner for India) and *vice versa* is permitted twice only**

937. Application for transfer of payment from India to the Home treasury should be made to the Accountant-General within whose jurisdiction the treasury of payment is, who will grant a last pay certificate, forwarding a duplicate, with a copy of the first page of the application upon which the pension was originally granted, to the High Commissioner for India.

SECTION II.—PAYMENT IN INDIA.

938. *Omitted.*

939. The Accountant-General of the province in which payment is

*This amended article came intoforce from the 12th June 1956.

to be made will then communicate to the officer who is to pay the pension authority to make the payment ; in the case of a pension such authority will be a Pension Payment Order in Form 27 or 28 or (in the case of Presidency payments) Forms 27-I or 28-A.

Note. 1 —Form 27 may not be used for pension chargeable to Local Funds other than those which up to 1st April, 1908 were treated as incorporated (*see* Article 800) or Indian States. The following extract from a letter from the Government of India indicates the form of Pension Payment Order to be used and procedure to be followed when a treasury is authorised to pay a pension on behalf of an Indian State,—

"I am directed to say that if an Indian State desires a periodcal payment to be made from a Government Treasury, the amount being recovered from the Indian State, there is no objection to the request being granted with the sanction of the Local Government, provided the amount of each payment is not less than Rs. 100, and provided that the treasury at which payment is desired is under the Government, which is in political connection with the Indian State concerned. Such payments will be made by Government merely as an agent for the Indian State."

"When such payments on account of pensions are arranged for, the form of pay ment order should not be the same as that used for pensions payable from Indian Revenues. The order should be of the same kind as the ordinary Pension Payment Order but should be clearly distinguished in form."

Note. 2. Each pension payment order will be accompanised by form 27-A intended to be delivered by the Disbursing Officer to the pensioner concered for use as a wallet for the pensioner's half of the Pension Payment Order.

Government of India's decisions :—(1) Clause (*i*) of sub-rule (2) of rule 328 of the Central Government Compilation of the Treasury Rules, Volume I, requires that the specimen signature and the thumb and finger impressions of a pensioner to be attached to the Pension Payment Order should be attested by the head of the office concerned or by some other responsible person. It has been decided that in the case of pension documents or other certificates relating to pension payment of Central Government servants residing in Pakistan the attestation should be made by some person exercising the power of a Magistrate under the Criminal Procedure Code in Pakistan under the seal of his office.

2. All documents in this behalf should, however, be routed through diplomatic channels.

[G. I. M. F. Memo : No. F. 7(9)-E.V/49, dated 21-3-49]

Procedure in paying

940. A gratuity is paid in a single sum, and not by instalments, on receipt of the Accountant-General's authority.

941. (*a*) **A gratuity may, at the discretion of the Government of India, or with the sanction of the Government of India on the application of the recipient, be converted either into a life annuity, or into a temporary life annuity, or into an annuity payable for a fixed number of years with remainder to the annuitant's heirs in case of his death. The amount of the life annuity will be determined by the table prescribed by the Governor-General in the Council** [*now President*] **under the *Civil Pensions (Commutation) Rules, while that of the temporary life annuity will be determined in each case in consultation with the Actuary to the Government of India on the assumption of the same rates of interest and mortality on which the table prescribed by the Governor-General in Council** [*now President*] **under the 'Civil Pensions (Commutation) Rule's is based.**

(*b*) **A Local Government may exercise the power of the Government of India under clause** (*a*) **of this article in respect of gratuities sanctioned by it or by an authority subordinate to it.**

942. The Government of India or a Local Government will never insist on the conversion of a gratuity into an annuity, unless the expectation of life of the officer be reported by competent medical authority to be equal to the average.

943. A pension is payable in India monthly on and after the first

*Incorporated as Appendix 38 in Volume II of this Compilation.

day of the following month under the following rules :—

1. On receipt of the Pension Payment Order, the disbursing officer will deliver one-half to the pensioner, and keep the other half carefully in such manner that the pensioner shall not have access thereto.

2. Each payment made is to be entered on the reverse both of pensioner's half and of the disbursing officer's half of the Pension Payment Order, both entries being attested at the time of payment by the signature of the disbursing officer.

3. With reference to Articles 956 and 957, a pension should, under no circumstances, be paid for the first time in arrears for more than one year without special orders of the Local Government.

Note—The Local Government may delegate its powers under this rule to Commissioners of Divisions and to such other officers as it may desire.

4. A pension is payable for the day on which the pensioner dies.

5. In regard to the liability of pensions to attachment by a Civil Court *see* Section II of Act XXIII of 1871 which runs as follows :—

Section II —"No, pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance and no money due, or to become due, on account of any such pension or allowances, shall be liable to seizure, attachment or sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court."

Auditor General's Instruction :—The Chief Accountant, Reserve Bank of India, will apply to the Accountant-General concerned to arrange for the payment of a pension of Government servants transferred to the Reserve Bank for payment from a Government treasury at a place where there is no office or branch of the bank. The Accountant-General will issue a Pension Payment Order in Form 27, in Appendix to the Civil Service Regulations, with modifications considered necessary on the treasury. The Treasury Officer will deal with this Pension Payment Order in the same manner as for pensions of other Government servants. The pension will be classified under the head "T—Deposits and Advances—Part II—Deposists and Advances not bearing interest—Accounts with Reserve Bank—Transaction on behalf of the Reserve Bank—Pension payment." This classification will be noted on the Pension Payment Order also. Debits for gross amount of pension paid supported by vouchers will be passed on to the Bank, and income-tax deducted will be credited finally lo Government under the appropriate head of account.

[Auditor General No. 516 Admn 1/167-36, dated 17th November, 1936].

Identification of Pensioner.

944. As a rule a pensioner must take payment in person after identification by the comparison with the Pension Payment Order.

Note.—Officers of the classes mentioned in Article 229 (*c*), (*d*), and (*e*), as it stood prior to 6th July, 1920, and in Articles 654 and 678, whether appointed by the Secretary of State or not, are when pensioned, paid on payment orders, in form 28 which do not contain a full description of the payee. In case of doubt, if such a pensioner is not known to the paying officer, he may be required to produce a life certificate or other evidence of identity.

945. A pensioner specially exempted by the Local Government from personal appearance, a female pensioner not accustomed to appear in public, or a male pensioner who is unable to appear in consequence of bodily illness or infirmity, may receive his or her pension upon the production of a life certificate signed by a responsible officer of Government or by some other well known and trust-worthy person.

Note.—The power to grant exemption under this Article from personal appearance to draw pension may be delegated by a Local Government to any officer of not lower rank than (Collector of a district.)

946. A pensioner of any description, who produces a life certificate signed by some person exercising the powers of a Magistrate under the Criminal Procedure Code (Act V of 1898), or by any Registrar or Sub-Registrar appointed under the Indian Registration Act. 1908 (XVI of 1908) or by any pensioned officer who before retirement, exercised the powers of a Magistrate or by any Gazetted Officer, or by a munsif, or by a police officer not below the rank of

Sub-Inspector-in-charge of a police station, or by a Postmaster, a Departmental Sub-Postmaster, or an Inspector of Post Office, by a Class I Officer of the Reserve Bank of India or a Staff Officer or Staff Assistant of the State Bank of India is exempted from personal apperance.

947. (*a*) **In all cases referred to in Articles 945 and 946. the disbursing officer must take precautions to prevent impositions, and must at least* once a year, require proof independent of that furnished by the life certificate of the continued existence of the pensioner.**

(*b*) **For this purpose he should (save in cases of exemption from personal appearance granted by the local Government) require the personal and due identification of all male pensioners who are not incapacitated by bodily illness or infirmity from so attending, and in all cases where such inability may be alleged, he should requir proof thereof in addition to the proof submitted of the pensioner's existence.**

1. The disbursing officer is personally responsible for any payment wrongly made. In case of doubt, he should consult the Accountant-General.

2. A pensioner of rank may be privately identified by the disbursing officer and need not be required to appear at a public office,

Government of India's decision. A pensioner submitted the life certificate signed by a gazetted officer. The treasury officer required that the certificate should be signed by a Magistrate or the pensioner should personally appear before him. A question was accordingly raised whether the objection raised by the treasury officer was valid in view of the provisions of Rule 343 of the Central Government Compliation of Treasury Rules, Volume I, under which a pensioner who furnished a certificate signed by a gazetted officer is exempted from personal appearance. The Government of India held that under Article 947 of the Civil Service Regulations a disbursing officer should require proof independent of the proof submitted of the pensioner's existence. The position therefore is that it is open to the Treasury Officer to satisfy himself of the pensioner's existence in whatever manner he thinks fit.

[G. I. M F. U. O. No 2032 EV/50, dated 22nd March 1950 in File No- F. 9 (5)-EV/50].

948. Payment of pensions to Police pensioners are made in accordance with the rules in this Section, but if the disbursing officer entertains any doubt as to identity of such a pensioner, he may require the local Inspector of Police to identify him. The Inspector would then be responsible for the correct identification of the pensioner.

Payment to Agents.

949. (*a*) **A pensioner not resident in India may draw his pension at any treasury in India through a duly authorised agent, who must either produce a certificate by a Magistrate, a Notary, Banker, or a diplomatic Representative of India, on each occasion, that the pensioner was alive on the date to which his pension is claimed, or execute a bond to refund overpayments and produce such a certificate as aforesaid at least once a year.**

(*b*) **A pensioner of any description resident in India is exempted from personal appearance if he draws his pension through a duly authorised agent approved by the Looal Government, who must execute a bond to refund overpayments and produce at least once a year a life certificate signed by any of the persons authorised by Article 946 to sign such certificates.**

(*c*) **The pension of an officer drawing his pension through an agent who has executed a bond to refund overpayments should not be paid on account of a period of more than a year after the date of the**

*The rules for periodical verification of pensioners are laid down in Rule 367 and 368 of the Compilation of Treasury Rules, Volume I.

life certificate last received and the Accountant-General and the disbursing officer should be on the watch for authentic information of the decease of any such pensioner, and on receipt thereof, should promptly stop further payments.

Transfers in India.

950. A. Local Government or an Accountant-General may, on application and on sufficient cause being shown, permit transfer of payment from one treasury in India to another. This jurisdiction may be delegated by the Local Government to any Executive authority not lower than the Collector or other District officer.

Note —The powers of the Local Government under this Article will be exercised by the respective Ministry/Departments, of the Indian Audit and Accounts Department the same will be exercised by the Comptroller and Auditor General of India.

Auditor General's Orders :—To obviate delay in the communication to a pensioner of the transfer of payment of his pension from the jurisdiction of one Accounts Officer to that of another, the Accounts Officer in whose jurisdiction payment is to be made should, when a new pension payment order is issued send the necessary intimation to the pensioner and not request the other Accounts Officer to issue the intimation. To enable him to do so, the Accounts Officer who requests him to arrange for payment of the pension should when making the request furnish him with the address of the pensioner.

[Auditor General's letter No. 70 Admn. 1)218-38 dated the 2nd February, 1939·]

951. (*a*) **A copy of any order issued by a local Government or other Executive authority under the preceding Article should be forwarded to the Accountant General and the Collector of the district from which the payment is to be transferred should be instructed to return his half of the Pension Payment Order.**

(*b*) **The Accountant-General will then either issue a new payment order, or enface the payment order for payment at the new treasury and forward it to the Treasury Officer who will in future pay the pension, or if the treasury is in another province, will move the Accountant-General of that province to do so.**

952 *A Treasury Officer may authorise payment in any of the outlying treasuries subordinate to his district treasury of a pension payable under proper authority at his head-quarters, and may transfer the payment of a pension from such subordinate treasury to the district treasury, or from one subordinate treasury to another in the same district.

Certificate of Non-Employment.

953. (*a*) **A pensioner drawing pension in India is required to append to his bill a certificate as follows :—**

> **"I declare that I have not received any remuneration for serving in any capacity, either under Government or under a Local Fund. during the period for which the amount of pension claimed in this bill is due."**

(*b*) **In the case of a pensioner permitted under Chapter XXI to draw pension after re-employment, this certificate should be modified according to the facts.**

(*c*) **In the case of a pensioner drawing his prnsion through an agent, who has executed a bond of indemnity, as required by †Article 42 of the Civil Account Code, the certificate modified accordingly may be signed by the agent, provided that the pensioner shall himself furnish, once a year, a certificate covering the period for which pension has been drawn on the basis of the agent's certificates.**

Renewal of Pension Payment Order.

954. When the reverse of a Pension Payment Order is filled up,

*Also see rule 335 of the Compilation of Treasury Rules' Volume I.

†Now Rules 246 and 247 of the Treasury Rules, Volume I.

or when the pensioner's half is found to be worn or torn, both halves may be renewed by the Treasury Officer.

995. If a pensioner loses his half of the Pension Payment Order, a new Order may be issued by the Treasury Officer, who should see that no payment is made on the half alleged to be lost by a strict observance of Rule 2 under Article 943. The necessary note should be made in remarks column of the register in Form 39, Civil Account Code. [*now* **Form T. R. 36**]

Lapses and Forfeitures.‡

956. If a pension payable in India remains undrawn for more than one year, pension ceases to be payable.

Government of India's decision. The authority sanctioning the pension is competent to authorise the payment of arrears of pension which has remained undrawn by the pensioner concerned.

[G. I M. F. letter No. 3271-EV (C)-59, dated 15-9-59 to the A. G. Mysore, Banglore in file No. 6 (29)-EV/59,]

957. If the pensioner afterwards appears, the disbursing officer may renew his payments. But the arrears, cannot be paid if the pension in arrears is to be paid for the first time or if the amount of arrears exceeds Rs. 1,000 without the previous sanction of the authority by whom the pension was sanctioned to be obtained through the Accountant-General.

Note :—In cases where the pension is sanctioned by the Local Government it may delegate its powers under this Article to Heads of Departments or other subordinate authorities.

Government of India's decision The Gorkha pensioners nomally take up permanent residence in Nepal after their retirement and draw their pensions from Indian Treasuries situated in Nepal or near Indo Nepal border. It has been brought to the notice of Finance Ministry that these pensioners are experiencing certain difficulties in the matter of drawal of their pensions etc. Under the existing rules, in certain cases, it is necessary to make a reference to the authority that sanctioned pension and also to the Accountant General concerned before admitting their claime for arrears of pension etc. This inevitably leads to delays which cause undue hardship to these pensioners who are invariably very low-paid.

The above mentioned difficulties are, however, not experienced by the Gorkha Military pensioners including the civilians paid from the Defence Service Estimates. For the latter category of pensioners, the Recruiting Officers Assistant Recruiting Officers for Gorkhas have already been authorised to deal with and decide the claims relating to arrears of pensions etc.

The question whether a procedure similar to the one in vogue for the Gorkha Military pensioners could be adopted for the Gorkha Civil pensioners has been carefully examined and the President is pleased to decide that the powers of pension sanctioning authority under Articles 957, 958, 959 and 960 CSRs shall be exercised by the following officers in respect of Gorkha Civil pensioners who draw their pensions from the Indian Treasuries situated either in Nepal or in India.

(*i*) The Recruiting Officers for Gorkhas.
(*ii*) The Deputy Recruiting Officers for Gorkhas.
(*iii*) The Assistant Recruiting Officers for Gorkhas.
(*iv*) The Military & Air Attache, Embassy of India in Nepal.
(*v*) The Assistant Military and Air Attache, Embassy of India in Nepal.
(*vi*) Officers in charge of Pension Payment Offices at Dhankuta and Pokhra.

[G.I.M.F. Memo : No. F 5 (6)-EV(C)/63, dated the 19th September 1963]

958. If the suspension of payment is attributable to error or neglect by any public officer, the Accountant-General may direct

‡Now Rules 246 and 247 of the Treasury Rules, Volume I.

payment of the arrears without taking the orders of the Government

Deceased Pensioners.

959. (*a*) **On the death of a pensioner, payment of any arrears actually due may be made to his heirs, provided that thay apply within one year of his death. It cannot be paid thereafter without the sanction of the authority by whom the pension was sanctioned to be obtained through the Accountant General.**

Note :—In cases where the pension is sanctioned by the Local Government it may delegate its powers under this Article to Heads of Departments or other subordinate authorities.

(*b*) **But if the arrears do not exceed Rs. 100, and the case presents no peculiar features, the Accountant-General is empowered to pass the arrears on his own authority.**

(*c*) **After payment of the arrears of pension, the Pension Payment Order should be returned to the Accountant-General with a report of the date of the death of the pensioner.**

960. Subject to the provisions of the preceding Article, the arrears of pension of a deceased pensioner may be paid to the heirs of the deceased, without the production of the usual legal authority, to the extent of Rs. 500 under the orders of the Collector or other officer responsible for the payment, after such enquiry into the rights and title of the claimants as may be deemed sufficient. Any excess above Rs. 500 may similarly be paid under the orders of the Local Government on execution of an indemnity bond, with such sureties as it may require, if it is satisfied of the right and title of the claimant and considers that under delay and hardship would be caused by insisting on the production of letters of administration.

In any case of doubt, payment should be made only to the person producing legal authority.

961. If an officer dies before actually retiring or being discharged, his heirs have no claim to anything in respect to his pension (but *see Appendix 41*)

Government of India's decisions.—(1) In cases in which a pension or gratuity is sanctioned after the death of the officer concerned, it is not necessary to obtain the order of the authority who sanctioned the pension before payment is made to the heirs of the deceased pensioner. Such cases should be dealt with under Article 959 (*a*), Civil Service Regulations.

[G.I.F.D. No. 4723, dated 17-10-1899]

(2) An officer having been invalided by the Medical Board was retained in service pending receipt of certain orders of Government affecting the pension of the establishment in which he was employed. He was then granted privilege leave and died before its expiration. His heirs have no claim to the gratuity to which the officer was eligible on the date he was invalided as he died before actually retiring or being discharged and as he drew pay up to the date of his death under Article 456, Civil Service Regulations.

[Paragraph 507, India Supplement to C.R. (5th Edition].

962. When a pension is granted to an officer who desires that payment thereof from the date of its commencement should be made at the Home treasury, the Audit Officer who audits the pay of the officer should, on receipt of sanction to the grant of pension, issue a last-pay certificate and forward to the High Commissioner for India a duplicate thereof, together with a copy of the first page of the application for pension and of the order of the Local Government or other anthority granting the pension. The forwarding letter should always request that payment be made from some specific date being ascertained from the last pay certificate.

963. If the pension is not wholly chargeable against the General

*The amended article shall be deemed to have come into effect from 12th June, 1956.

Revenues, care must be taken to state in the certificate how it is to be charged.

964. The annuities and pensions of all officers are issued at the Home treasury monthly in arrear on the 16th day of each calendar month.

They are made up to the following quarterly dates, *viz.*, to the 15th March, 15th June, 15tn September and 15th December; and they are paid in monthly instalments, the first two instalments in each quarter being the net amount accrued, omitting shillings and pence, and the third instalment being the balance due for the quarter-

965. Intimation of any revision of pension paid at the Home treasury should be made to the High Commissioner for India, so as to reach him before the pensioner is informed.

SECTION IV—PAYMENT IN A COLONY·

966. The pension of a pensioner residing in any colony named in Appendix 15 may be paid there, provided he is entitled to receive payments of pension in the colony under Article 934 and 987.

Issue of Warrant.

967. The authority for payment of a pension in a Colony shall be a Warrant in Form 29 to be issued by the Accountant-Gentral of the province to the cadre of which the retirining officer belongs.

968 and 969. *Cancelled.*

970. Every Warrant shall be issued in triplicate. The original, bearing the payee's signature, should be forwarded to the Colonial authority concerned, the duplicate to the High Commissioner for India, and the triplicate should be made over to the payee. Each payment should be endorsed on the back of both the original and the triplicate Warrant, an acknowledgment of receipt of money being rendered by the payee. When no space for such entries remains, or when a Warrant is lost or destroyed, a fresh Warrant shall be issued by the office who issued the original warrrnt on application being made through the Colonial disbursing officer. The letter forwarding the duplicate Warrant to the High Commissioner should invariably furnish the following information, *viz.*

(1) Whether the pensioner is already on leave in the Colony.
(2) Date of retirement.
(3) Date of leaving India.
(4) Date of birth.

971. *Cancelled,*

Transfer of Payment.

972. (*a*) Transfer of a pension from an Indian treasury to a Colony the payments in which are adjusted in the accounts of the Home treasury is permitted only once; but a pensioner can at any time have payment transferred from a Colony to an Indian treasury, or from a Colony the payments in which are adjusted in the accounts of the Home treasury to England for direct payment from the Home treasury.

(*b*) In case a pensioner desires transfer of payment of his pension from one Colony to another, the Government of India will recognise the preceedings of the Colonial authorities sanctioning such transfer which should however, be reported separately by the pensioner to the Government of India and to the High Commissioner for India.

973. Upon his retnrn to India an officer should deliver up his copy of Warrent, which will serve the purpose of a last-pay certificate.

CHAPTER XLIX—PENSIONS TO MEMBERS OF THE INDIAN CIVIL SERVICE

SECTION I—APPLICATIONS.

Retirement while on duty in India.

974. A retiring officer of the Indian Civil Service shall, if he be in

India, submit his application for permission to resign the Service and for an annuity or gratuity to the Local Government on whose cadre he is borne at the time. If he is employed under another Local Government or under a Department of the Government of India, the application should be sent through such other Local Government or Department of the Government of India. The Local Government on whose cadre the officer is borne will, on receipt of the application obtain the report of the Accountant General upon the officer's claim in respect of service and active service. If the officer is under the audit of another Accountant General, the Accountant General of the province to the cadre of which the officer belongs will obtain from the other Accountant General the information required for his report.

Note 1—When reporting on the officer's claim in respect of service and active service, the Accountant General should send the officer a copy of Article 981.

Note 2—As soon as an officer gives over charge of his office, the Accoutant General should furnish the following information to the Local Government, or if the officer belong the cadre of an other province, to the Accountant General of that province, who will pass it on to the Local Government.

1. Name of officer.
2. Date on which he made over charge of his office.
3. The amount of leave granted, if any.
4. Date up to (and including) which leave allowances have been drawn.
5. What demands, if any, are outstanding against the officer.

The annuity or gratuity should be sanctioned subject to the recovery of these outstandings.

975 and 976. *Cancelled.*

Retirement during leave to Europe.

977. (*a*) **An officer who wishes to retire from the Service while on leave in Europe must submit his application to the Secretary of State.**

(*b*) **When an officer makes his application under this Article, whether after completing his full period of service or after having been declared by the Medical Board to be unfit for further service in India, his resignation is accepted, subject to the adjustment of any demands that may be standing against him in India ; and he is directed to apply to the Local Government on whose cadre he was borne at the time of retirement for the annuity to which his length of service may entitle him.**

Grant and Pension

978. (*a*) **The annuity or gratuity will be sanctioning by the Local Government on whose cadre the retiring officer is borne at the time of retirement.**

(*b*) **The copy of the sanctioned order forwarded to the officer will be his authority for drawing his annuity or gratuity.**

SECTION II.—PAYMENT.

979. *Cancelled.*

980. *Not printed.*

981. An officer on resigning the Service must report to Local Government on whose cadre he is borne the place at which he desires that his annuity should be paid, and if he is leaving India, the date of departure of the vessel in which he sails.

Note.—A copy of this Article should be furnished by the Accountant General to every officer who applies in India for permission to resign, with the intimation that there will be delay in the commencement of his annuity if he does not furnish the information required by the Articles, (*see also Note 1 under Article 974*).

982. Annuities are payable in arear, monthly and to date of decease.

983. Payment of annuities shall be made in India and in rupees.

Provided that in the case of non-Indian officers such payment may be made as under :—

(*a*) **in India, in rupees.**

(*b*) **through the High Commissioner for India in the United Kingdom in sterling at such rate of exchange as the President may, by order, prescribe.**

984. Transfer from the Home treasury to an Indian treasury, and vice versa, is permitted twice only.

985. Whenever a certificate is issued for the payment of an annuity from the Home treasury, the amount of the annuity must be stated in pounds sterling and not in rupees and, in the case of transfer of payment from India to the Home treasury, it must be distinctly recorded that no further payment on account thereof will be made in India.

986. An officer who resigns the Service while he is in Europe, and who has completed the requisite period of service and residence and elected to draw his annuity from the Home treasury, can obtain advances from the High Commissioner for India, pending receipt of the authority referred to in Article 978.

987. Payment of annuities may be made in any Colony named in Appendix 15 in accordance with the procedure laid down in Articles 966 to 973.

CHAPTER L.—PENSIONS TO CHAPLAINS.

988 and 989. *Cancelled.*

990 to 993. *Not printed.*

994. *Cancelled.*

PART XI—REGULATIONS RELATING TO TRAVELLING ALLOWANCES.

995 to 1163. §*Not printed.*

ANNEXURE.

(*See Note 1 to Article 320 and the connected foot-note*).

Chapter XIV of the Regulations, as it stood prior to 29th July, 1920

NOT PRINTED [See Second Edition]

PART XII

†Appendices

SEE VOLUME II OF THIS COMPILATION.

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*There is no Government servant in service who is subject to the Leave Rules as they stood prior to the 29th July, 1920.

†To avoid the Compliation becoming bulky, the appendices have been priuted separatly as Volume II of this Compilation

§See supplementary Rules 17 to 195 in Chaudri's Compilation of Fundamental and Supplementary Rules.

PART XIII
FORMS

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30.	*Cancelled*	

‡Not printed.

Form No. 1. (Leave)

Referred to in Articles 856(c), 860 and Rule 1 of Article 871 (a).

MILITARY DEPARTMENT CERTIFICATE OF TITLE TO LEAVE.

FORM No. 1 [INDIAN ARMY FORM L 1176].

(OBVERSE.)

Certified that.....

who is subject to the furlough Rules of ...has ... years..... days on furlough at his credit. He is eligible for furlough at the rates of pay specified :—

For.....years... day on $\frac{\text{furlough pay}}{\text{English furlough pay}}$ on $\frac{\text{private affairs}}{\text{medical certificate}}$

For.....years.....days on furlough pay if granted an extension on medical certificate.

For.....years... days on English pay if granted an extension on medical certificate.

For.....years.....days without pay if granted an extension on urgent private affairs.

He $\frac{\text{is}}{\text{is not}}$ entitled to draw furlough pay at the rate of exchange of two shillings the rupee.

The.....19

Controller of Defence Accounts

Note.—On the back are noted the dates beginning and ending of any leave already taken, the nature of such leave, and rule under which it was taken.

[REVERSE.]

Leave already taken		Nature of leave	Rule under which taken
Date of beginning.	Date of ending.		

Form Nos. 2 to 8.

Cancelled

Forms No. 9 (Leave). *Referred to in Article 871 (a).*

(Name of, and designation of office held by the officer.)

PRIVILEGE LEAVE CERTIFICATE.

1. Government under which employed.
2. Date of beginning leave.
3. Date on which leave will end.
4. Whether furlough or extraordinary leave without allowance is admissible in continuation of privilege leave, and, if so, to what extent and on what terms.

Note. Leave allowances will not be paid out of India untill the officer produces a last-pay certificate.

(Place)
(Date)

(Signature)
Audit Officer,

Form No. 10. (Leave).—*Referred to in Article 871 (a)*

Leave Certificate.

NOT PRINTED

Form No. 11 (leave).
Referred to in Article 873.
CERTIFICATE OF LEAVE GRANTED TO (*name of, and designation of office held by the officer*).
NOT PRINTED

Form No. 12 to 21.
NOT PRINTED

Form No. 22 (Pension).—*Referred to in Article 746-A (b)*
Application for an extraordinary pension (or gratuity) for the family of A. B. late a .....killed in the execution of duty.
Submitted by the.....

Description of claimant...
1. Name and residence, showing Village and Pergunnah.
2. Age.
3. Height.
4. Race, caste, or tribe.
5. Marks for identification.
6. Present occupation and pecuniary circumstances.
7. Degree of relationship to deceased.

Description of deceased...
8. Name.
9. Occupation and service.
10. Length of service.
11. Pay when killed.
12. Nature of injury causing death.
13. Amount of pension or gratuity proposed.
14. Place of payment.
15. Date from which pension is to commence.
16. Remarks.

Name — Date of birth by Christian Era.

Names and ages of surviving kindered of deceased.
Sons.
Widows.
Daughters.
Father.
Mother.

Note. If the deceased has left no son, widow, daughter, father or mother surviving him, the word "none" or "dead" shall be entered opposite to such relative.

(*Place*)
(*Date*)

Signature of Head of Office.

Form No. 23.
NOT PRINTED

Form No. 24.
CANCELLED

Form No. 25 (Pension)

(four pages).—*Referred to in Article* 911, 912, 913, 917, 918, 920, and 921)

FIRST PAGE

*APPLICATION FOR PENSION OR GRATUITY (AND DEATH-CUM-RETIREMENT GRATUITY)

1. Name of Applicant.
2. Father's name (and also husband's name in the case of a woman Government servant).
3. Religion and Nationality.
4. Permanent residential address showing village/town, district and State.
5. Present or last appointment. including name of establishment
5. (*a*) Present or last substantive appointment.
6. Date of beginning of service.
7. Date of ending of service.
7. (*a*) Total period of Military service. Date of commencement and of each period of military service. Amount and nature of any pension/gratuity received for the military service.
7. (*b*) Governments under which service has been rendered in order of employment.
8. Length of service with details of interruption and non-qualifying periods. Y. M. D.
9. Class of pension or gratuity applied for, and cause of application.
10. Average emoluments.
11. Proposed pension
12. Proposed gratuity.
+ 12. (*a*) Proposed deaths cum-retirement gratuity.
13. Date from which pension is to commence.
14. Place of payment (Government Treasury or Sub-Treasury).

---

*Instructions for preparing the application for pension or gratuity and death-cum-retirement gratuity are appended to Form No. C. S. R. 26. These should be carefully studied before filling in the Form.

+To be deleted in the case of applicant who exercised the option under para 2(*b*) of the Ministry of Finance Office Memorandum No. F. 3(16)-Est (Spl)/50 dated the 2nd January, 1951.

14. (*a*) Pension rules opted/eligible.

14. (*b*) Whether nomination made for.
(*i*) Family pension
(*ii*) Death-cum-retirement gratuity.

15. Date of applicant's birth by Christian era.

16. Height.

17. Identification Marks.

17. (*a*) Thumb and finger impressions·

Thumb	Fore finger	Middle finger	Ring finger	Little finger
.....				

Note :—Persons who are required to send along with this application certified copies of pass-port size photographs are exempted from recording their left hand thumb and finger impressions, if they are literate enough to sign their names in English, Hindi or the official regional language.

18. Date on which the applicant applied for pension.

Signature of Head of $\frac{\text{Office}}{\text{Department}}$

SECOND PAGE.

History of service (showing Interuptions) of Date of birth.

Establishment.	Appointment.	Pay.	Acting allowance.	Date of beginning.	Date of ending.	Period reckoned as service.	Period not reckoned as service.	Remarks.	How verified.	Remarks by the Audit officer.
						Y.D.M.	Y.D.M.			
				Total period of Service,						

THIRD PAGE

(*a*) *Remarks by the Receiving Authority.*

1. As to character and past conduct of applicant.
2. Explanation of any suspension, degradation.
3. Regarding any gratuity or pension already received by applicant (See Chapter XII). .....
4. Any other remarks. .....
5. Specific opinion of the Receiving Authority whether the

service claimed is established
and should be admitted
or not· .....
(See Articles 912 (*ii*) and 917 (*a*) (*ii*).

(*b*) *Orders of the pension Sanctioning Authority.*

The undersingnd having satisfied himself that the service of Shri/Shrimati/Kumari... ....has been thoroughly satisfactory hereby orders the grant of the full pension and/or gratuity which may be accepted by the Accountant General as admissible under the rules. The grant of this pension and/or gratuity shall commence from.....

*A sum of Rs..... on account of.....is to be held over from the death-cum-retirement gratuity till the outstanding dues are assessed and adjusted.

or

The undersingned having satisfied himself that the service of Shri/Shrimati Kumari..... ....has been thoroughly satisfactory hereby orders that the full pension and/or gratuity which may be accepted by the Accountant General as admissible under the rules shall be reduced by the specified amounts or percentage indicated below :—

Amount or percentage of
reduction in pension ....
Amount or percentage of
reduction in gratuity .....

The grant of this pension and/or gratuity shall take effect from.....

*A sum of Rs.....on account of.....is to be held over from the death-cum-retirement gratuity till the outstanding dues are assessed and adjusted.

The following service of the officer has been approved for the grant of Special additional pension admissible under the rules :—

Post/posts held.....
Period of Service.....
The pension and death-cum-retirement gratuity are payable at.....
Treasury and are chargeable to..... .....

This order is subject to the condition that should the amount of pension and/or gratuity as authorised by Accountant General be afterwards found to be in excess of the amounts to which the pensioner is entitled under the rules he/she will be called upon to refund such excess.

Note :—*To be filled in, in case a surety or a suitable cash deposit. as provided in sub-para (*i*) and sub-para (*ii*) of Para 10 of Ministry of Finance Office Memorandum No. E. 7 (6)-EV/58, dated the 9th March 1959 is not forthcoming.

Dated :—

Signature & Desigation of the
Authority Sanctioninf Pension.

(*c*) *Audit Enfacement.*

1. Total period of qualifying service which has been accepted for the grant of superannuation/retiring/invalid/compensation/pension/death cum-retirement gratuity, wiih reasons for disallowances, if any, other than disallowances, if any, service the reasons for which are recorded by the Auditor Officer fn the second page.

Note :— Service for the period commencing from.....and upto the date of retirement has not yet been verified - this should be done before the Pension Payment Order is issued.

2. Amount of superannuation/retiring/invalid/compensetion/pension/death-cum-retirement gratuity that has bee admitted.

3. Amount of the superannuation/retiring/invalid/compensation pension death-cum-retirement gratuity admissible after taking into account the reduction in pension and gratuity made by the authority sanctioning pension.

4. Total period of qualifying service which has been proved for the grant of special additional pension.

5. The amount of special additional pension if any admitted under the rules.

6. The date from which the superannuation/retiring/pension/death-cum-retirement gratuity is admissible.

7. The date from which the additional pension is admissible.

8. Head of Account to which the superannuation/retiring and special additional pension/death-retirement gratuity is chargeable.

ACCOUNTANT GENERAL

[G.I.M.F. Notification No. F. 38(5)-EV/60, dated the 25th March 1960]

FOURTH PAGE (DOCKET),

Application for Pension or Gratuity

Date of application ... ...
Name of applicant ... ...
Class of pension or gratuity ... ...
Sanctioning authority ... ...
Amount of pension sanctioned ... ...
Amount of gratuity sanctioned ... ...
Date of commencement ... ...
Date of sanction ... ...

Form 26.

Sir,

I have the honour to forward herewith the pension papers of Shri..... late a.....of this office/Department as per list enclosed for favour of report on his title to pension. The instructions printed on the back of the letter have been carefully observed.

Yours faithfully,

LIST OF ENCLOSURES.

1. Applicatlon for pension in Form No. 25 C.S.R. with details of service duly filled in on the second page there of.
2. Invalid certificates (if the claim is for invalid pension.)
3. Service duly completed.
4. Memorandum of average emoluments except in the case of injury or family pension under the relevant extraordinary pension rules.
5. Last pay certificate.
6. A copy of the first page of application for pension duly attested.
7. §(*a*) Two specimen signatures, duly attested or in the case of persons not literate enough to sign their names, two slips bearing the left hand thumb and finger impressions, duiy attested ; and
   (*b*) two copies of passport size photograph duly attested.
8. *Formal application for pension in Form 30
   (*b*) *Omitted.*
   (*c*) Declarations from the Head of the Department to the effect that the special pay included in the average emoluments was of the nature of duty allowance or deputation (duty) allowance as defined in Article 23-C or 23-A of the Civil Service Regulations stating reasons thereof, and that had the Government servant not been on leave or had he not officiated in a higher post during the last three years of his service, he would have drawn the special pay of the nature of duty allowance or deputation (duty) allowance which he was drawing before proceeding on leave or officiating in the higher post.

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*As amended by G.I.M.F. Notification No. F. 17(4)-EV(C)/61 dated the 30th June 1961

‡As amended by G.I.M.F. Notification No. 25(31)/EV/60, dated the 29th July 1960.

§Amended by G. I. M. F. Notification No. F. 25(61) EV/60. dated the 29th July 1960.

9. Address of the Government servant after retirement.

10. Where the benefit of higher rates of pay is claimed under the Government of India, Ministry, of Finance, Office Memorandum No. F-15 (6) EV/52, dated the 26th July, 1952, in respect of a spell or spells of leave during the last three years of a Government servant's service, a certificate to the effect that he would have continued to hold the higher post for the entire period if he had not proceeded on such leave.

INSTRUCTIONS

1. *Age.* When year of birth is known and not the month and date, the 1st July of the year should be assumed when month is known and not the precise date, the 16th of the month should be assumed.

2. *Age.* Age as given in the service book, if subsequently amended, should be supported by an order of Government or other competent authority approving the alteration.

3. *Age of retirement.* See article 459-C. S.R., F.R. 56 in the Chaudri's Compilation of the Fundamental and Supplementary Rules, and Rule 9 of the Central (Class IV) Service (Gratuity), Pension and Retirement Rules, 1936.

4. *Alternations.* Make in red ink under dated initials of a gazetted officer.

5. *Applications.* Applications for *service* Pension or gratutity and death cum-retirement gratuity should be drawn up in Form No. 25 C. S. R. But for extraordinary pension or injury gratuity in cases regulated by Chapter XXXVIII of the Civil Service Regulations the application should be in Form No. 25 in the case of an officer injured and in Form No. 22 in the case of a deceased officer. As for extraordinary pension under the Central Civil Services (Extraordinary Pension) Rules, however, the application should be submitted in Form A or B prescribed in Schedule IV thereof, according as it is a case of (*i*) injury pension or gratuity. or (*ii*) family pension.

6. *Application.* Two spare copies of the applicant's specimun signature duly attested by a gazetted officer, should be furnished along with the application.

7. *Application.* (*a*) *It is permissible* for officers taking leave preparatory to retirement in excess of six months to submit their normal application for pension at the time of proceeding on such leave. *If they specifically declare that they propose to retire at the end of their leave,* if the proposed date of retirement is definitely known, audit officers will verify service wherever necessary and send their (final) report to the sanctioning authority. The pension may be sanctioned not more than one month before the date from which it is to take effect.

(*b*) When an officer is appointed direct from the army to an appointment for which he will retire on a civil pension, his military service should be verified forthwith and detail handed over to the civil audit and accounts officer.

(*c*) The immediate verification of such military service should also be made in the case of civil officer now in the service who have had previous military service whether prior to taking up a civil appointment or during the Great War I and World War II,

8. *Application.* A certificate as follows signed by the pensioner should be furnished with each pension application.

"I hereby declare that I have neither applied for nor received any pension or gratuity in respect of any portion of the service included in this application and in respect of which pension or gratuity is claimed herein, nor shall I submit an application hereafter without quoting a reference to this application and the orders which may be passed thereon."

If the applicant has already received a gratuity or is in receipt of a pension whether the gratuity or pension is granted in lieu of civil pension or not the certificate should be suitably modified so as to include the following

particulars :—

(*a*) nature and amount of pension :
(*b*) the period of service in respect of which it is paid and
(*c*) by whom it is paid.

9. *Average Emoluments.* Append a memorandum of calculations with reference to article 486 to 488 C. S. Rs. The calculations of average emoluments should be based on the actual number of days contained in each month.

Note. Seperate calculations should be forwarded in cases where the benefit under the Government of India Ministry of Finance, Office Memorandum of 26th July 1952 is claimed.

10. *Character and conduct,* State merely good, bad, fair or indifferent without remarks, which should be added only when absolutely necessary to a right understanding of the case.

11. *Compensation pension or gratuity,* If the application is for a compensation pension or gratuity, the nature of the change of establishment which has given rise to the claim should be fully stated against head 9 in the first page of the application.

12. *Compensation Pension owing to reduction of establishments.* State why employment was not found elsewhere and what was the amount of savings.

13. *Delay.* Explain any delay beyond a month in the submission of the application.

Note—In every case in which an interval of more than six months occurs between the date of retirement of a subordinate and issue of a pension order, a report shall after the issue of the orders be submitted to Government by the audit officer concerned with the explanation of all officers or authorities responsible for the delay.

14. *Foreign Service.* Foreign service should in every case be supported by the Government orders sanctioning the transfer and a memorandum of the contribution paid.

15. *Gratuity.* Class IV Government servants whose service, has, for some time, been superior, may, at their option, either count the whole service as Inferior towards pension or gratuity on the Inferior scale, or the Superior portion towards pension or gratuity on the Superior scale and the Inferior portion towards gratuity on the Inferior scale.

16. *History of Service.* Give date, month and year of the various appointments, promotions and cessations. For the purpose of adding towards broken periods a month is reckoned as thirty days.

17. *History of Service.* When the applicant is acting or officiating, state his substantive appointment.

18. *History of Service.* Acting promotions need not be shown except in the case of officers whose allowances count for pension under clause (*b*) of article 486 of the C. S. R.

Note.—In cases where emoluments drawn in an officiating capacity count for pension under the Government of India, Ministry of Finance, Office Memorandum No. F. 15 (6) EV/52, dated the 26th July 1952, all details regarding officiating appointments etc. should also be given.

19. *History of Service.* All periods not reckoned as service should be distinguished and reasons for their exclusion given in the remarks column.

20. *Identification Marks.* Specify a few conspicious marks, not less than four, if possible.

21. *Identification Marks.* In the case of European Ladies, gazetted Government servants, Government title-holders and other persons who may be specifically exempted by Government * * * the particulars of height and personal marks are not required.

22. *Leave Irregularly Granted.* State officers responsible and amount of allowances overdrawn.

Note—Leave erroneously granted to an officer prior to his retirement should if possible, be retrospectively commuted into such leave as was admissible under the rules at the time he proceeds on leave.

24. *Leave.* Leave of all kinds (save privilege and casual) to be entered in details.

24. *Leave to Class IV Government Servants.* Under article 474 C.S.R. an inferior Government servant can count leave with and without allowances as

qualifying service for pension up to the amonnt of leave earned under Chapter XII and XIV of the C. S. Rs.

25. *Leave to Class IV Government Servants.* (*a*) Extent to which leave with allowances taken and (*b*) leave taken without allowances, should be indicated.

26. *Medical Certificates.* If granted after applicant had ceased to do duty. State cause of delay and whether it has been accepted by the authority competent to sanction pension.

27. *Medical Certificates.* Give reasons to case of retention in service after the grant of the certificates.

28. *Medical Certificates.* Should invariably accompany the application for an invalid pension.

29. *Medical Certificates.* Medical Certificate should state particulars required under article 443 (*b*) C. S. R. in respect of the applicant under 58 years and the explanation of the head of the office should be given under head 5 on the third page of the application.

30. *Medical Certificates.* Medical Certificate should be granted only by Commissioned Medical Officer, District Medical Officer and Civil Surgeon and not by Warrant Medical Officer, a Civil Apothecary or an Assistant or Sub-Assistant Surgeon.

31. *Medical Certificates.* The Certifying Officer should be one belonging to the same District, otherwise an explanation should be given.

32. *Name.* Specify in full, house or country name of applicant and his father.

33. When initial or name of applicant are incorrectly given in the various records consulted, mention fact in the letter forwarding the application to avoid unnecessary reference from the Accountant General.

34. *Probation.* It should be stated whether the applicant was appointed on probation.

35. *Resignation of Service.* The head of the office should state its cause when it involved a break of service.

36. *Resignation of Service.* The head of the office should also state (1) whether he is in favour of condonation of such break and (2) if he is, whether with or without a reduction of pension or gratuity otherwise admissible.

37. *Retirement Date.* Show in the Service Book, application and last pay certificate.

38. *Retiring Pension.* An officer over 55 (*now* 58) years of age need not necessarily be recommended for superannuation pension if entitled to retiring or invalid pension.

39. *Sanction.* Opinion of sanctioning authority that the pension or gratuity claimed should be admitted, should be recorded with reference to Article 918 (1) C. S. R. to facilitate prompt issue of pension.

40. *Service.* Cause of its termination in each appointment should be entered in service book and attested.

41. *Service in an officiating Appointment.* If counting state (*i*) whether the appointment was substantively vaccant and (*ii*) whether another officer counted service during the period.

42. *Service in Temporary Post.* State always whether or not the applicant retained a right to revert to his Substantive appointment furnishing a copy of the departmental order.

43. *Service Book.* State reasons for omission of signature of the head of the office or that of the applicant in any case.

44. *Superannuation.* If ordered by the Government, quote its order number and date against head 5 in the applicant's third page of the application.

45. *Suspension or Dismissal.* When the order does not contain full particnlars, a brief statement thereof should be appended. If the order itself is not forth-coming a summary of available evidence should be sent with the application.

46. *Transfer from qualifying to Non-qualifying service.* Under Government should be supported by a copy of the authority stating whether transfer was voluntary or made under an order of competent authority.

47. *Verification.* In the column "how verified," the class of records such as pay bills, acquittance rolls etc. may be inserted.

Note—If certificates of the verification of the service of an applicant for pension have been recorded in the service book from year, the periods of such service need not again be verified from pay bills, acquittence rolls etc., at the time of preparation of his pension application.

48. *Verification.* When the fact or service in another office is not satisfactorily attested in the Service Book duly certified abstract from the head of the office should accompany the application.

49. *Verification of service.* Statement of the applicant and collateral evidence prescribed in article 915 (*c*) C. S. R. duly accepted by the authority competent to sanction the pension should be produced for such periods of non-gazetted service as are not verifiable from records.

50. *Verification of service.* The applicant's statement and the collateral evideace should, as far as possible, indicate whether the applicant was in permanent or temporary service and whether there were any breaks in service or any leave granted. They should also indicate the periods of breaks and the nature of leave as far as possible.

51. *Vernacular entries.* Should be accompanied by translation in English.

Form No. 27 to 29

Not printed.

Form No. 30

FORMAL APPLICATION FOR PENSION.

Form

To _____

_____

Subject :—*Application for sanction of pension.*

Sir,

I beg to say that I am due to retire from service with effect from the _____, my date of birth being _____. I therefore request that steps may kindly be taken with a view to the pension and gratuity admissible to me being sanctioned by the date of my retirement. I desire to draw my pension from _____ Treasury.

2. I hereby declare that I have neither applied for, nor received, any pension or gratuity in respect of any portion of the service qualifying for this pension and in respect of which pension and/or gratuity is claimed herein nor shall I submit an application hereafter without quoting a reference to this application and the orders which may be passed hereon.

3. I enclose herewith :—

(*i*) two specimen signatures of mine, duly attested ;

(*ii*) two copies of a passport size photograph of mine, also duly attested ;

†(*iii*) two slips each bearing my left-hand thumb and finger impressions.

§(*iv*) two slips each showing particulars of my height and identification marks.

†4. My present address is _____

_____ and my address after will be _____

(Signature)

Dated ..... Designation.

Note :—Any subsequent change of address should be notified to the head of office.

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†This is required only in the case of persons who are illiterate and cannot sign their names.

§G. I. M. F. Notification No : F. 17 (4) EV (c)/61, dated the 80th June 1961.

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THIS INDEX HAS BEEN COMPILED SOLELY FOR THE PURPOSE OF ASSISTING REFERENCE, NO EXPRESSION USED IN IT SHOULD BE CONSIDERED IN ANY WAY AS INTERPRETING THE RULES, THE FOLLOWING ABBREVIATIONS HAVE BEEN USED :—

G. I. ...	GOVERNMENT OF INDIA'S DECISION BELOW.	A. R.	AUDITOR GENERAL'S DECISION BELOW
G. I. O.	GOVENMENT OF INDIA'S ORDERS BELOW.	A. I.	AUDIT INSTRUCTION BELOW
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