

Central Civil Services (Temporary Service) Rules, 1965

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Central Civil Services (Temporary Service) Rules, 1965

G.I.M.H. Notification No. F-59/8/63-Ests.(A), dated 1st May, 1965.-In exercise of the powers conferred by the proviso to Art. 309 and Cl. (5) of Art. 148 of the Constitution, and after consultation with the Comptroller and Auditor- General in relation to persons serving in the Indian Audit and Accounts Department, the President if pleased to make, in supersession of the Central Civil Services [Temporary Service] Rules, 1949, the following rules to regulate the conditions of service of temporary Government servants, namely:-

1. Short title, commencement and application :-

(1) These rule may be called the Central Civil Services (Temporary Service) Rules 1965.

(2) They shall come into force at once.

1 [(3) Subject to the provisions of sub-rule (4), these rules shall apply to all persons-

(i) who hold a civil post including all civilians paid from the Defence Services Estimates under the Government of India and who are under the rules-making control of the President, but who do not hold a lien or a suspended lien on any post under the Government of India or any State Government;

(ii) who are employed temporarily in work-charged establishments and who have opted for pensionary benefits.

(4) Nothing in these rules shall apply to-

(a) Railway servants;

(b) Government Servants not in whole time employment;

(c) Government Servants engaged on contract;

(d) Government Servants paid out of contingencies;

(e) Persons employed in extra-temporary establishments or in work-charged establishments (other than the persons employed temporarily and who have opted for pensionary benefits);

(f) non-departmental telegraphists and telegraphmen employed in the Posts and Telegraphs Department;

(g) such other categories of employees as may be specified by the Central Government by notification published in the Official Gazette]

Subs. by Notification No. 12011/4/65-Ests. (C), dated 18th December, 1975.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "appointing authority" means, in relation to a specified post, the authority declared as such under the Central Civil Services (C.C. and A.) Rules 1965;

(b) 1 [* * *]

(c) 3 [* * *]

(d) "temporary service " means the service of a temporary Government Servant in a temporary post or officiating service in a permanent post, under the Government of India.

(e) "defence service" means service under the Government of India in the Ministry of Defence and in the Defence Accounts Departments under the control of the Ministry of Finance (Department of Expenditure) (Defence Division) paid out of the Defence Services Estimates and not permanently subject to the Air Force Act, 1950 (45 of 1950) or the Army Act, 1950 (45 of 1950) or the Navy Act, 1957 (62 of 1957).

Omitted by G.S.R. 145, dated 22nd February, 1989.

3. Section 3 :-

4 [* * * *]

Omitted by G.S.R. 145, dated 22nd February, 1989.

4. Section 4 :-

5 [* * * *]

Omitted by G.S.R. 145, dated 22nd February, 1989.

5. Termination of temporary service :-

(1) (a) The services of a temporary Government Servant 6[* * *] shall be liable to termination at any time by a 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 : Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month. Note.-The following procedure shall be adopted by the appointing authority while serving notice on such Government Servant under Cl. (a)-

(i) The notice shall be delivered or tendered to the Government Servant in person.

(ii) Where personal service is not practicable, the notice shall be served on such Government Servant by registered post acknowledgement due at the address of the Government Servant available with the Appointing Authority.

(iii) If the notice sent by registered post is returned unserved it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such Government Servant on the date it was published in the Official Gazette.

(2) (a) Where a notice is given by the appointing authority terminating the services of a temporary Government Servant, or where the service of any such Government Servant is terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowances, the Central Government or any other authority specified by the Central Government in this behalf may, of its own motion or otherwise, re-open the case, and after calling for the records of the case and after making such enquiry it deems fit-

(i) confirm the action taken by the appointing authority:

(ii) withdraw the notice;
(iii) reinstate the Government Servant in Service; or
(iv) make such other order in the case as it may consider proper;
Provided that except in special circumstances, which should be recorded in writing, no case shall be reopened under this sub-rule after the expiry of three months :

(i) from the date of notice, in a case where notice is given :

(ii) from the date of termination of service, in a case where no notice is given.

(b) Where a Government Servant is reinstated in service under sub-rule (2) the order of reinstatement shall specify :

(i) the amount of proportion of pay and allowances, if any, to be paid to the Government Servant for the period of his absence between the date of termination of his services and the date of his reinstatement; and

(ii) whether the said period shall be treated as a period spent on duty for any specified purpose or purposes.

(iii) After successful completion of period of probation, the employee shall be confirmed in the Delhi Police by the competent authority, subject to the availability of permanent post." A reading thereof clearly indicates that all direct recruits are required to be on probation for a period of two years and in no case the probation would extend beyond the period of three years. During the period of probation the probationer is required to complete successfully the probation complying with the conditions of passing the test etc. Thereafter, they need be confirmed in the Delhi Police service. The confirmation into the service therefore, is a condition precedent to continue as a member of Delhi Police Service. In spite of giving repeated opportunities to improve himself he failed to improve his performance. So he was given notice on 14th September, 1988 terminating his service by the impugned order. It is contended by the counsel for the appellant, placing reliance on *State of Punjab v. Dharam Singh* that even if the appellant was not confirmed by passing any order, on expiry of three years he must be deemed to have been confirmed as a member of the service. Thereafter, the respondents had no jurisdiction to terminate his service. It is difficult to accept the contention, *Dharam Singh's* case bears no relevance, as similar provision was not there in the concerned rule. Successful completion of probation is a condition precedent for confirmation as envisaged in Clause (iii) of Rule 5(e) of the Rules. The authorities have power to allow maximum period of 3 years of probation. In this case instead of giving him three years, they have

giving long 5 years period so as to see whether the appellant would improve his performance in the service. Since they found that there was no satisfactory improvement, his probation was terminated and was removed from service as a probationer. Under these circumstances, their Lordships do not find any illegality in the action taken by the respondents warranting interference.

8. Omitted by G.S.R. 145, dated 22nd February, 1989.

A.I.R. 1968 S.C. 1210 : (1968) Lab. I.C. 1409)

Jai Kishan v. Commissioner of Police, A.I.R. 1996 S.C. 660 at pp. 660, 661.

6. Termination of temporary service on account of physical unfitness :-

Notwithstanding anything contained in Rule 5, the services of a temporary Government Servant 9 [* * *] may be terminated at any time without notice on his being declared physically unfit for continuance in service by an authority who would have been competent to declare him as permanently incapacitated for service had his appointment been permanent.

Omitted by G.S.R. 145, dated 22nd February, 1989.

7. Section 7 :-

10 [* * *]

Omitted by G.S.R. 145, dated 22nd February, 1989.

8. Section 8 :-

Deleted.

9. Section 9 :-

11 [* * *]

Omitted by G.S.R. 145, dated 22nd February, 1989.

10. Terminal gratuity payable to temporary Government Servants :-

(1) Subject to the provisions of sub-rule (1-B) a temporary Government Servant who retires on superannuation or is discharged from service or is declared invalid for further service shall be eligible for gratuity at the rate of-

(a) one-half of a months pay for each completed year of his service, if he had completed not less than five years continuous service at the time of retirement, invalidment.

(b) one months pay for each completed year of his service subject to a maximum of fifteen months pay or fifteen thousand rupees, whichever is less, if he had completed not less than ten years continuous service at the time of retirement, discharge or invalidment : Provided that the amount of terminal gratuity payable under this sub-rule shall not be less than the amount which the Government servant would have got as a matching Government contribution to the provident fund if he were a member of a Contributory

(1-A) In the case of a temporary Government Servant who is compulsorily retired from service as a disciplinary measure, the provisions of sub-rule (1) shall apply subject to the modification that the rate of gratuity payable in his case shall not be less than two thirds of, but in no case exceeding, the rate specified in Cl. (a) or as the case may be, clause (b), of sub-rule (1).

1[(1-B) In the case of a temporary Government Servant who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Government service by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought voluntary retirement by giving three months notice in writing on completion of 20 years service, provisions of sub-rule (1) shall not apply and in accordance with the provisions of Central Civil Services (Pension) Rules, 1972-

(i) such a Government Servant shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, any retirement gratuity, and

(ii) in the event of death after retirement, the members of his family shall be eligible for the grant of family pension] 1[In the event of death of a temporary Government Servant while in service, his family shall be eligible for family pension and death gratuity at the same scale and under the same provisions as are applicable to permanent Central Civilian Government Servants under the Central Civil Services (Pension Rules, 1972]

(3) No gratuity shall be admissible under this Rule to a Government Servant-

(a) who resigns from his post or who is removed or dismissed from service as a disciplinary measure;

(b) who is re-employed after retirement on superannuation or

retiring pension : 1[Provided that a temporary Government Servant who resigned from service to take up, with prior permission, an appointment under a corporation or company wholly or substantially, owned or controlled by the Government or in or under a body controlled or financed by Government shall be paid terminal gratuity at the rate prescribed under sub- rule (1) in respect of the service rendered by him under the Government : Provided further that a temporary Government Servant who has been absorbed in a Central autonomous body, with the permission of the parent department, shall have an option to count the service rendered under the Government for the purpose of pension under the autonomous body if it has a pension scheme, instead of drawing the terminal gratuity under the first proviso. Explanation.- For the purpose of this sub-rule-

(i) "Central autonomous body means a body which is financed wholly or substantially from cess or Central Government grants and includes a Central statutory body or a Central University but does not include a public undertaking falling under the purview of the Bureau of Public Enterprises :

(ii) "financed substantially" means that more than 50 per cent. of the expenditure is met by cess or Central Government grants.]

(4) 15[* * *]

(5) Where gratuity under this rule is paid to or in respect of a Government Servant who is not covered by R.54 of the Central Civil Services (Pension) Rules, 1972, no other gratuity or pensionary benefit is payable.

16 [(6) For the purpose of this rule,-

(a) gratuity shall be calculated on the basis of pay which the Government Servant was receiving immediately before his retirement or on the date of his death;

(b) pay shall mean pay as defined in Fundamental Rule 9(21)(a) (1):

(c) period of extraordinary leave, if any, availed of by the Government Servant concerned shall be taken into account for computing the completed service on the same basis as it is taken into account for the purpose of calculation of pension and retirement gratuity/death gratuity under R.21 of the Central Civil Services (Pension) Rules, 1972, as amended from time to time, and

(d) an increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days of earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn, shall form part of the pay for purposes of

calculating terminal/death gratuity]

Deleted by G.S.R. 433, dated 9th March, 1978 (w.e.f. 22nd September, 1977).

Subs. by G.S.R. 145, dated 22nd February, 1989.

11. Section 11 :-

17 [* * *]

Deleted by G.S.R. 145, dated 22nd February, 1989.