

GOVERNMENT OF KERALA

Abstract

**RULES – KERALA SERVICE RULES – RULES 24, 96-A, 140 AND 144
PART I AMENDMENTS ISSUE**

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FINANCE DEPARTMENT

G.O.(P) No. 254/70/Fin.

Dated, Trivandrum, 27th April, 1970.

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Read:- 1. G.O.(P) 535/66/Fin. dated 17-12-1966.

2. G.O.(P) 485/67/Fin. dated 4-11-1967.

3. Office Memorandum No. F. 16 (3)-E. IV (A) /67 dated 5-2-1968 from the
Government of India, Ministry of Finance Department of Expenditure.

4. Letter No. TM VIII/10-56/Vol. III/36/605 dated 26-5-1969 from the Controller
of Accounts, Kerala.

ORDER

Fundamental Rule 18 (2) and Rule 5 (2) of the revised leave rules 1933 of the Government of India provide that where a Government servant does not resume duty after remaining on leave for a continuous period of five years, or where a Government servant after the expiry of his leave remains absent from duty, otherwise than on foreign service or on account of suspension, for any period which together with the period of leave granted to him exceeds five years, he shall unless the President in view of the exceptional circumstances of the case to otherwise determines, be deemed to have resigned and shall accordingly cease to be in Government employ. The Supreme Court has held that such automatic termination of service (by deeming a Government servant to have resigned his appointment in the event of absence for a period exceeding five years) amounts to removal from service without giving the official concerned an opportunity to show cause against the action of removal and, as such, is ultra virus of Article 311 (2) of the Constitution In view of the decision of the Supreme Court the rules have been amended to the effect that the official concerned shall be removed from service after following the procedure laid down in the Central Civil Services (Classification, Control and Appeal) Rules 1965. Rules 24 and 96-A. Part I, Kerala Service Rules similar provide

for automatic termination of the services of Government servant on the happening to the contingencies mentioned there in. In the light of the Supreme Court judgment these rules require amendment. Similarly the orders in G.O. (P) 535/66/Fin. dated 17-12-1966 as modified in G.O. (P) 485/67/Fin. dated 4-11-1967 necessitate amendment to rule 24, 140 and Note 3 below Rule 144, Part I, Kerala Service Rules. In the circumstances Government pleased to issue the following Notification.

NOTIFICATION

S.R.O. No.237/70. In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968) read with section 3 thereof, the Government of Kerala hereby make the following amendments to the Kerala Service Rules, namely :-

AMENDMENTS

C.S.No. 191/70 dated 27-4-1970

In Part I of the said Rules –

(1) for rule 24, the following rule shall be substituted, namely:-

“24. Unless the Government in view of the special circumstances of the case, otherwise determine, after five years’ continuous absence from duty an officer shall be removed from service after following the procedure laid down in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960’ ;

(2) In rule 96 A, for the words “be deemed to have resigned his appointment and shall according cease to be in Government employ” , the following words and figures shall be substituted, namely:-

“ be removed from service after following the procedure laid down in the Kerala Civil Services (Classification, Control and Appeal) Rules 1960” ;

(3) In clause (b) of rule 140, the following shall be inserted at the end, namely:-

“No officer shall normally be allowed to remain on deputation to foreign service of more than five years continuously. Provisions of rules 24 will apply to an officer who continues in foreign service for more than five years at a time”.

(4) in rule 144, for note 3, the following note shall be substituted, namely:-

“Note 3. The pay given to an officer in foreign service shall not exceed his basic pay in Government service by more than 20% there of or Rs. 300, whichever is less on all cases where the headquarters of the officer is located within Kerala”.

“In cases where the headquarters of the Officer is outside Kerala and the deputation is to institutions bodies aided by Government industrial undertaking in which Government hold majority of shares and also undertakings which are managed by Government, the deputationist’s pay in foreign service shall not exceed his basic pay in Government service by more than 50 % or Rs. 300 whichever is less”.

The amendment No. (3) and the second paragraph in amendment No (4) shall be deemed to have come into force with effect from 17-12-1966 and the first paragraph in amendment No. (4) shall be deemed to have come into force with effect from 4-11-1967.

By order of the Governor,

P. VELAYUDHAN NAIR,
Secretary,

To

The Controller of Accounts, Kerala.
All Heads of Departments and Officers.
All Departments and Sections of the Secretariat.
The Secretary, Public Service Commission (with C.L.).
The Secretary Vigilance Commission (with C.L.).
The Registrar, High Court of Kerala (with C.L.)
The Registrar, University of Kerala (with C.L.)
The Registrar, University of Calicut (with C.L.)
The Officers of the Secretariat
The Secretary to Governor
The Private Secretary to Chief Minister and other Ministers.
The Secretary to the Kerala State Electricity Board (with C.L.)