

GOVERNMENT OF KERALA

Abstract

RULES – KERALA SERVICE RULES – RECOVERY FROM AND WITH HOLDING
OF PENSION – AMENDMENTS – ISSUED.

FINANCE DEPARTMENT

G.O.(P) 560/63/Fin.

Dated, Trivandrum, 28th October, 1963.

Read: - Notification No.F.4 (30) EV (c)/62 dated 22-8-1962 of the Government of India.

ORDER

According to the existing rule 60 (d) Part I, Kerala Service Rules, an officer under suspension on a charge of misconduct shall not be required or permitted to retire on reaching the date of compulsory retirement, but shall be retained in service until the enquiry is concluded and final orders are passed by competent authority. The rules governing the Government of India employees (C.S.R.), which were on the same lines as in the Kerala Service Rules, have now been modified, allowing such officers to retire on attaining the age of superannuation. The Government of India have also taken certain allied decisions in the matter. The State Government considers that similar modification to the rules in Kerala Service Rules are called for.

Accordingly, the following notification of necessary amendments to Kerala Service Rules will be published in the next issue of the Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Government of Kerala hereby makes the following amendments to the Kerala Service Rules, namely:-

Amendment

C.S.No.41/63 dated 28-10-1963.

In the said rules.

1. In Part I, rule 60 clause (d) shall be omitted.
2. In Part III (1) for rule 3 the following shall be substituted namely:-
“3. The Government reserve to themselves the right of withholding or withdrawing a pension or any part of it whether permanently or for a specified period and the right or 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 pensioners 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 rule

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 Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government 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 service;

(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 Public Service Commission shall be consulted before final orders are passed.

Explanation: For the purpose of this rule –

(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 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.

Note: As soon as proceedings of the nature referred to in this rule are instituted, the authority which institutes such proceedings should without delay intimate the fact to the Audit Officer. The amount of pension withheld under this rule should not ordinarily exceed one-third of the pension originally sanctioned.. In fixing the amount of pension to be so withheld, regard should be had to the consideration whether the amount of the pension left to the pensioner in any case would be adequate for his maintenance.

3 A (i) Where any departmental or judicial proceeding is instituted under Rule 3 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 other wise, he shall be paid during the period commencing from the date of his retirement to the date on which, up on 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 unto the date of retirement or if he was under suspension on the date of retirement, up to the date immediately proceeding 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.

(ii) Payment of provisional pension made under clause (i) 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 withheld either permanently or for a specified period.

Note:- The grant of pension under this rule shall not prejudice the operation of rule 67 when final pension is sanctioned up on conclusion of the proceeding”.

2. For rule 31, the following shall be substituted namely:-

“31. 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 another cases, the period of suspension does not count unless the authority competent to pass order under rule 56 Part I expressly declares at the time that it shall count, and then it shall count only a such extent as the competent authority may declare”.

3. Rule 32 shall be deleted.

By order of the Governor,
K.A. SREEDHARA MENON,
Joint Secretary.

To

The Accountant General.
All Heads of Departments and Offices.
The Secretary, Kerala Public Service Commission (with C.L.)
The Registrar of the High Court, Ernakulam (with C., L.)
The Registrar of Kerala University (with C.L.)
The Secretary to the Governor.
The Secretaries, Additional Secretaries Joint Secretaries, Deputy Secretaries,
Under Secretaries and Assistant Secretaries to Government.
All Departments of the Secretariat.
The Private Secretaries to the Chief Minister and other Minister.