

Kerala Gazette No. 34 dated 22nd August 1978.
PART I

**GOVERNMENT OF KERALA
ABSTRACT**

RULES-KERALA SERVICE RULES-PART I- RULES 55 AND 56-AMENDMENTS-ISSUED

FINANCE (RULES) DEPARTMENT

G.O.(P) 573/78/Fin.

Dated, Trivandrum , 14th July 1978.

- Read:-
1. Notification No. F1 (14) –EIV (A) 63 of Government of India, Ministry of Finance (Department of Expenditure) dated 14-5+-1971.
 2. Letter No. 1 (i) –E-iv (A) 71 dated 4-1-1972 from the Under Secretary to the Government of India, Minis tray of Finance ,Department of Expenditure.
 3. Notification No. 1 (2) E-iv (A) 72 dated 18-5-1972 from the Government of India, Minis tray of Finance ,Department of Expenditure.
 4. G.O.(P) 583/72/Fin. Dated 16-11-1972.
 5. G.O.(P) 423/77/Fin. Dated 29-10-1977.
 6. Letter No. TM. 11/12-28/Pay/195/1234 dated 23-1-1978 from the accountant General.

ORDER

In the notifications read, the Government of India have radically amended rules 53 and 54 of the Fundamental rules. Since rules 55 and 56 Part I , Kerala Service Rules have been framed on the lines of the Government of Indra rules, the Government have decided to amend these rules on the lines of the amendments issued to rules 53 and 54 of the Fundamental Rules. Accordingly the following notification is hereby issued:-

NOTIFICATION

S.R.O.No. 803/78.- In exercise of the powers conferred by subsection (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968). read with section 3 thereof , the Government of Kerala hereby makes the following amendments to the Kerala Service Rules, namely:-

**AMENDMENTS
C.S. NO. 345/78**

In part I of the said rules,

1. In rule 55, for the opening sentence, the following shall be substituted, namely:-
‘ An Officer under suspension or deemed to have been placed under suspension by an order of the appointing authority is entitled to the following payments:-

2. For rule 56 excluding the notes thereunder the following rules shall be substituted , namely:-

“ 56 (1) when an officer who has been dismissed , removed or compulsorily retired including an officer who has been compulsorily retired under rule 60A , is re-

instated as a result of appeal or review or would have been so re-instated , but for his retirement on superannuation while under suspension or not , the authority competent to order re-instatement shall consider and make a specific order:-

(a) regarding the pay and allowances to be paid to the officer for the period of his absence from duty including the period of suspension preceding his dismissal, removal , or compulsory retirement, as the case may be.

(b) Whether or not the said period shall be treated as a period spent on duty : and

(c) In the case of an officer who was compulsorily retire under rule 60A and subsequently re-instated, for the recovery of the relevant benefits, if any, already paid to him.

(2) Where the authority competent to order re-instatement is of opinion that the officer who had been fully dismissed, removed or compulsorily retired, has been fully exonerated , the officer shall , subject to the provisions of sub-rule (6) be paid the full pay and allowances to which he would have been entitled had he not been dismissed removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be.

Provided that where such authority is of opinion that the termination of the proceedings instituted against the officer had been delayed for reasons directly attributable to the Officer, it may, after giving him an opportunity to make his representation and after considering the representation , if any, submitted by him, direct , for reasons to be recorded in writing that the Officer shall , subject to the provisions of sub-rule (7) be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine.

(3) In a case falling under sub rule (2) the period of absence from duty including the period of suspension preceding dismissal , removal or compulsory retirement, as the case may be , shall be treated as a period spent on duty for all purpose.

(4) In cases other than those covered by sub-rule (2) including cases where the order of dismissal , removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of non –compliance with the requirements of clause (2) of article 311 of the Constitution and no further inquiry is proposed to be held the officer shall , subject to the provisions of sub-rules (6) and (7) be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be, as the competent authority may determine, after giving notice to the Officer of the quantum proposed and after considering the representation, if any submitted by him in that connection within such period as may be specified in the notice.

Provided that except in the case of such officers as are governed by the provisions of the Payment of Wages act, 1936 (Central Act 4 of 1936), and payment under this sub-rule

shall be restricted to a period of three years immediately preceding re-instatement or retirement on superannuation, as the case may be.

(5) In a case falling under sub-rule (4) the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Officer so desires such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the Officer.

Note:- The Order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of -

- (a) leave without allowances in excess of three months in the case of a temporary Officer and
- (b) Leave of any kind in excess of five years in the case of a permanent officer.

(6) The payment of allowances, under sub-rule (2) or sub-rule (4) shall be subject to all other conditions under which such allowances are admissible.

(7) The amount (not being the whole) of such pay and allowances determined under the proviso to sub-rule (2) or under sub-rule (4) shall not be less than the subsistence allowance and other allowances admissible under rule 55.

(8) Any payment made under this rule to an officer on his re-instatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement as the case may be, and the date of re-instatement. Where the emoluments admissible under this rule are equal to or less than amounts earned during the employment elsewhere, nothing shall be paid to the Officer.

56A (1) where the dismissal, removal or compulsory retirement of an officer is set aside by a Court of Law and such Officer is re-instated without holding any further inquiry the period of absence from duty shall be regularized and the officer shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or sub-rule (3) subject to the directions, if any, of the court.

(2) Where the dismissal, removal or compulsory retirement of an officer is set aside by the court solely on the ground of non-compliance with the requirements of clause (2) of article 311 of the Constitution, and where he is not exonerated on merit, the pay and allowances to be paid to the Officer for the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be determined, by the competent authority and the said period shall be regularised, in accordance with the provisions contained in sub-rules (4), (5) and (7) of rule 56.

(3) If the dismissal, removal or compulsory retirement of an officer is set aside by the court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of re-instatement shall be treated as duty for all purpose and he shall be paid the full pay and allowance for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissed, removal or compulsory retirement as the case may be.

(4) The Payment of allowances under sub-rule (2) or sub-rule (3) shall be subject to all other conditions under which such allowances are admissible.

(5) Any payment made under this rule to an Officer on his re-instatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date dismissal, removal or compulsory retirement and the date of re-instatement. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the officer.

56 B (1) When an officer who has been suspended is re-instated or would have been so re-instated but for his retirement on superannuation while under suspension, or has retired from service on superannuation before the conclusion of the disciplinary proceedings against him the authority competent to order re-instatement shall consider and make a specific order-

(a) regarding the pay and allowances to paid to the Officer for the period of suspension ending with re-instatement or 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) Notwithstanding any thing contained in rule 55, where an officer under suspension dies before the disciplinary, or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

(3) Where the authority competent to order re-instatement is of the opinion that the Suspension was wholly unjustified the officer shall subject to the provisions of the sub-rule (8) be paid the full pay and allowances to which he would have been entitled, had he not been suspended.

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Officer had been delayed owing to reasons directly attributable to the officer, it may, after giving him an opportunity to make his representation and after considering the representation and after considering the representation, if any, submitted by him, direct for reasons to be recorded in writing,

that the Officer shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.

(4) In a case falling under sub-rule (3) the period of suspension shall be treated as a period spent on duty for all purpose.

(5) In cases other than those falling under sub-rules (2) and (3) , the officer shall subject to the provisions of sub-rules (8 and (9) be paid such amount (not being the whole) of the pay and allowances to which the would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the Officer of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period as may be specified in the notice.

(6) Where suspension is revoked pending finalization of the disciplinary or court proceedings, any order passed under sub-rule(1) before the conclusion of the proceedings against the Officer shall be reviewed on its own motion after conclusion of the proceedings by the authority mentioned in sub-rule (1) who shall make an order according to the provisions of sub-rule (3) or sub –rule (5), as the case may be.

(7) In a case falling under sub-rule (5) the period of suspension shall not be treated as a period spent on duty , unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Officer so desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible officer.

Note:- The order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of-

(a) leave without allowances in excess of three months in the case of a temporary officer, and

(b) Leave of kind in excess of five years in the case of a permanent officer.

(8) The payment of allowances under sub-rule (2) sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible .

(9) The amount (not being the whole) of such pay and allowances determined under the proviso to sub-rule (3) or under sub-rule (5) shall not be less than the subsistence allowance and other allowance admissible under rule 55'.

3. In the Notes under rule 56 B.

(i) in note 1:

(a) for the words “ this rule’ the word figures and letters “ rule 56, 56 A or 56 B” shall be substituted:

(b) for the words and figure “ under Note 4 below” the words “ to the Officer” shall: be substituted.

(ii) For Note 2, the following note shall be substituted, namely:-

Note:- 2 The orders of revocation of suspension or of re-instatement after dismissal , removal or compulsory retirement from service take effect from the date of the order and the intervening period ie. the period from the date of order to the date of joining duty shall be regularized by granting joining time and/or leave due and admissible to the officer concerned . However , cases where there in an abnormal time-lag between the date of such order and the date on which the officer, concerned reports for duty shall be decided by government , on merits.

(iii) Note 3 and Note 4 and the exception there under shall be omitted , and the existing notes 5, 6,7,and 8 shall be re-numbered as 3,4,5,& 6

By order of the Governor,
K.SREENIVASAN,
Joint Secretary.

Explanatory Note

Rules 55 and 56 Part I Kerala Service Rules were framed on the lines or rules 53 and 54 of the Fundamental Rules of the Government of India. The Government of India by the notification 1st and 2nd read have radically amended these rules. This amendment is to make the existing rules 55 and 56 Part 1 Kerala Service rules on the lines of new rules 53 and 54 of the Fundamental Rules of the Government of India and to cover the order issued in G.O. (P) 583/72/Fin dated 16-11-1972 and G.O. (P) 423/77/Fin dated 29-10-1977.

To.

The Accountant General, Kerala, Trivandrum
All Heads of Departments and Offices
The Registrar , High Court of Kerala (With C L)
The Registrar, Agriculture University , Mannuthy (with C L)
The Registrar , University of Kerala/ Cochin/ Calicut (with C L)
The Secretary, Kerala Public Service Commission (with C L)
The Secretary, Kerala state Electricity Board (with C L)
The General Manager, Kerala State Road Transport Corporation (with C L)
The Special Secretaries, Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to Government.
The Private Secretaries to the Chief Minister and other Ministers
The Secretary to Governor.
The stenographer to the Chief Secretary