



Bihar Animal Sciences University, Patna-800014

Leave rules as proposed under Bihar Service Code

(Thoroughly Revised and Amended upto date with State Government Decisions)

145. A Government servant called upon by a court of law to act as a commission to give evidence on technical matters may comply with the request, if the case is not of such a nature that it will be likely to come before him in the course of his official duties, and may accept such remuneration as is fixed by the court.

146. Any Government servant is eligible to receive without special permission:—

- (a) the premium awarded for an essay or plan in public competition; or
- (b) any remuneration or reward payable under any special or local law or in accordance with the provisions of any Act or Regulation or Rules framed thereunder, or
- (c) any reward sanctioned for services in connection with the administration of the Customs and Excise laws.

[**Comments**—A Government employee can receive a premium, awarded for preparing an essay, or plan, or amount in connection with administration of laws relating to Customs and Excise.]

Section IV—Patents to Government Servants Engaged in Scientific and Technical Research

147. A Government servant whose duties involve the carrying out of scientific or technical research shall not apply for or obtain, or cause or permit any other person to apply for or obtain, a patent for an invention made by such Government servant, save with the permission of the State Government in accordance with such conditions as the State Government may impose. Such permission will not be necessary in respect of an invention in no way connected with the subject of his research. [*This Rule has effect from the 27th June, 1933.*]

148. If a question arises whether a Government servant is a Government servant to whom Rule 147 applies or whether the invention is connected with the subject of the Government servant's research the decision of the State Government shall be final. [*This Rule has effect from the 27th June, 1933.*]

CHAPTER VI

Leave

Section I—General Conditions of Leave

149. Any leave admissible under these Rules may be granted by the State Government.

[For delegations made under this Rule, see Appendix 1.]

150. The Procedure regarding application for leave, grant of leave etc., is regulated by Rules contained in Appendix 9.

151. The instructions issued by the Auditor-General of India under sub-rule (a) of Fundamental Rule 74 and the procedure prescribed by the Governor General in Council under sub-rule (b) of the said Rule in respect of leave out of India, apply *mutatis mutandis* to grant of leave made under these Rules.

Note.—The instructions issued by the Auditor-General of India under F.R. 74 (a) and the procedure prescribed by the Governor-General in Council under F.R. 74 (b) are set out in Appendices 10 and 11 respectively.

152. Leave cannot be claimed as of right. When the exigencies of the public service so require, discretion to refuse or revoke leave of any description is reserved to the authority empowered to grant it.

Note 1.—The general principles which should ordinarily be observed in granting or refusing applications for leave are set forth in Appendix 12.

Note 2.—A Government servant while officiating in a higher post took regular leave for a short period and thus reverted to his substantive post in which, during the leave, an increment accrued to him which raised his substantive pay so as to equal the pay he was drawing in his officiating post. As under Rule 90 officiating pay has to be fixed on each occasion of appointment to a higher post carrying greater responsibility, the Government servant on re-appointment to the higher post on return from leave was able to get the benefit of the next stage in the time-scale of that post, which he would not have got had he continued to officiate without a break. The automatic fixation in such cases of officiating pay at a rate higher than that drawn on a previous occasion, which the Rule allows, is not justifiable and in these cases the powers conferred by Rule 152 or 92 could reasonably be exercised. For instance, if the competent authority feels that a Government servant who in the normal course would continue to officiate in a higher post has applied for a short period of regular leave with the deliberate intention of getting the benefit of the increment accruing to him in his substantive scale of pay during the leave for the fixation of his pay in the officiating post on his re-appointment to it, it will be for the consideration of that authority whether the leave applied for should not be refused under Rule 152. If, on the other hand the effect of the leave on the Government servant's officiating pay on subsequent re-appointment to the higher post is not realised at the time, or the competent authority is satisfied that the leave applied for is really necessary, or even if a short break in officiating service occurs in the natural course of events, the power conferred by Rule 92 to reduce officiating pay may quite reasonably be exercised so as to limit the officiating pay on re-appointment to the higher post to what the Government servant would have drawn had he continued to officiate without a break.

Comments & Case laws

- Extra-ordinary leave cannot be claimed as a matter of right. Such leave is meant only for special circumstances when no other leave is admissible. *Joycee Johes vs. State of Bihar*, 2002 (1) PLJR 562. See at 30; *Dr. Anzar Hassan Ibrahim vs. State of Bihar*, 2004(4) PLJR 515.

- Leave cannot be claimed as of right. Refusal or revocation of leave is prerogative of competent authority. *Joycee Jones vs. State of Bihar*, 2001(4) PLJR 11.

153. Leave may not be granted to a Government servant under suspension.

154. Leave is earned by duty only for the purpose of this Rule a period spent in foreign service counts as duty if contribution towards leave salary is paid on account of such period.

[Comments—An officer on deputation on foreign service may be allowed leave, if contribution towards his leave-salary has been paid by his employer.]

155. Rules in Sections II to V and (in Section) VII (except for sub-section 3), of this Chapter apply only to permanent Government servants.

156. Except where otherwise expressly provided by these Rules, a Government servant transferred to a service or post to which these Rules apply from a service or post to which they do not apply, is not entitled for leave under Sections I to V or VII to VIII of this Chapter in respect of duty performed before such transfer.

157. (a) If a Government servant, who quits the public service on compensation or invalid pension or gratuity is re-employed and if his gratuity is thereupon refunded or his pension held wholly in abeyance, his past service thereby becoming pensionable on ultimate retirement, he may, at the discretion of the authority sanctioning the re-employment and to such extent as that authority may decide, count his former service towards leave.

(b) A Government servant who is dismissed or removed from the public service but is re-instated on appeal or revision is entitled to count his former service towards leave.

State Government decision:

55A.

Regarding.—Realisation of arrear dues from officers who resign from Government service.

[Vide Memo No. V/MI-1038/57 A-9218 (App. Deptt.) dated 19.7.1957]

Cases have come to notice of the State Government in which certain officers have tendered their resignations from Government Service without paying all Government dues outstanding against them and their resignation have also been accepted by the authorities concerned with verification whether there were any such dues against them. When once an officer's resignation has been accepted there is great difficulty in realising outstanding dues from him and Government are accordingly pleased to direct that before the resignation is accepted, a careful investigation should be made in consultation with the Accountant-General, Bihar if necessary, whether, there are any outstanding dues against him. And steps should be taken in case where such outstanding dues are reported to realise them from the officer concerned before accepting his resignation.

2. Government are further pleased to direct that, in future, when any officer submits his resignation, he should be required to declare that no dues are outstanding against him and that he undertakes to repay any amount that may be found to be outstanding against him.

158. (a) Except as otherwise provided by this Rule:—

- (i) leave begins on the day on which transfer of charge is effected or if charge is transferred after noon, on the following day; and
- (ii) leave ends on the day on which charge is resumed and if charge is resumed before noon, on the preceding day;

(b) when joining time is allowed to a Government servant under clause (b) of Rule 252, it shall be assumed that he has availed himself of the full period of joining time admissible to him before resuming charge and his leave ends on the day before such period of joining time commences.

(c) when joining time is allowed to a Government servant under clause (c) of Rule 252, his leave ends on the day preceding the day on which the vessel in which

he returns to India arrives at her moorings or anchorage in the port of debarkation, or, if he returns by air, the day on which the aircraft in which he returns, arrives at its first regular landing ground in India.

(d) When joining time is allowed to a Government servant under clause (d) of Rule 252, his leave begins on the day after such joining time expires, or ends on the day before such joining time commences.

(e) When a Government servant is permitted under Rule 159 to prefix holidays to leave, his leave begins on the first day after the holidays.

(f) When a Government servant is permitted under Rule 159 to suffix holidays to leave, for joining time taken on return from leave, his leave ends on the day on which it would have ended if the holiday had not been suffixed.

(g) When a Government servant is permitted under Rule 160 to combine leave with vacation, his leave begins or ends on the day on which it would have begun or ended if it had not been combined with vacation.

159. (1) When the day immediately preceding that on which a Government servant's leave begins or immediately following that on which leave or joining time ends is a holiday or one of a series of holidays, the Government servant may be permitted to leave his station at the close of the day before, or return to it on the day following such holiday or series of holidays. The enjoyment of this concession is subject to the following conditions:—

- (i) His transfer or assumption of charge must not involve the handing or taking over of securities or of moneys other than a permanent advance, provided that this condition may be waived by the State Government in any particular case in which the Government servant undertakes to remain responsible for the securities or moneys in his charge.
- (ii) His early departure must not involve a correspondingly early transfer from another station of a Government servant to perform his duties.
- (iii) The delay in his return must not involve a corresponding delay in the transfer to another station of the Government servant who was performing his duties during his absence, or in the discharge from Government service of a person temporarily appointed to it.

(2) The concession allowed by sub-rule (1) should not be granted to a Government servant if it involves the reversion of or loss of pay and allowances to a Government servant who actually does the work during holidays. The junior Government servant who will actually do the work during the holiday should not be deprived of his enhanced pay or allowance:

Provided that this restriction shall not apply to Sundays and odd holidays (not lasting for a number of days). In such cases permission to prefix or suffix the holidays may be allowed on condition that the officiating arrangement ceases before the holidays so as to ensure that the junior officer who is deprived of the enhanced pay or allowance is not also made to do the work of the absentee during the period.

Note—Subject to the conditions prescribed in this Rule, a subordinate Judge or *Munsif* may prefix to his leave local holidays notified by the High Court, if he proceeds on leave from a station where such holidays are observed; and he may suffix to his leave or

joining time local holidays notified by the High Court, if he returns to a station where such holidays are observed.

¹[159-A. District and Sessions Judges (including Additional District and Sessions Judges and Judicial Commissioner and Additional Judicial Commissioner of Chotanagpur) and Registrar of the High Court, may combine vacation, which for the purpose of this Rule is declared to be a holiday with leave subject to the following conditions:—]

- (a) that no extra expenditure is incurred by the State for the period of vacation.
- (b) that vacation is not both prefixed and suffixed to leave; and
- (c) that when a vacation is taken in conjunction with leave by a Government servant subject to the special leave Rules the provisions of clause (4) of the proviso to Rule 160 of Bihar Service Code will apply. They will also apply to Government servant subject to the ordinary leave Rules except when the vacation is combined with leave on average pay for any period not exceeding four months taken by itself. The provisions of clause (4) of Rule 231 of the Bihar Service Code, in so far as they relate to a Government servant in superior service, will apply to Government servants, except when the vacation is combined with earned leave for any period not exceeding ²[120 days] taken by itself. Vacation shall be reckoned as leave for the purposes of Rules 181 and 186 of the Bihar Service Code and as leave on average pay for the purpose of Rule 187 and as earned leave for the purpose of Rule 249 of the said Code.]

160. A Government servant serving in a vacation department may be permitted to combine vacation with leave either at the beginning or at the end thereof provided that:—

- (1) no additional expense shall be incurred by the State for the period of the vacation;
- (2) vacation shall not be both prefixed and suffixed to leave;
- (3) leave shall not be both prefixed and suffixed to vacation; and
- (4) the period of vacation shall be reckoned as leave in calculating the maximum amount of leave on average pay which may be granted at one time under Rule 178.

Note—When holidays coincide with a portion of vacation, a Government servant who takes leave from the day following the last day or upto the date preceding the first day of such holidays and is permitted to prefix or suffix the holidays to his leave as the case may be shall not be regarded for the purpose of the Rule as availing himself of that portion of vacation provided that he is consuming leave or detailed on duty during the remainder of the vacation.

161. No Government servant who has been granted leave on medical certificate may return to duty without first producing a medical certificate of fitness

1. Ins. by C.S. No. 52 dated 28.3.1958 (w.e.f. 21.10.1949).

2. Now 180 days see Rule 227.

in accordance with the provisions of Rule 28 of Appendix 9. A Government servant who has been granted leave for reasons of health, even though such leave was not actually granted on medical certificate, may be required by the authority which granted the leave to produce a similar certificate.

162. Unless he is permitted to do so by the authority which granted his leave, a Government servant on leave may not return to duty more than fourteen days before the expiry of the period of leave granted to him.

163. All orders recalling a Government servant to duty before the expiry of his leave should state whether the return to duty is optional or compulsory. If the return is optional, Government servant is entitled to no concession. If it is compulsory, he is entitled—

(a) If the leave from which he is recalled is out of India—

- (i) to receive a free passage of India, and if he has not completed half the period of his leave by the date of leaving for India on recall, or three months whichever period is shorter, to receive a refund of the cost of his passage from India.
- (ii) to count the time spent on the voyage to India as duty and for the period of calculating leave; and
- (iii) to receive leave-salary during the voyage to India, and for the period from the date of landing in India to the date of joining his post to be paid leave-salary at the same rate at which he would have drawn it had he not been recalled but returned in the ordinary course on the termination of his leave.

Note.—Orders recalling a Government servant from leave out of India, should be communicated to him through the High Commissioner for India or the Indian Ambassador, at the place.

(b) If the leave from which he is recalled is in India, to be treated as on duty from the date on which he starts for the station to which he is ordered but to draw until he joins his post leave-salary only.

[See also Rules 119 and 120 of Bihar Travelling Allowance Rules and Rule 98 of the Bihar Pension Rules.]

[Comments.]—If a Government employee is on leave in India and is recalled compulsorily from leave, he is entitled to T.A. concessions with effect from the date he leaves his place for the place where he has been ordered to report himself for the duties.]

164. No extra expense may be caused to Government by the grant of leave to a Government servant in inferior service and the leave-salary admissible to such a Government servant shall not exceed what remains from his pay after provision has been made for the efficient discharge of the duties during his absence on leave; provided that half the pay of any outsider appointed in that chain shall be disregarded in calculating the sum available as leave salary of the absentee.

Note.—This Rule is applicable only to those Government servants in inferior service to whom the Rules in Section VIII of this Chapter do not apply.

(see also note 4 to Rule 172.)

165. (1) A Government servant who remains absent after the end of his leave is entitled to no leave-salary for the period of such absence and that period will be

debited against his leave account as follows, unless his leave is extended by the State Government—

- (a) If the Government servant is governed by the old leave Rules, the period of absence will be debited against his leave account as though, it were leave on half average pay.
- (b) if the Government servant is governed by the Revised Leave Rules the period of absence should be debited as follows:—
 - (i) Government servants in Superior service:—Half pay leave.
 - (ii) Government servants in Inferior service:—As earned leave.

(2) Wilful absence from duty after the expiry of leave may be treated as misconduct for the purpose of Rule 56.

(Note—See note 2, Rule 85)

[For delegations made under this Rule, see Appendix 1.]

166. Absence from duty for short periods on casual leave is not governed by the Rules in this Chapter.

Note—The conditions on which such leave may be granted to a Government servant are set out in Appendix 12.

State Government Decision:—

56.

विषय: राज्य सरकार के विभागों, कार्यालयों, लोक उपक्रमों की ओर से खिलाड़ी कर्मचारियों के मुख्यालय से या राज्य से बाहर खेलकूद प्रतियोगिता, सांस्कृतिक कार्यक्रम अथवा समारोह आदि में भाग लेने के लिए विशेष आकस्मिक अवकाश की स्वीकृति।

[का० एवं प्र० सु० विभाग ज्ञाप सं० 3 आ० 1-7088 का० 13867 दि० 13.11.1990]

उपर्युक्त विषयक बिहार सरकार के खिलाड़ी कर्मचारियों को भारत सरकार द्वारा अपने खिलाड़ी कर्मचारियों को दी गई विशेष छुट्टी देने के अनुरूप छुट्टी देने का आश्वासन बिहार विधान सभा में तत्कालीन शिक्षा मंत्री द्वारा दिया गया था। इस क्रम में गृह मंत्रालय भारत सरकार के कार्यालय ज्ञाप संख्या 64/7/50 ई० दिनांक 5.4.1954 में खिलाड़ी कर्मचारियों को विशेष आकस्मिक छुट्टी स्वीकृत की जाय तो 30 (तीस) दिनों से अधिक नहीं होगी। 30 (तीस) दिनों से अधिक दिनों की छुट्टियों को सामान्य छुट्टी नियमों के अन्तर्गत विनियमित किया जाय, जो उन कर्मचारियों पर लागू है। सरकारी कर्मचारी को यह भी सुविधा दी जाय कि वे विशेष परिस्थिति में विशेष आकस्मिक छुट्टी के साथ नियमित छुट्टी में सम्मिलित कर सकें। विशेष आकस्मिक छुट्टी साधारण आकस्मिक छुट्टी के साथ स्वीकृत नहीं की जा सकती।

2. विशेष आकस्मिक छुट्टी निम्न आधार पर ही स्वीकृत की जा सकती है:—

(क) राज्य स्तरीय एवं अन्तर्राज्यीय खेलकूद में भाग लेने हेतु।

(ख) जब सरकारी कर्मचारी का इन खेलों में सम्मिलित होने के लिए चयन किया जायेगा।

3. (i) विशेष आकस्मिक छुट्टी मान्यता प्राप्त खेल संस्थानों द्वारा चयनित होने तथा उनकी अनुशंसा पर स्वीकृत की जा सकेगी।

(ii) राष्ट्रीय महत्व के खेलों जो अन्तर्राज्य, इन्टरजोनल या इन्टर सर्किल आधार पर खेले जाते हैं, उन स्पर्धाओं में भाग लेने के लिए राज्य जून तथा सर्किल द्वारा सरकारी कर्मचारी मनोनीत किए जाते हैं।

(iii) यदि सरकारी सेवक प्रतिनिधि की हैसियत से चयनित न होकर अन्य हैसियत से चुने जाते हैं, तो उन्हें ये सुविधा प्राप्त नहीं होगी।

(iv) विशेष आकस्मिक छुट्टी विभागाध्यक्ष द्वारा स्वीकृत की जायगी।

4. इसके अतिरिक्त राज्य सरकार ने यह भी निर्णय लिया है कि राज्य के मान्यता प्राप्त खेल संघों के पदाधिकारियों एवं निर्णायकों को खेल संघों में भाग लेने के लिये एक कैलेंडर वर्ष में 5 (पाँच) दिनों की विशेष आकस्मिक छुट्टी दी जाय।

167. A Government servant on leave may not take any service or accept any employment without obtaining the previous sanction of the authority empowered to appoint him:

Provided that a Government servant who has been granted permission to take any service or accept any employment under this Rule, during leave preparatory to retirement, shall be precluded, save with the specific consent of the authority empowered to appoint him, from withdrawing his request for permission to retire and from returning to duty.

Note 1.— This Rule 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 Rule 267.

Note. 2.—This Rule does not debar a Government servant applying for acceptance of another post in Government service. But when sanction is applied for such employment during leave other than leave preparatory to retirement the authority referred to in the Rule should refuse permission except in most exceptional cases which the employment in the other post is necessary in the public interest. Leave is intended for recuperation and to enable Government servant to become more fit for their duties on the expiry of the leave and not to enable them to effect increase in their income. When a Government servant who applies for sanction to accept another post in Government service is on leave preparatory to retirement the authority competent to grant permission should give due consideration to the fact that both leave salary and the pay in the new post will be a burden on the revenues of Government. Therefore, except in cases where there is likely to be real hardship the Government servant should as a Rule be required to retire from his permanent post before accepting the new post.

Note 3.— When a Government servant is permitted to take up service or accept an employment during leave other than work or service referred to in note 1, all leave salary must *ipso facto* cease except to the extent it is not covered by the pay in the new post.

Section II-Special and Ordinary Leave Rules

168. (a) All Government servants who are not hereinafter declared subject to the Special Leave Rules and are not subject to the Revised Leave Rules, given in Section VIII of this Chapter shall be subject to the Ordinary Leave Rules.

(b) The following Government servants shall be subject to the Special Leave Rules namely:—

Any Government servant having at the time of his appointment his domicile elsewhere than in Asia:

Provided that no such Government servant shall be entitled to the benefits of the Special Leave Rules, who prior to such appointment, has for the purpose of his appointment to any office under the Government or of the conferment upon him by the Government of any scholarship, emoluments or other privilege, claimed and been deemed to be of Indian domicile or who is subject to the Revised Leave Rules, given in Section VIII of Chapter.

Note.—Inferior Government servants to whom the Rules in sub-section (2) of Section VIII of this Chapter do not apply are subject to the Ordinary Leave Rules.

169. (a) For the purpose of clause (b) of Rule 168 the domicile of a person shall be determined in accordance with the provisions set out in Appendix 14:

Provided that a person who was born and has been educated exclusively in Asia, and has not at the date of his appointment 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 sub-rule (b) of Rule 168 does not apply it is proved to the satisfaction of the State Government that he did not have his domicile in Asia, on that date.

(b) No Government servant 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 the Special Leave Rules.

(c) If any question arises as to the domicile of any Government servant at the time of his appointment, the decision thereon, of the State Government shall be final.

Section III—Leave Accounts

170. A leave account shall be maintained for each Government servant in terms of leave on average pay.

Note—Leave account under Special Leave Rules and Ordinary Leave Rules should be maintained in the Comptroller and Auditor-General's Forms A.T.C. 1 & A.T.C. 2 respectively (reproduced in Part 1 of the Forms). The leave account of Government servants governed by the Revised Leave Rules should be maintained in S.C. Form I given in Part II of the Forms.

State Government Decisions:—

57.

विषय:—विभिन्न कार्यालयों में अवकाश लेखा का समुचित संधारण नहीं होने के संबंध में।

बिहार सरकार वित्त विभाग, पत्र संख्या-3/एफ-1-02/99/3076 वि० (2), दिनांक 25.5.1999 ई० प्रेषक, श्री प्रत्यूष सिन्हा, वित्त आयुक्त, बिहार, सेवा में, सभी विभागीय आयुक्त एवं सचिव सभी विभागीय सचिव, सभी प्रमंडलीय आयुक्त, सभी जिला पदाधिकारी/आयुक्त।

ऐसी शिकायतें प्राप्त हुई हैं कि कई कार्यालयों में कर्मचारियों/शिक्षकों के अवकाश लेखा का नियमित ढंग से संधारण नहीं किया जा रहा है, अवकाश लेखा को सेवापुस्त में चिपकाया नहीं गया है। सेवापुस्त में स्वीकृत अवकाश की प्रविष्टि नहीं की गई है और यहाँ तक कि सेवा पुस्तों को उचित कस्टडी में न रखकर संबंधित कर्मचारियों/शिक्षकों को दे दिया जाता है। इसके चलते न सिर्फ प्रविष्टियों में हेर-फेर की गुंजाइश होती है, वरन सेवानिवृत्ति के समय वास्तविक अव्यवहृत अर्जित अवकाश से ज्यादा अवधि के समतुल्य वेतन की राशि का भ्रष्टान राज्य सरकार को करना पड़ता है।

इसी क्रम में ऐसी भी शिकायतें मिलती हैं कि हड़ताल अवधि के विनियमन की प्रक्रिया में स्वीकृत अर्जित अवकाश का लेखा में समायोजन नहीं किया गया और हड़ताल अवधि का पूरा वेतन निकाल लिया गया। ऐसी भी सूचना मिली है कि हड़ताल की समाप्ति के बाद बहुत से कर्मियों की हड़ताल अवधि की उपस्थिति पंजी में दर्ज कर दी है। ऐसी कार्रवाई न सिर्फ गंभीर वित्तीय अनियमितता वरन् आपराधिक जालसाजी है और इसकी जवाबदेही जितनी संबंधित कर्मचारी की है, उतनी ही कार्यालय प्रधान की भी है।

अनुरोध है कि इसको अविलंब नियमित कर के लिए निम्न प्रकार से कार्रवाई की जाए:—

1. अपने अधीनस्थ सभी पदाधिकारियों/निकासी एवं व्ययन पदाधिकारियों/कार्यालय प्रधानों को स्पष्ट निर्देश दें कि वे अगले एक माह के अन्दर कार्यालयों का निरीक्षण कर सुनिश्चित करें कि अवकाश के लेखा का संधारण निर्धारित प्रक्रिया के अनुसार किया जा रहा है।

2. हड़ताल अवधि सहित पिछले वर्षों में स्वीकृत अवकाश की प्रविष्टि सेवापुस्त तथा लेखा में कर दी गई है, इसका सत्यापन कराये।

3. यदि हड़ताल अवधि का वेतन बकाया के रूप में हड़ताल की समाप्ति पर एक बार में निकाला गया है तो प्रथम दृष्टया यह माना जाए कि संबंधित कर्मी हड़ताल पर थे और वैसी स्थिति में यदि अवकाश वेतन के बजाए पंजी में उपस्थिति दर्ज कर वेतन की निकासी कर ली गई है, तो उसे गलत निकासी मानी जाय।

4. विशेषकर जनवरी, 1999 के बाद तथा अगले पांच वर्षों तक सेवानिवृत्त होने वाले कर्मचारियों के अवकाश लेखा का पूर्ण सत्यापन निरीक्षी/नियंत्री पदाधिकारियों द्वारा किया जाना सुनिश्चित किया जाए।

5. वर्ष 1999 में भी जनवरी-मई के बीच जो हड़ताल हुई है, उसकी प्रविष्टि उपस्थिति पंजी में स्पष्ट रूप से अंकित किया जाना सुनिश्चित किया जाए।

6. सभी अधीनस्थ नियंत्री पदाधिकारी से उपर्युक्त कंडिका 4 पर स्पष्ट प्रतिवेदन प्राप्त कर लिया जाए कि सभी अधीनस्थ कार्यालयों में सत्यापन कार्य पूरा कर लिया गया है और उनके माध्यम से सभी कार्यालय प्रधानों से प्रमाण पत्र प्राप्त कर लिया जाए कि अवकाश लेखा तथा सेवापुस्त में सभी प्रविष्टियाँ कर ली गई हैं।

जून माह के मध्य में उपायुक्त/जिला पदाधिकारी सभी विभागों के जिला स्तरीय पदाधिकारियों की बैठक कर उपर्युक्त सत्यापन की विस्तृत समीक्षा कर लें। उसी प्रकार प्रमंडलीय आयुक्त भी अपने स्तर पर सभी प्रमंडल स्तरीय पदाधिकारियों की बैठक कर सभी अधीनस्थ कार्यालयों में सत्यापन की स्थिति की समीक्षा कर लें। प्रमंडलीय आयुक्त/जिला पदाधिकारी समीक्षा के बाद एक विस्तृत प्रतिवेदन अपर वित्त आयुक्त (संसाधन) वित्त विभाग को भेजेंगे।

राज्य सरकार ने यह भी निर्णय लिया है कि अवकाश लेखा संधारण का विशेष अंकेक्षण कराया जाय। यदि सत्यापन के लिए निर्धारित अवधि (मध्य जून तक) के बाद अंकेक्षण टीम द्वारा जाँच में अवकाश लेखा के संधारण में अनियमितता पाई जायेगी तो संबंधित कार्यालय प्रधान तथा सत्यापन करनेवाले नियंत्री पदाधिकारी के विरुद्ध प्रशासनिक कानूनी कार्रवाई की जायेगी।

171. (a) In the leave account of a Government servant who, on his entry into Government service, becomes subject to these Rules there shall be credited:—

- (i) if he be under the Special Leave Rules, five-twenty-second of the period spent on duty.
- (ii) if he be under the Ordinary Leave Rules, two-elevenths of the period spent on duty.

(b) In the leave account of a Government servant who, immediately prior to the date on which he becomes subject to these Rules was subject to the leave rules contained in the Fundamental Rules there shall be credited the periods entered to his credit in the leave account maintained for him under those Rules, and in addition—

- (i) if he be under the Special Leave Rules, five-twenty-seconds of the period spent on duty subsequent to that date;
- (ii) If he be under the Ordinary Leave Rules, two-elevenths of the period spent on duty subsequent to that date.

(c) In the leave account of a Government servant who immediately prior to the date on which he becomes subject to these Rules, was subject to the leave Rules contained in the Civil Service Regulations there shall be credited the period of privilege leave which it would, on the date on which he becomes subject to these Rules be permissible to grant to him under the Rules to which he was subject prior to that date, and in addition—

(i) if he be under the Special Leave Rules—

- (1) one twelfth of the period prior to that date spent on duty or on privilege leave or on subsidiary leave while subject to the Indian Service Leave Rules of the Civil Service Regulations;
- (2) one-eighth of the period prior to that date spent on duty or on privilege leave or on subsidiary leave while subject to the European Service Leave Rules of the Civil Service Regulations;
- (3) five-twenty-seconds of the period spent on duty subsequent to that date.

(ii) if he be under the Ordinary Leave Rules—

- (1) one-twelfth of the period spent on duty or on privilege leave or on subsidiary leave prior to that date.
- (2) two-elevenths of period spent on duty subsequent to that date.

(d) A Government servant transferred permanently from military to civil employ entitled to a credit to his leave account based on such portion of his military duty as under the Rules for the timebeing in force, is permitted to count for pension.

(e) A Government servant who is subject, at the time when these Rules come into force, to Indian Service Leave Rules, which were in force in January, 1920 is entitled to credit to his leave account, in addition to the periods admissible under clause (c) of this Rule, one-third of any period of leave on medical certificate taken under the former Rules.

Note—When a Government servant is placed on deputation in Europe or America while on leave out of India the deputation shall be regarded as an interruption of the leave already granted. The balance of the unenjoyed leave should be worked out before the deputation intervenes and amount of leave to be enjoyed subsequently on the expiry of the deputation should be restricted to this available balance.

172. Except as otherwise expressly provided in this Chapter, the amount of leave debited against a Government servant's leave account is—

- (a) the actual period of leave on average pay;
- (b) half the period of leave on half or quarter average pay;
- (c) half the period of leave under Rule 120(g)(ii), if taken on average pay;
- (d) half the period of overstayal of leave under Rule 165.

Note 1.—Furlough on average salary taken under Rules previously in force is to be debited under (a) above, but privilege leave is not to be so debited.

Note 2.—Furlough (other than furlough on average salary) leave on medical certificate and special leave with allowances, taken under Rules previously in force, are to be debited under (b) above.

Note 3.—In case covered by Rule 171 (d), the leave taken during the period of duty

on which the credit in the leave account is based is to be debited as prescribed in notes 1 and 2 above.

Note 4.—When the grant of leave to a Government servant in inferior service necessitates the appointment of another person to officiate, the sum available under Rule 164, as leave salary for the absentee will seldom be an exact, equivalent of average or half average pay. In such cases the authority granting the leave has full discretion to declare whether it shall be treated as leave on average pay or as leave on half average pay, and to regulate the debit to the leave account according, provided that—

- (1) no leave shall be declared to be leave on average (or on half average) pay, unless such leave is actually admissible; and
- (2) if the amount of leave-salary exceeds half the average pay of the Government servant, the leave shall be treated as leave on average pay.

This note is only applicable to those Government servants in inferior service to whom the Rules in Section VIII of this Chapter do not apply.

173. When a Government servant, who has previously been subject to the Ordinary Leave Rules, is admitted to the benefits of the Special Leave Rules, no change shall be made in the amount of leave previously credited and debited to his account, but he shall be entitled to the maximum amount of leave prescribed in Rule 176(b)(i).

174. When a Government servant is permanently transferred from service under another Government to a post to which these Rules apply, there shall be carried forward in his leave account the amount of leave then standing to his credit or debit under the Rules of the Government from the control of which he is transferred. In cases of doubt the State Government shall decide how much leave shall be carried forward in his leave account at the time of transfer. From the date of his transfer, he shall earn leave in accordance with these Rules.

[For incidence of leave salaries of Government servants, who have served under two or more Government see Appendix 3 to the Auditor-Generals' Account Code Vol.1]

175. The amount of leave due to a Government servant is the balance of leave at his credit in the leave account.

Section IV—Grant of Leave

176. The total amount of leave, expressed in terms of average pay which may be granted to a Government servant shall not exceed—

- (a) One-eleventh of the period spent on duty; or in the case of a Government servant who has formerly been subject to leave Rules contained in the Civil Service Regulations, the period of privilege even which it would have been permissible to grant to him under those Rules, on the date on which he ceased to be subject to them, plus one-eleventh of the period spent on duty subsequent to that date; plus
- (b) (i) in the case of Government servants under the Special Leave Rules, three years; or
- (ii) in the case of Government servants under the Ordinary Leave Rules, two and a half years;

Provided that, in calculating the maxima prescribed by this Rule, account shall not be taken of any period of leave which is not debitable to the leave account.

177. The total amount of leave on average pay, including furlough on average salary taken under Rules previously in force, which may be granted to a Government servant shall not exceed—

- (a) One-eleventh of the period spent on duty: or, in the case of a Government servant who has formerly been subject to leave Rules contained in the Civil Service Regulations, the period of privilege leave which it would have been permissible to grant to him under those Rules on the date on which he ceased to be subject to them, plus one-eleventh of the period spent on duty subsequent to that date; plus
- (b) (i) in the case of Government servants under the Special Leave Rules, one year, or
- (ii) in the case of Government servants under the Ordinary Leave Rules, nil:

Provided that in respect of leave taken on medical certificate other than leave preparatory to retirement or spent elsewhere than in India, Pakistan, Ceylon, Nepal, Burma or Aden, a period of one year may be added to the period prescribed in clause (a) of this Rule.

Note.—A Government servant on leave on medical certificate cannot take advantage of the proviso to clause (b)(ii) of this Rule unless a certificate signed by the Civil Surgeon, is produced that there is good reason to expect that he will return to duty: If such a certificate is furnished, no question of subsequent refund will be raised.

178. The maximum period of leave on average pay which may be granted in each separate period of leave is—

- (a) to a Government servant under the Special Leave Rules, eight months;
- (b) to a Government servant under the Ordinary Leave Rules, four months:

Provided that, when such a Government servant either takes leave on medical certificate other than leave preparatory to retirement or spends his leave elsewhere than in India, Pakistan, Ceylon, Nepal, Burma or Aden, the maximum period admissible to him under this Rule shall be eight months.

Note.—A Government servant on leave on medical certificate cannot take advantage of the proviso to clause (b) of this Rule unless a certificate, signed by the Civil Surgeon is produced that there is good reason to expect that he will return to duty: If such a certificate is furnished, no question of subsequent refund will be raised.

[Comments.—A Government servant under the Special Leave Rules, will get leave for a maximum period of 8 months and that under the ordinary leave Rules, for a maximum period of 4 months. There is no limit of period of leave on medical certificate.]

179. (a) Leave not due may be granted subject to the following conditions—

- (i) on medical certificate, without limit of amount, and
- (ii) otherwise than on medical certificate, for not more than three months at any one time and six months in all, reckoned in terms of leave on average pay:

Provided that such leave shall not be granted to a Government servant unless there is a reasonable prospect that he will return to duty and earn an equivalent amount of leave.

Note.—In case where a Government servant who has been granted leave not due under this clause applies for permission to retire voluntarily the leave not due shall, if the permission be granted, be cancelled and his retirement shall have effect from the date on which such leave commenced.

¹[An undertaking to this effect should therefore be taken from Government servants, who avail of 'leave not due.' The question where a Government servant should be called upon to refund the amount of leave salary should be decided on the merits of each case e.g., if the retirement of such Government servant is voluntary, refund should be enforced but if it is unavoidable by reason of ill health incapacitating him for further service, no refund should be insisted upon.]

(b) When a Government servant returns from leave which was not due and which was debited against his leave account, no leave will become due to him until after he has earned a credit of leave equal to the period which he took before it was due.

180. (a) In special circumstances and when no other leave is under these Rules admissible, extraordinary leave may be granted. Such leave is not debited against the leave account. No leave-salary is admissible during such leave.

(b) The authority empowered to sanction leave may grant extraordinary leave in combination with, or in continuation of, any leave that is admissible, and may commute retrospectively period of absence without leave into extraordinary leave.

Note 1.—The State Government may for special reasons dispense with the condition that extraordinary leave may be granted only when no other leave is by Rule admissible, provided that a Government servant cannot be compelled to take extraordinary leave when leave with allowances is admissible to him.

Note 2.—The power of commuting period of absence without leave into extraordinary leave under sub-rule (b) is absolute; in other words, such commutation is permissible even when other leave was admissible to Government servant at the time his absence without leave commenced.

Comments & Case laws

- Extra-ordinary leave cannot be claimed as a matter of right. Such leave is meant only for special circumstances when no other leave is admissible. *Joycee Johes vs. State of Bihar*, 2002(1) PLJR 562. See at 30; *Dr. Anzar Hassan Ibrahim vs. State of Bihar*, 2004(4) PLJR 515.

- Extra-ordinary leave cannot be claimed as a matter of right. Rule 180 is only an enabling provision. Mandamus cannot be granted to allow extraordinary leave. *Dr. Anzar Hasan Ibrahim vs. State of Bihar*, 2004(3) BLJ 648.

- Leave cannot be claimed as of right. Refusal or revocation of leave is prerogative of competent authority. *Joycee Jones vs. State of Bihar*, 2001(4) PLJR 11.

181. The maximum period of continuous absence from duty on leave or on vacation and leave combined granted otherwise than on medical certificate is twenty-eight months. This period shall in no circumstances, be exceeded by a Government servant who is on leave preparatory to retirement.

1. Ins. by C.S. No. 115 dated 18.6.1964.

Note.—Save in the case of leave preparatory to retirement extraordinary leave will not be taken into account in calculating the maximum under this Rule.

182. A Government servant who on his entry into Government service becomes subject to these Rules shall not be granted leave preparatory to his retirement on superannuation or retiring pension for a period exceeding twelve months.

Comments & Case law

● Pension can be denied for period of unauthorised leave. Authorities have shown leniency in allowing pensionary benefits to petitioner as no action was taken by them for petitioner's unauthorised absence. Pensionary benefits have to be calculated on the basis of last ten months' salary drawn by petitioner. *M.K. Muraleedharan vs. State of Bihar*, 1999(3) BLJ 330.

183. Leave granted to a Government servant shall not ordinarily extend beyond the date of compulsory retirement. But in special circumstances the State Government may grant leave extending not more than six months beyond such date, or, if the Government servant is retained in service after that date, beyond the date on which he ceases to discharge his duties.

[See Appendix 12]

184. The following provisions apply to vacation departments only—

- (a) Except as otherwise expressly provided in these Rules, vacation counts as duty. But for each year of duty in which a Government servant has availed himself of the vacation, the period of total leave in Rules 171, 176 and 177 shall be reduced as follows:—
 - (i) for subordinate judges, *munsifs* and other staff of Civil Courts, by 15 days;
 - (ii) for all other Government servants, by one month.
- (b) If a part only of the vacation has been taken in any year; the period to be deducted will be a fraction of fifteen days or of a month, as the case may be, equal to the proportion which the part of the vacation taken bears to the full period of the vacation.
- (c) (in cases of urgent necessity the periods of total leave in Rules 171 and 176, as reduced by clauses (a) and (b) of this Rule, may, except in the case of subordinate judges, *munsifs* and other staff of Civil Courts, be increased by one month for every two years of duty in a vacation department.

[**Comments.**—An officer belonging to Vacation Department who has availed himself of the entire vacation will have his leave reduced by 15 days. This is applicable in the case of the Sub-Judges, *Munsifs* and others staff in the Civil Courts. In case of officers belonging to departments other Civil Courts the period of leave shall be reduced by one month. There shall, however, be proportionate adjustment in the leave to be granted if the vacation has been availed of partly. There is an exception in the case of an urgent necessity in the case of the staff working in the Civil Courts and in this case one month leave can be increased for every 2 years of duty].

Comments & Case laws

● **Earned leave**—Order no. 174 dated 21.01.2011 issued by Education Department. 44 days of earned leave deducted on ground that during the said period petitioner was engaged for election duty during vacation and received allowance and, therefore, cannot be given double benefit, that is vacation and an earned leave both. Entitlement of the petitioner u/r 184 of Code cannot be taken away by a letter of authority. Respondent directed to pay 44 days of salary in lieu of unutilized earned leave in addition to 256 days earned leave paid earlier to petitioner. *Devendra Prasad Singh vs. State of Bihar*, 2017(2) PLJR 56.

● **Leave encashment**. Denial (for 84 days) on ground that petitioner teacher during that period worked for election, census and survey related work and received allowances and therefore cannot be given a double benefit *i.e.* a vacation and an earned leave. School being a vacation department, vacation period being treated as a duty period. Petitioner is entitled to those 84 days of additional earned leave as per Rule 184. Allowances were given to the petitioner for doing work beyond scope of employment and were not in like salary for period. Moreover, Service Code relatable to Article 309 of Constitution and could be amended by State Government or clarified by Government Instruction and as such, entitlement of petitioner u/r 184 cannot be taken away by a letter of authority for that would be amending Code which has statutory force. Impugned order to extent it deprives petitioner of 84 days of earned leave set aside. *Saket Bihari Sharma vs. State of Bihar*, 2013(2) PLJR 596.

Section V—Leave—Salary

185. Subject to the conditions in Rules 164, 177, 178, 180, 184, 186, 187, 188 and 189, a Government servant on leave shall, during leave, draw leave salary as follows:—

- (a) if the leave is due, leave-salary equal to average pay, or to half average pay, or to average pay during the earlier portion of the leave and half-average pay during the remainder as he may elect; and
- (b) if the leave is not due, leave-salary equal to half-average pay:

Provided that, for the purpose of this Rule the average pay of Government servant who on his entry into Government service becomes subject to these Rules shall, if such Government servant has been transferred as a penalty to a lower grade or post during the twelve months immediately preceding the commencement of his leave, be taken to be the pay of the grade or post to which he has been so transferred:

Provided further that when a non Gazetted Government servant who was in service on the 24th day of August, 1927 takes leave, and—

- (i) his pay is less than Rs. 300; or
- (ii) the leave taken does not exceed one month, his average pay for the purpose of this Rule may be taken to be the pay which he would draw in the permanent post held substantively by him at the time of taking leave if this pay be more than the average pay.

186. After continuous absence from duty for a period of 28 months on leave other than extraordinary leave, or on vacation combined with such leave a Government servant will draw leave-salary equal to quarter average pay subject to the maxima and minima prescribed in Rules 187 and 188.

187. Except during the first four months of any period of leave on the average pay, leave-salary is subject to the monthly maxima shown in the following table:—

1	Average		Half average		Quarter average	
	Outside	In	Outside	In	Outside	In
	Asia	Asia	Asia	Asia	Asia	Asia
2	3	4	5	6	7	
£	Rs.	£	Rs.	£	Rs.	
Govt. servant subject to the Special Leave Rules...	200	2,000	100	1,000	60	600
Govt. servant subject to the Ordinary Leave Rules...	150	1,500	75	750	60	600

Note—The maximum of average pay does not apply to a Government servant serving in a vacation department during a period of leave on average pay equivalent to one month for each year since his last leave during which he had not availed himself of the vacation, and to a proportionate fraction of a month during which he has taken a part only of the vacation provided that, in the case of a Government servant who is transferred with leave to his credit from a non-vacation to a vacation department, the State Government, shall decide, on the first occasion on which he takes leave after such transfer, the period not exceeding four months for which the maximum limit of leave salary shall not be applied to him.

This note is not meant to give any additional advantage but is intended to be a restrictive exception to the main Rule. A Government servant is not entitled to the concession mentioned in this note in addition to the concession granted in the main Rule itself but only to the drawing of full average pay for a period equivalent to one month of each year since the last leave taken during which vacation has not been enjoyed.

188. Subject to the condition that his leave-salary shall in no case exceed his average pay, the leave-salary drawn by a Government servant on leave out of India elsewhere than in Pakistan, Ceylon, Nepal, Burma or Aden, is subject to the monthly minima shown in the following table:—

1	Half average		Quarter average	
	Outside	In	Outside	In
	Asia	Asia	Asia	Asia
2	3	4	5	
£	Rs.	£	Rs.	
Government servants subject to the Special Leave Rules	33	333	16½	166
Government servant subject to the Ordinary leave Rules	25	260	12½	125

189. (a) That portion of leave-salary which represents overseas pay drawn in sterling shall be paid in all cases in sterling and, unless the Government servant exercises his option under sub-rule (d) of drawing it in a Dominion or Colony along with the balance of his leave-salary the payment shall be made by the High Commissioner for India in London.

¹[(b) Subject to the provisions of clause (a) of this Rule, leave-salary shall be drawn in rupees ²[in India], but leave-salary in respect of leave spent out of Asia may at the option of the Government servants, be drawn in sterling provided that—

- (1) In the case of leave on average pay not exceeding four months or of the first four months of such leave if it exceeds four months, leave-salary due in respect of an initial period of such leave spent in Asia may if the officer proceeds out of Asia, during the currency of such leave, or within one months of its termination, be drawn in sterling.
- (2) In the case of leave of any other description or of periods of leave on average pay after the first four months of such leave if the amount of such leave spent in Asia prior to embarkation does not in all exceed one months's leave salary in respect of the whole of such leave may be drawn in sterling.

Note—For the purpose of this Rule Cyprus shall be regarded as outside Asia.

- (3) In the case of an attachment order having been issued by a court in India in accordance with Rule 48, Order XXI, First Schedule, Code of Civil Procedure, 1908 (Act V of 1908), that part of leave-salary which is attached shall be remitted to the court in rupees by the accounts authority in India. The balance of leave salary, if payable in sterling, may then be drawn after reducing the maximum and minimum rates of leave salary prescribed in Rules 187 and 188 by the amount specified in the attachment order, converted into sterling as the rate of exchange prescribed under clause (e) of this Rule.

Note.—Permanent Government servants under the State Government who may be selected in future for being sent to America or Canada, on study leave terms, shall draw their leave salary in India, for the entire period of their leave. The payment will be subject to rupee rates prescribed for the payment of leave-salary in Asia.

(c) [Omitted by C.S. No. 30 dated 26.3.1956.]

(d) Leave salary drawn in sterling shall be drawn in London, or at the Government servant's option, if he spends his leave in any British Dominion or Colony included in Appendix 15, in such Dominion or Colony. But if the leave salary due in respect of any portion of leave out of Asia and payable to the Government servant in sterling remains undrawn for no fault on his part, the State Government may authorize the undrawn amount to be paid in India at such rate of exchange as it may prescribe.

(e) Leave-salary shall be converted into sterling at the rate of 1s. 6d per rupees.

1. Subs. vide C.S. No. 10 dated 7.7.1953.

2. Ins. by C.S. No. 30 dated 26.3.1956.

(f) Any leave salary drawn outside India, shall be subject to deduction of Indian Income tax and Super-tax at the rates which would have been applicable if that leave-salary had been drawn in India.

190. The rupee and sterling maxima and minima prescribed in Rules 187 and 188 shall be applied to leave-salaries paid respectively in rupees and in sterling.

Section VI—Exception

Sub-section (1)—Military officers in civil employ

191. A military officer in civil employ remains subject to military leave Rules. The conditions on which leave may be granted to such an officer by the civil authorities are as follows—

(a) Subject to the restriction that no leave granted under this Rule may extend beyond the term of officer's civil employment, the State Government may grant leave of the following kinds:—

(i) leave on average pay for four months at a time, not exceeding, in all, the privilege leave which would be permissible to grant to him under the Rule applicable to his case on the date on which he became subject to this Rule plus 1/11th of the duty performed by him from the beginning of the calendar year following that in which he becomes subject to this Rule:

Provided that if privilege leave under military Rules is not admissible in respect of the calendar year of transfer because the officer has not actually performed duty in the Military Department during that year, duty counting for leave on average pay shall commence on the date on which he becomes subject to this Rule:

Provided further that in the case of an officer serving in a vacation department the provisions of Rule 184 shall apply *mutatis mutandis* to the calculation and grant of leave under clause (i) above.

(ii) any leave, other than privilege leave, admissible under military Rules, either alone or in combination with leave on average pay:

Provided that, except in the case of an officer holding substantively a tenure post, no leave under this sub-clause may be granted to an officer, unless the State Government is prepared to re-employ him immediately upon the termination of the leave.

(b) The total period of leave should be regulated by the limits in force under the military leave Rules to which the officer is subject.

(c) Leave may be retrospectively commuted by the authority which granted it into any other kind of leave which was admissible to the officer concerned at the time when it was granted.

Sub-section (2)—Field establishment of the Bihar Survey Department.

192. The following provisions apply to the establishment of the Bihar Survey Department employed purely on field work.

(a) Subject to the condition that such leave shall not in any case be granted except when the services of the Government servant concerned are temporarily not required, departmental leave may be granted by the

Deputy Director of Surveys in the circumstances and on the terms prescribed below:—

- (i) Departmental leave may be granted during the recess on the recommendation of the head of the office to which the Government servant belongs. If the head of the office considers it desirable to re-employ him in the ensuing seasons.
 - (ii) In the interest of the public service, and not at the Government servant's own request, such leave may be granted at times other than during the recess. Leave on the medical certificate should never be regarded as granted in the interests of the public service. Leave under this sub-clause shall not be granted for more than six months at a time but in special cases extensions may be allowed upto a maximum period of one year in all.
 - (iii) Leave-salary during such leave shall be, of such amount as the Deputy Director of Surveys may think fit, not exceeding half the pay drawn at the time of taking leave. The leave salary is payable on return to duty after the expiry of the leave, and is not payable unless the Government servant returns to duty when required by a superior authority to do so. If however, a Government servant dies while on such leave, his leave salary up to the date of his death shall be paid to his heirs.
 - (iv) Such leave does not count as duty and shall be debited to the leave account as though it were half pay leave.
 - (v) Such leave may be granted when leave is not admissible under the ordinary Rules and it shall not be taken into account in calculating the maximum amount of leave admissible under Rule 176.
 - (vi) Such leave may be combined with any other kind of leave which may be due.
- (b) When a Government servant to whom this Rule applies holds a post in which the Deputy Director of Surveys considers that he is unlikely to be eligible for departmental leave in future, the Deputy Director may be special order in writing, declare that, with effect from any given date not being a date earlier than the Government servant's last return from departmental leave, any balance of leave at debit in the Government servant's leave account shall be cancelled. All leave earned after such date shall be credited as due in the Government servant's leave account, and all leave taken after such date, including departmental leave, if any shall be debited in it.
- (c) Leave on average pay under Rules 177 and 178 may be granted by the Deputy Director of Surveys to a Government servant who in the public interest has not been allowed any departmental leave for a period of one year or more from the date of his last rejoining his duties from leave. Leave under this clause is admissible upto the amount earned since the last return from leave of any description.

Comments & Case law

● Rule 87 of Traverse Rule of Bihar and Orissa Surrey Act, 1986. When there is no traverse work left, traversors can be granted duty period leave. Salary for such period cannot exceed 50% of basic salary payable after employee joins on conclusion of leave. *Pankaj Kumar vs. State of Bihar*, 2007(4) PLJR 402.

Sub-section (3)—Part-time Government servants and Government Servants remunerated by fees or daily wages

193. (a) A law officer holding the post of Advocate-General, Government Advocate or Government pleader may, if his pay is fixed at a definite rate but his whole time is not retained for the service of Government, be granted as follows:—

- (i) He may be granted leave during the vacation of the High Court, provided that no expense to Government shall be caused thereby. Such leave counts as duty, and leave-salary shall be equal to the pay drawn at the time of taking leave.
- (ii) After not less than six years of duty, he may be granted leave for a period not exceeding six months. Such leave shall be granted only once in his service and leave-salary shall be equal to half the pay drawn at the time of taking leave.
- (iii) He may be granted leave on medical certificate upto a maximum of twenty months at any one time. Provided that at least three years of duty shall intervene between any two periods of leave on medical certificate. Leave salary during such leave shall be equal to half the pay drawn at the time of taking leave.
- (iv) He may be granted extraordinary leave on the conditions prescribed in Rule 180.

(b) Leave of any kind admissible under clause (a) of this Rule may be combined with leave of any other kind admissible under that clause.

[**Comments.**—The salient points are that by granting leave no extra expenditure is incurred by Govt. The leave shall be allowed only once in his service. Leave on medical certificate shall be allowed upto a maximum of one year and 8 months at any one time.]

194. A Government servant remunerated by honoraria may be granted leave on the terms prescribed in Rule 193 provided that—

- (1) he shall make satisfactory arrangement for the performance of his duties during his absence;
- (2) no extra expense to Government shall be involved; and
- (3) during leave of the kind contemplated by clause (a) (ii) of Rule 193, the whole of the honoraria shall be paid to the person who, officiates in his post.

195. The following provisions apply to permanent piece-workers employed in the Bihar Government Presses—

- (i) (a) Leave on average pay will be granted to piece-workers according to their service as shown below—

Length of service	Leave admissible		
Less than ten years ...	16 days in each calendar year		
Ten years but less than 15 years	23	ditto.	ditto.
15 years and above	31	ditto.	ditto.

Note.—In calculating the length of service, for the purpose of the sub-rule 1(a) the period of continuous temporary service rendered by a piece-worker up to the date of his being brought on to the permanent establishment shall be taken into account.

- (b) This leave will be non-cumulative, *i.e.* any leave not taken during the year will lapse without any monetary compensation.
- (c) Holidays actually enjoyed may at the option of the piece worker, be counted against any leave admissible to him under clause (a) of this sub-rule and if so counted will be paid for.
- (b) The grant of leave under this Rule cannot be claimed as a right and can be refused by the Superintendent of the Press on administrative grounds. It may also be withheld from piece-workers who have been irregular in attendance.

(2) Leave on medical certificate on half average pay will be earned at the rate of one month's leave for every completed period of eleven months' duty and as regards incomplete periods, one days' leave for every eleven days' duty. It will be cumulative and will be granted only when no average pay leave is admissible. A piece-worker applying for leave under this sub-rule shall ordinarily be required to furnish a medical certificate from the Assistant Surgeon, Patna City Dispensary.

(3) Leave without pay may be granted when no other leave is admissible.

(4) No continuous period of leave with pay shall exceed one year, any extension over one year shall be leave without pay.

(5) Injury leave at half pay rates may be granted from the commencement of disablement to all piece-workers who are injured in circumstances which would give rise to claims for compensation in the case of workmen as defined in the Workmen's Compensation Act. This leave shall be granted so long as is necessary subject to a limit of two years for any one disability and five years during a piece-worker's total service. It shall not be taken into account in calculating the limits laid down in sub-rules (2) and (4). Leave salary payable under this sub-rule will, in the case of a workman to whom the Workmen's Compensation Act applies, be reduced by the amount of compensation payable under Section 4(1)(D) of the said Act.

Note 1.—Pay on average pay means remuneration at class rates.

Note 2.—For the purpose of sub-rule (2) past service rendered before 1st January, 1929, will count for leave.

Note 3.—No casual leave is admissible to permanent piece-workers.

Sub-section (4)—Probationers and Apprentices

196. Leave may be granted to a probationer on the terms which would be applicable to him if he held his post substantively otherwise than on probation.

197. Leave may be granted to an apprentice as follows—

- (a) Leave on medical certificate, not exceeding one month in any year of apprenticeship. Leave-salary during such leave shall be equal to half the pay drawn at the time of taking leave.

(b) Extraordinary leave not exceeding one month in any year of apprenticeship subject to the conditions prescribed in Rule 180.

Note.—Persons without a substantive post entertained with a view to their subsequent appointment to a substantive ministerial post may be granted leave under this Rule.

[Comments.—Medical leave allowed to probationers and apprentices should not exceed one month in any one year. The leave-salary in this case will be equivalent to half the pay drawn at the time of taking leave. leave without pay should not exceed one month in any one year of apprenticeship.]

198. If an apprentice is without interruption of service appointed substantively or in an officiating capacity to a permanent post his leave account shall be credited with half the amount of leave which he would have earned had he held a permanent post substantively during the period of apprenticeship and it shall be debited with the amount of leave actually taken under Rule 197 (a). For the purpose of this Rule leave granted under Rule 197 does not constitute an interruption of service.

199. (1) Directly recruited Sub-inspectors of police during the period of their training in the Police Training College may be granted leave on medical certificate on half subsistence allowance for a period not exceeding one month in a calendar year. This leave will be non-cumulative.

(2) On appointment to a permanent post the period of training will not be taken into account for calculating earned leave under Rule 227 and the leave on medical certificate granted while on training will similarly not be taken into account for the purpose of Rules 232 and 233.

[Comments.—This rule applies to the grant of leave to the sub-inspectors of police, who may be granted medical leave on half subsistence allowance for a period of not more than one month in a calendar year while undergoing training at the Police Training College. When on the completion of training such sub-inspectors are posted permanently, the period spent in training in the Police Training College will not count for leave.

Sub-section (5).—Menials paid from contingent grants

200. Menials paid from contingent grants may only be granted leave without allowances.

[Comments.—According to the Rule 260A of the C.S.R. privilege leave may be granted to an employee in inferior service so far it can be done without incurring any expenditure to the State Exchequer. The absentee's allowance to the substantive incumbent must not exceed the amount that remains from his pay after provision is made for the efficient discharge of duties during his absence, except when in the resultant acting arrangements; an officer who holds no substantive appointment is given more than half the pay of the appointment in which he acts in which case excess over half pay granted to him may at the discretion of the State Government disregarded altogether in calculating the sum available for the leave allowance of the absentee employee and the acting allowance is paid as a result of his absence from duty.

According to Rule 414 of C.S.R. an inferior Govt. servant counts leave with and without allowance, not exceeding in the aggregate that which might be given with allowances, under the rules in Chapters 12 and 14 of C.S.R.

Hospital leave is not taken into consideration in calculating total leave, as such leave cannot be regarded as leave on medical grounds.

An inferior Govt. servant can count his leave and without allowances qualifying service for pension upto the amount of leave earned under Chapter 12 and 14 of the C.S.R.]

Section VII.—Special Concessions

Sub-section (1)—Special disability leave

201. (a) Subject to the conditions hereinafter specified, the State 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.

(b) 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 State Government, if it is 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.

(c) 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.

(d) Such leave may be combined with leave of any other kind.

(e) Such leave may be granted more than once if the disability is aggravated or reproduced in similar circumstances at a later date, but not more than 24 months of such leave shall be granted in consequence of any one disability.

(f) Such leave shall be counted as duty in calculating service for pension and shall not, except as provided in Rule 172 (c), be debited against the leave account.

(g) Leave-salary during such leave shall be equal—

- (i) for the first four months of any period of such leave, including a period of such leave granted under clause (e) of this Rule, to average pay; and
- (ii) for the remaining period of any such leave, to half average pay; or at the Government servant's option, for a period not exceeding the period of average pay which would otherwise be admissible to him, to average pay:

Provided that the maxima specified in the table in Rule 187 shall notwithstanding anything contained in that Rule apply to the whole period of such leave and the minima specified in the table in Rule 188 shall apply when leave during such leave is equal to half average pay, subject to the conditions stated in that Rule.

(h) In the case of a person to whom the Workmen's Compensation Act, 1923 applies, the amount of leave-salary payable under this Rule shall be reduced by the amount of compensation payable under Section 4(1)(D) of the said Act.

(i) The provisions of this Rule 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 person under military Rules in respect of that disability shall be reckoned as leave granted under this Rule for the purpose of calculating the period admissible.

[Comments.]—Special disability leave may be allowed to a Govt. employee on account of injury caused or in consequence of the due performance of his official duties or official position. The disability should be reported within 3 months of the occurrence to the competent authority. Leave on disability should be certified by a Medical Board, which will recommend the amount of leave actually required. This type of leave shall not exceed 2 years in consequence of any one disability and it can be combined with leave of other types. This leave is not debitable to the leave account of Govt. employee, as during this period the officer concerned will be treated as on duty.

Example.—A Govt. servant while on tour, meets an accident in the course of his duties. The Medical Board have found that he has sustained physical injury, say on July, 1976. He will get leave-salary on average pay for the first 4 months i.e., from July to October 31st. For the remaining period his leave-salary will be equivalent to half average pay. But if the Govt. servant so desires it will be equivalent to average pay in which case the period should not exceed the period of average pay which would otherwise be admissible to him. This rule also applies to a Civil Officer, who has been disabled while performing duties with a military force, if he is discharged as unfit for further military service, but is not rendered unfit for further Civil Service.

If the Govt. servant gets an injury, which requires treatment of an specialist he will get T.A. from his headquarters to the place of specialist. For example, if a Government servant has sustained an injury in the district of Darbhanga, and the Medical Officer has advised him that he should be treated by a specialist, in the Patna Medical College Hospital at Patna the Govt. servant concerned will get costs of journey from Darbhanga to Patna and *vice-versa*.]

202. The State Government may in exceptional circumstances extend the application of the provisions of Rule 201 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 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;
- (ii) that if the Government servant has contracted such disability during service otherwise than with a military force, it must be so exceptional in character or in the circumstances of its occurrence as to justify such unusual treatment as to 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 Rule and in part by other leave, and that the amount of special disability leave granted on average may be less than four months.

State Government decision:**58.**

Regarding.—Grant of special leave on half average pay upto a total of 12 months during the whole service in addition to any leave that may be admissible under the existing Rule to Government servants suffering from tuberculosis.

[Vide No. FI—706/61/2796 F., dated 3.2.1961]

The question of grant of special leave on half average pay upto a total of 12 months to the Government servants who are diagnosed to be suffering from tuberculosis has been under the consideration of Government for sometime past. At present the above kind of leave is admissible to only non-Gazetted officers and men of the Police Department.

It has now been decided that Government servant diagnosed to be suffering from tuberculosis shall be allowed over and above any leave that may be due under the Rules in the Bihar Service Code special leave on half average pay upto a total of 12 months during the whole service. The above concession is meant for permanent Government servants only, but it may be extended to a temporary Government servant also if he has been in continuous Government service for a period exceeding one year and the post from which he proceeds on leave is likely to last till his return to duty.

This special leave will count for pension only. These orders will take effect from 1.4.1954.

203. (a) A Government servant who has been granted special disability leave under Rule 201 and whose domicile is elsewhere than in Asia may be granted by the State Government free passage by sea for himself, his wife and children to the United Kingdom or to any part 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 on medical certificate in continuation of special disability leave, in which case return passage shall not be granted save in exceptional circumstances: provided that the cost of any passage granted under this Rule shall not exceed the cost of passage between India and the United Kingdom.

(b) Passages granted under this Rule may include travel by land between port of embarkation and port of debarkation and shall be of such class as the State Government in each case may determine.

(c) The State Government may in exceptional circumstances extend the application of the provisions of clauses (a) and (b) of this Rule to a Government servant who has been granted special disability leave under Rule 202, and whose domicile is elsewhere than in Asia, provided that it may, at its discretion grant free passages to the Government servant only or to the Government servant and his wife only.

(d) For the purpose of this Rule—

(i) the domicile of a Government servant shall be determined in accordance with the provisions set out in Appendix 14;

- (ii) "child" means 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.

Sub-section (2)—¹[Study leave

Note.—The duties and functions entrusted to the High Commissioner for India in the United Kingdom under the Study Leave Rules shall be performed by Ambassador for India in Washington in regard to Government servants on Study Leave in America.

204. (a) Subject to the conditions hereinafter specified, the State Government may grant special study leave to a Government servant to enable him to study scientific, technical or similar problems or to undergo a special course of instruction. Such leave is not debited against the leave account.

(b) These Rules relate to study leave only. They are not intended to meet the case of Government servants deputed to other countries at the instance of Government, either for the performance of special duties imposed on them or for the investigation of specific problems connected with their technical duties. Such cases will be dealt with on their merits under the provisions of Rule 61. Such leave may be granted to a Government servant in the Public Health, Medical, Civil, Veterinary, Factory, Agricultural, Education, Public Works or Forest Department, or to any other Government servant to whom the State Government is of opinion that such leave should in the public interest be granted.

Note.—Save in very exceptional case, study leave will not be granted to a member of subordinate service.

Comments & Case laws

● **Denial of study leave and instead grant of extraordinary leave—**

Non-completion of 5 years of service for grant of study leave. Matter already settled in 1991(2) PLJR 384. Merely because petitioner happens to serve in another department and not Department of the State, his case does not become distinguishable from 1991(2) PLJR 384. There is power vested in the State to dispense or relax requirement of rules for a just or equitable case. Rule 205 does not prohibit or put an embargo to consider any request. There has to be consistency in decision making by State authorities and they have an obligation to take law laid down by High Court into consideration. Reasoning given for denial of study leave held as hit by Division Bench judgment. Matter relegated back to consider afresh. *Dr. Kaushal Kushum vs. State of Bihar*, 2012(1) PLJR 293.

● Grant of study leave for acquiring further qualification. State cannot contend that attainment of higher qualification or specialisation would not be in public interest. *Dr. Anil Prasad Gara vs. State of Bihar*, 1991 BBCJ 498: 1991(2) PLJR 884.

● Grant of study leave. Leave cannot be claimed as a matter of right. But according to policy of Government, such study leave has to be liberally granted. Study leave to young doctors would be in public interest. *Dr. Anil Prasad Gara vs. State of Bihar*, 1991 BBCJ 498 : 1991(2) PLJR 884.

1. Rules in this Section reproduce the Secretary of States Rules, *mutatis mutandis*.

State Government decision:

59.

Regarding.—*Liberalisation of the conditions for the grant of study leave. Chapter VI, sub-sec. (2) of Section VII.***[Vide F.D. Notification C.D.R.—PAR—4057/61/1911—F., dated 14.2.1962.]**

The study-leave is at present granted for purpose of prosecution of higher studies or for receiving training in professional or technical subjects having a direct, close connection with the sphere of duties of Government servant concerned subject to a certificate by Administrative Department that the proposed course of study or training will be of definite advantage to the Government from the point of view of public interest.

That on the lines of the decisions taken by the Government of India on the recommendations of the Central Pay Commission, the State Government have been pleased to decide that study-leave may also be granted for a course of training or study-tour in which a Government servant may not attend a regular academic or semi-academic course if the course of training or the study-tour is certified to be of definite advantage to Government from the point of view of public interest and is related to the sphere of duties of the Government servant.

Study-leave may also be granted for the purposes of studies connected with the frame-work of back-ground of public administration.

The grant of study-leave in the aforesaid case will be subject to the conditions that:—

- (i) the particular study of study-tour should be approved by the State Government, and
- (ii) the Government should be required to submit, on the return a full report on the work done by him while on study leave.

(2) Formal amendments to the Study-leave Rules as contained in sub-section (2) of Section VII in Chapter VI of the Bihar Service Code, will be made in due course.

(3) The State Government have also been pleased to decide that—

- (a) Study-leave should be liberally granted, particularly to scientific, technical and administrative staff, and that in suitable case the staff should even be encouraged or advised to take such leave; and
- (b) while it may not be necessary to extend the standard of study leave terms to industrial staff, the question of providing them facilities for training and technical education may be considered by the administrative authorities.

(4) It has further been decided that the purpose for which study leave may be granted should also include the studies which may not be closely and directly linked with a Government servant's work, but which are capable of widening his mind in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service. The applications from Government servant for the grant of study-leave in such cases should be considered on the merits of each case.

205. Extra leave on half average pay for the purpose of study-leave may be taken either, in or outside India. Study-leave will not ordinarily be granted to Government servant of less than five year's service or to Government servants within three years of the date at which they have the option of retiring or if they have the option of retiring after 20 years' service, within three years of the date at which they will complete 25 year's service.

Comments & Case laws

Non-payment of salary for study leave period—Appellant was otherwise not entitled to any study leave because of his not having completed three years in service. However, his insistence was acceded to and he was granted leave with specific stipulation that it shall be without pay. Same was accepted by petitioner and he went on study leave. Conditional order though had been set aside by another Bench of this Court way back in year 2010 but, liberty was granted to concerned respondent/Deputy Secretary of Building Construction Department to reconsider claim of appellant. On reconsideration, it was found that provision contained in Rule 205 of Bihar Service Code was not taken into consideration when such order was passed. No fault with order impugned in present petition which has dismissed claim of appellant on anvil of consideration of Rule 205 of Bihar Service Code. *Arvind Kumar vs. State of Bihar, 2022 (2) BLJ 516.*

206. The grant of study-leave will be made with due regard to the exigencies of the public service. In no case will the grant of this leave in combination with leave other than extraordinary leave or leave on medical certificate involve an absence of over 28 months from a Government servant's regular duties or exceed two years in the whole period of a Government servant's service; nor will it be granted with such frequency as to remove him from contract with his regular work or to cause cadre difficulties owing to his absence on leave. A period of 12 months at one time will ordinarily be regarded as a suitable maximum and will not be exceeded save for exceptional reasons.

207. In the case of a Government servant who has been admitted to the benefits of the Rules for the assistance of Government servants on leave in the United Kingdom who wish to prosecute their legal studies at one of the Inns of Court, London, or the King's Inns, Dublin, study-leave for a period of six months may be granted for the purpose of studying for the examination prescribed for a call to the Bar on a programme approved by the High Commissioner, and of reading in the Chambers of Practising Barrister. Such reading however, will be optional during this period. Study-leave for a further period not exceeding twelve months may be granted, after part I of the Bar examinations has been passed, for the purpose of reading in the Chamber of a Practising Barrister, and for completing the Bar Rule 213 for periods not exceeding 18 months in the aggregate, but these periods need not coincide with the periods for which he has been granted study leave.

208. A Government servant whose study-leave is combined with any other kind of leave will be required to take his period of study-leave at such a time as to retain, at its conclusion, a balance of other previously sanctioned leave sufficient to cover the period spent in returning to duty.

209. When a Government servant has been granted a definite period of study-leave and finds subsequently that his course of study will fall short of the sanctioned

period to any considerable extent, his absence from duty will be reduced by the excess period of study-leave unless he produces the assent of the sanctioning authority in India, to his taking it as ordinary leave.

210. Except as provided in Rule 211, all applications for study leave should be submitted with the audit officer's certificate to the State Government through the prescribed channel and the course or courses of studies contemplated and any examination which the candidate proposes to undergo should be clearly specified therein. If the course of study is in Europe or America, the State Government will also forward to the Secretary to the High Commissioner for India, General Department a copy of the approved programme of study, If it is not possible for the Government servant to give full details as above, in his original applications, or if after leaving India, he wishes to make any change in the programme which has been approved in India he should submit particulars as soon as possible to the Secretary to the High Commissioner for India General Department. In such cases, he should not unless prepared to do so at his own risk, commence the course of study, nor incur any expenses in connection therewith until he receives approval to the course through the High Commissioner.

211. Government servants on leave in Europe, or America, who wish to convert part of the leave into study-leave or to undertake a course of study during leave, should before commencing study and before incurring any expenses in connection therewith submit a programme of their proposed course of study to the Secretary to the High Commissioner for India, General Department. The programme should be accompanied by an official syllabus of the course if one is available, and by any documentary evidence that the particular course or examination, has the approval of the authorities in India. In the absence of such evidence the programme may if approved by the High Commissioner, be proceeded with but no study-leave allowance will be admissible until the concurrence of the authority concerned in India, is received. Similarly Government servants on leave in the United Kingdom, who desire to have it extended for the purposes of study under these Rules, should address the Secretary to the High Commissioner for India, but in addition to furnishing a statement of their proposed study they must support their applications with documentary evidence of their having obtained the approval of the authorities concerned in India to their applying for an extension of leave. They must also produce documentary evidence of the concurrence of the authority concerned in India to the grant of study-leave and/or study allowance.

212. No Course of study will be recognised as qualifying, for the grant of study allowance, or for study-leave for any other purpose, unless it has been approved in at least broad outline by the sanctioning authority in India, in accordance with Rules 210 and 211 above, and unless in cases where it has not been found possible to submit full particulars to the authorities in India, it has been approved in detail by the High Commissioner before it is begun.

213. A study allowance will be granted for the period spent in prosecuting a definite course of study at a recognised institution or in any definite tour of inspection of any special class of work, as well as for the period covered by any examination at the end of the course of study. The rates as at present fixed are 9s. a day. In the United Kingdom, 15s. a day on the continent of Europe and 22-1/2s. a day in the United States of America. These rates are liable to revision, the rate to be granted to Government servants who take study-leave in other countries including India, will be especially considered by the State Government in each case. In no

case will subsistence allowance be granted in addition to study allowance and ordinarily travelling expense will not be paid but in exceptional cases claims will be considered on their merits by the State Government.

Note—Where the minimum leave-salary drawn by a Government servant is in excess of his half average salary, the grant of study allowance in any month should be reduced by the amount of such excess, subject, however to the proviso that (except in the case of Officers of the Medical Department) the amount drawn by an officer as leave salary plus allowance should not be less than pound 25 or the sum of leave-salary plus study allowance admissible under Rule 213 whichever is less.

[For delegation made under this Rule see Appendix 1.]

State Government decisions:—

60.

Regarding.—Payment of study allowance, cost of fees and scholarships or stipend to Government servants who are granted study-leave.

[Vide No. F-702/61/15522F—dated 15.5.1961.]

The State Government have had under consideration the question whether the Government servant, who is granted study-leave, may be permitted to receive and return in addition to his leave salary, any scholarship or stipend that may be awarded to him from a Government or non-Government source and whether such a Government servant may also be paid the cost of fees payable for the course of study and also the study allowance under Rule 213 of the Bihar Service Code.

After careful consideration of the matter the State Government have now been pleased to decide as follows:—

(1) A Government servant who is granted study-leave to prosecute a course of studies or for receiving specialised training to professional, or technical subjects may be permitted to receive and retain, in addition to his leave-salary any scholarship or stipend that may be allowed to him from a Government or non-Government source.

(2) Where a Government servant on study-leave is in receipt of a scholarship or stipend (from whatever source granted) the cost of fees payable for the course of the study may not be paid by Government under Rule 152 of the Bihar Service Code.

(3) A Government servant on study-leave who is in receipt of a scholarship or stipend (from whatever source granted) should ordinarily not be granted any study allowance, but in special case where the net amount of scholarship or stipend (i.e., the value of the scholarship or stipend minus any tuition fees paid), is less than the study allowance that would be admissible but for the scholarship or stipend, the difference between the value of the net scholarship or stipend and the usual study allowance may be the value of the net scholarship or stipend and usual study allowance may be granted by special sanction.

61.

Regarding.—Grant of loans to State Scholars (Outsiders) as well as Government servants for higher studies abroad.

[Vide Memo No. EI-103/58-148-FR. Ranchi the 27th June, 1959]

It has been brought to the notice of the Finance Department that various Departments of Government recommend grant of loans to either State Scholars

(Outside) or Government servants without observing the present procedure of advertising them through the Public Service Commission.

(2) It will be appreciated that the intention of the State Government in sanctioning loans to either State scholars or Government servant is to help financially the best candidates who can be available for higher training abroad and whose services can be utilised to the best interest of Government on their return from abroad after successful completion of the courses of study. The very spirit of the scheme is defeated if department of Government recommend grant of loans directly to the State scholars or Government servant who happen to secure admission abroad at their own initiative.

(3) It is, therefore, requested that, henceforth, the departments of Government should very strictly follow the existing procedure of sanctioning loans to State scholars and Government servants through the Public Service Commission, in the subject in which they consider that there is dearth of trained personnel and a candidate should be considered eligible for grant of loan for higher studies abroad only on the recommendation of Public Service Commission.

62.

Regarding.—Inadequate funds with Officers proceeding on study leave of United Kingdom.

Government of India, Ministry of External Affairs, No. F. 12-123/50/UKAF, New Delhi, the 25th June, 1958, To, The Chief Secretaries to the State Governments.

I am directed to refer to this Ministry's Memorandum No. F. 12-123/50 UK, dated the 27th December, 1952, on the subject mentioned above, copy enclosed for reference and to state that the High Commission of India London, continue to experience difficulties in respect of officers on "study leave" in the United Kingdom due to non-receipt or belated receipt of formal sanctions and restrictions imposed on foreign exchange as from 1st January, 1957, which militate against officers being provided with adequate funds before proceeding to the United Kingdom to meet their essential needs on arrival pending receipt of formal sanctions which enable appropriate disbursements to be made.

The experience of the High Commission in respect of officer who have recently gone to the United Kingdom on study leave or training indicate that these officers are advised by their sponsoring authorities that the High Commission will be responsible for disbursing their study allowance, fees, study tour expense, leave salaries etc. It is also found that these officers have hardly enough funds to disburse their essential needs for more than a week and are therefore, compelled to apply for loan or advance of study allowance, tuition fees etc. Since in most of these cases the High Commission has been, responsible for arranging their admission to the Universities or training institutions in the U. K. they are to a certain extent committed to the payment of fees etc., and cannot but settle these accounts if they are not to prejudice their chance of obtaining admission and facilities for future applications to these Universities or Institutions.

All these difficulties arise from the lack of adequate funds with these officers before they arrive in the United Kingdom as also for lack of prior intimation to the High Commission of their formal terms of sanction on the basis of which alone the High Commission can be expected to act. In order to obviate these difficulties, the High Commission have recommended:—

- (a) Officers going on study leave or officers whose study or training is to be sponsored by the High Commission should be provided with adequate funds before proceeding to the United Kingdom to meet their essential need for at least one month after arrival;
- (b) Formal sanction of terms for study leave or training should reach the High Commission well in advance of their arrival; and
- (c) Officer should be supplied with a copy of Last Pay Certificate or leave-salary Certificate before they leave for the United Kingdom followed immediately by the Accountant General's formal authority to ensure that there be no delay in disbursement in the United Kingdom.

These suggestions are being pressed because the officers concerned had to experience great hardship due to financial frustration which necessitates the High Commission having to make advance of study allowance in the absence of formal sanctions to alleviate immediate hardship. If the Universities and training institutions are not paid the fees expeditiously the existing cordial relations with them are bound to suffer. In the absence of relative documents it will be appreciated, the High Commission have no means of determining whether an officer is in the United Kingdom at his own expense or has been sent by study leave terms carrying emoluments in accordance with the normal study leave Rules. This is being emphasised because in a recent case an officer applied for advance of one month's study allowance stating that he was sanctioned study allowance by his Government but it transpired that he was actually on higher training to the United Kingdom at his own expense.

In view of the position explained above I am to request that suitable steps may be taken to implement the recommendation of the High Commission mentioned in paragraph 3 above to obviate hardship and embarrassment to such officers.

Your's faithfully,
Sd/- A. Das Gupta
(Under Secretary to
the Government of India

Copy

Regarding.—*Inadequate funds with officers proceeding on study-leave to United Kingdom.*

Government of India, Ministry of External Affairs, No. F. 13-123/50-UK, New Delhi, the 27.12.1952.

Memorandum

The undersigned is directed to say that difficulties of officers on study leave in United Kingdom due to inadequacy of funds have been brought to the notice of the Government of India by the High Commission of India, in London, who have also noticed from conversation with recent arrivals on study leave that a few of the officers have gone in the hope of being able to live on the study allowance of sixteen shillings per day, having allocated their salary to their people in India. For students in London, and other provincial centres an annual sum of approximately 368 pound is considered necessary and for Oxford and Cambridge 400 pound.

The undersigned is, therefore, to invite the attention of the Ministry of Home Affairs etc. to the desirability of ensuring that officers going on study leave, or officers whose study or training is to be sponsored by the High Commission of India in London, should proceed to the United Kingdom provided with adequate funds.

Sd. (SGD) D. Chandra

Under Secretary.

214. Study allowance will be admissible upto fourteen days for any period of vacation. Study allowance may be given at the discretion of the State Government for any period upto fourteen days at one time during which the Government servant is prevented by sickness duly certified by a medical practitioner from pursuing the sanctioned course of study. A period during which a Government servant interrupts his course for his own convenience cannot be considered as vacation. 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 covered will be excluded in reckoning service for pension.

[For delegations made under this Rule see Appendix 1]

215. Government servants granted study-leave are ordinarily required to meet the cost of fee paid for course of study. In exceptional cases the State Government will be prepared to consider proposals that such fees should be paid by Government.

216. On completion of the course of study a certificate on the proper form (which may be obtained from the High Commissioner) together with certificates of examinations passed or special study, shall, when the study-leave has been taken in Europe or America, be forwarded to the High Commissioner. When the study-leave has been taken in any other country certificates of examinations passed or of special study, which should show the dates of commencement and termination of the course, with any remarks by the Instructor shall be forwarded to the Authority which sanctioned the leave. In the cases of a definite course of study at recognised institution the study allowance will be payable by the High Commissioner or to the authority in India, as the case may be on claims submitted by the Government servant from time to time supported by proper certificates of attendance. When the programme of study approved under Rule 210 does not include or does not consist entirely of such a course of study the Government servant shall submit to the High Commissioner or to the authority in India which sanctioned his leave, as the case may be, a diary showing how his time has been spent, and a report indicating fully the nature of the methods and operations which have been studied and indicating suggestions as to the possibility of applying such methods of operations to India. The sanctioning authority in India, will decide whether the diary and report show that the time of the Government servant has been properly employed and will determine accordingly for what period the study allowance referred to in Rule 213 may be granted.

217. Study leave will count as service for promotion and pension but not for leave. It will not effect any leave which may already be due to a Government servant; it will count as extra leave on half average pay and will not be taken into account in reckoning the aggregate amount of leave on half average pay taken by the Government servant towards the maximum period admissible under these Rules.

218. During study-leave, a Government servant subject to the Special Leave Rules and Ordinary Leave Rules, will draw half average pay as defined in Rule 11, subject to the maxima and minima laid down in Rules 117, and 188 while a Government servant subject to the revised leave Rules will draw the leave salary admissible under Rule 248 (b) subject to the maxima and minima laid down in Rules 248 (b) and 249. The rate of exchange applicable to the conversion of leave salary (other than that admissible during the first four months of a period of leave on average pay) shall apply to study leave allowance. A Government servant may, subject to the approval of the proper authorities being obtained as required by the Rules 210 and 211, undertake or commence a course of study during leave on average pay, and subject to Rules 213 and 214 draw study allowance in respect thereof, provided that study allowance is not drawn for an aggregate period exceeding two years (18 months in the case of officers falling under Rule 207) during the whole of a Government servant's service. This Rule applies to military officers in the civil employment taking leave under these Rules.

219. On an application for study-leave in Europe or America, being sanctioned by the State Government, they should inform the High Commissioner of the particulars of the case. It will be necessary for the Government servant concerned to place himself in communication with the High Commissioner who will arrange any details and issue any letters of introduction that may be required. In all cases in which study-leave in any other country is sanctioned the particulars should be reported to the Government of India.

State Government decision :

63.

Regarding.—Deputation of Government servant for training—execution of bonds by candidates not in employment and/or by candidates employed and sponsored by his employer.

The State Government have had under consideration the question of prescribing bonds to be executed by candidates not in employment and by candidates employed and/or sponsored by his employer i.e., Government, or Education Institution or Public Utility concern or Firm or Industry, who are given scholarship for higher training abroad. It has been decided that in all such cases an undertaking should be obtained from such person concerned in the forms attached hereto before scholarship are granted.

FORM "A"

(To be issued in the case of Candidates not in employment.)

Bond For Stipendiaries Under The..... (Name of the Scholarship/
Fellowship Scheme)

KNOW ALL MEN BY THESE PRESENT THAT WE.....

... son/daughter of Shri... (hereinafter called "the stipendiary", (which expression shall unless excluded by or repugnant to the context include his/her heirs, administrators and assigns) and...'

son/daughter of shri... hereinafter called "the Surety" (which expression shall unless excluded by or repugnant to the context include his/her heirs, administrators and assigns binds ourselves jointly and severally to pay to the Government of Bihar (hereinafter called "the Government)" on demand and without demand a sum of Rs.

(in words rupees)

...) or if payment is to be made in a country other than India, the equivalent of the said sum in the currency of that country converted at the official rate of exchange between that country and India.

Dated this... day of... one thousand nine hundred and... Where as the above bounden...

(Name of the Stipendiary)

... has been nominated by the Government to scholarship offered by the Government of ... under the

(Name of the Scholarship/Fellowship ... *inter alia* on his agreeing to execute a bond Scheme) in the manner aforesaid.

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT:

In the event of the above bounded stipendiary—

- (a) not confirming to the instructions regarding training or studies conveyed to him/her by a representative of the Government; or
- (b) failing to intimate to the Government the amount and other particulars in respect of any honorarium or other money earned or received by him/her during the period of his/her training or studies abroad; or
- (c) refusing to hand over and surrender to the Government the whole or part of such honorarium or other monies received by him/her as aforesaid if any when required to do so by the Government; or
- (d) returning to India without completing the course for which he/she has been selected;
- (e) getting adverse reports regarding the progress of his/her training or studies or regarding his/her conduct; or
- (f) on completion of his/her training or studies failing to return to India, or failing to report his/her arrival in India to the Government within two weeks of such arrival; or
- (g) in the event of contracting an infectious diseases requiring prolonged hospitalisation, forbidding the medical advisers attendants from communicating the nature and condition of disease to India Missions concerned or Government; or
- (h) failing to return to India, after the expiry of the period of scholarships; or
- (i) failing to refund to the Government if any over payment made to him/her during the course of his/her training, stay and transit abroad and

any loan which may be granted to him/her by the Government; or

- (j) contracting a marriage during the period of study abroad without the prior permission in writing of the Government; or
- (k) refusing to serve the Government, or any other party indicated by the government for a minimum period of three years, if required to do so, in any post as directed by the Government (whose decision in this behalf shall be final) within three months from the date of the receipt of the report of arrival in India, by the Government or in any case, which the Government may in their discretion consider special within five months of the above mentioned date; he/she and the above bounder... ..

(full name of surety)

shall forthwith refund to the Government on demand all money paid to him/her or expended on his/her account in respect of the said training or studies, tuition fees, travelling expenses, return passage or otherwise on account of his/her having been selected as a stipendiary as aforesaid, not exceeding Rs.

(in words rupees)

and the interest thereon calculated at fixed Government rate then in force, for Government loans, from the date of demand.

AND upon his/her making such refund payment the above written obligation shall be void and of no effect otherwise, it shall remain in full force and virtue:

Provided always and it is hereby agreed and declared that the decision of the Government as to whether the said stipendiary has or has not performed and observed any of the obligations and conditions here-in-before recited shall be, final and binding on the parties hereto:

Provided further that liability of the surety shall not be impaired or discharged by reason of time being granted or any forbearance, act. omission of the government (whether with or without the knowledge or consent of the surety) in respect of or in relation to the several obligations and conditions to be performed or discharged by the stipendiary nor shall it be necessary for the Government to sue the stipendiary before suing the surety for amounts due hereunder and provided further that this bond shall in all respect be governed by the laws of India.

In witness whereof the said stipendiary and the said surety have put their respective hands the day the year here-in-above written.

Signed and delivered by
the within named stipendiary
In the presence of*

.....
(Signature of Stipendiary)

*Signature, name, designation and full address of the attesting officer with his official seal, if any. The Officer attesting the Bond should be a Gazetted Officer in the employment of the Government.

Signed and delivered by
the within named surety
in the presence of*

.....
(Signature with full address
of surety)

Accepted:

.....

(Name & designation)

For and on behalf of
the Government of Bihar.

FORM "A"

(To be used by the candidate if employed and/or is sponsored by his employer)
BOND FOR STIPENDIARIES UNDER THE.....

.....
(Name of the Scholarship/Fellowship Scheme)

KNOW ALL MEN BY THESE PRESENTS THAT WE.....

..... son/daughter of Shri..... (hereinafter called "the stipendiary"
(which expression shall unless excluded by or repugnant to the context include his/
her, administrators and assigns)and son/daughter of Shri
..... hereinafter called "the surety", (which expression shall unless
excluded by or repugnant to the context include his/her heirs, administrators and
assigns) bind ourselves jointly and severally to pay the Governor of Bihar (hereinafter
called "the Government") on demand and without demand a sum of Rs.

(in words Rupees)

(or if payment of be made in a country other than India, the equivalent of the said
sum in the currency of that country converted at the official rate of exchange
between that country and India.

Dated thisday ofone thousand nine hundred and
.....

Whereas the above bounden
(Name of the Stipendiary)

..... has been nominated by the Government to a
scholarship offered by the Government
(Name of the Scholarship/Fellowship)

Schemeinter-alia on his agreeing to execute a bond in the manner
aforesaid.

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT:

In the event of the above bounden stipendiary—

- (a) Not confirming to the instructions regarding training or studies conveyed
to him/her by a representative of the Government; or

*Signature, name, designation and full address of the attesting officer with his
official seal, if any. The Officer attesting the Bond should be a Gazetted Officer in
the employment of the Government.

- (b) failing to intimate the Government the amount and other particulars in respect of any honorarium or other money earned or received by him/her during the period of his/her training or studies abroad; or
- (c) refusing to hand over and surrender to the Government the whole or part of such honorarium or other money earned or received by him/her as aforesaid, if any, when required to do so by the Government; or
- (d) returning to India without completing the course for which he/she had been selected; or
- (e) getting adverse reports regarding the progress of his/her training or studies or regarding his/her conduct; or
- (f) on completion of his/her training or studies failing to return to India, or failing to report his/her arrival in India, to the Government within two weeks of such arrival; or
- (g) in the event of contracting, infectious disease requiring prolonged hospitalisation forbidding the medical advisers, attendants from communicating the nature and condition of disease to Indian Missions concerned or Government; or
- (h) failing to refund to the India, after the expiry of the period of scholarships; or
- (i) failing to refund to the Government any over payment made to him/her during the course of his/her training, stay and transit abroad and any loan which may be granted to him/her by the Government; or
- (j) contracting a marriage during the period of study abroad without the prior permission of the Government; or
- (k) being a Government servant/an employee of Educational Institution/ Public Utility Concern/Firm/Industry, sent for training on Leave with pay, without pay or with stipend, full or partial failing to rejoin within a period not more than one month from the date of the receipt of his/her arrival in India, by the Government, if, required by the Government the post originally held by him/her for a minimum period of three years on a salary which he/she would have ordinarily drawn if he/she had not gone abroad or refusing to serve the Government or any other party indicated by Government for a minimum period of three years, if required to do so in any post as directed by the Government (whose decision in this behalf shall be final) within three months from the date of receipt of the report of his/her arrival in India by the Government or in any case which the Government may in their discretion consider special within five months of the above mentioned date:—

He/she the above bounden,

(full name of surety)

shall forthwith refund to the Government on demand all money paid to him/her or expended on his/her account in respect of the said training or studies, tuition fees, travelling expenses, return passage or otherwise on account of his/her having been selected as a stipendiary of aforesaid not exceeding Rs.) and the

(in words Rupees)

interest thereon calculated at fixed Government rates then in force for Government loans from the date of demand.

AND upon his/her making such refund payment the above written obligations shall be void and of no effect, otherwise it shall be and remain in full force and virtue:

Provided always and it is hereby agreed and declared that the decision of the Government as to whether the said stipendiary has or has not performed and observed any of the obligations and conditions here-in-before recited shall be final and binding on the parties hereto:

Provided further that the liability of the surety hereunder shall not be impaired or discharged by the reason of time being granted or any forbearance act, omission of the Government (whether with or without the knowledge or consent of the surety) in respect of or in relation to the several obligations and conditions to be performed or discharged by the stipendiary nor shall it be necessary for the Government to sue the stipendiary before suing the surety for amount due hereunder and provided further that this bonds shall in all respects be governed by the laws of India.

In witness whereof, the said stipendiary and the said surety have put their respective hands the day and the year here-in-above written.

Signed and delivered by
the within named stipendiary
in the presence of*

(Signature of Stipendiary)

Signed and delivered by
the within named surety
in the presence of

... ..
(Signature with full address of surety)

Accepted

... ..
(Name & designation)

For & on behalf of the
Government of Bihar,

Sub-Section (3)—Maternity Leave

220. (a) Subject to the conditions hereinafter specified, maternity leave may be granted to a female government servant by the authority empowered to grant ordinary leave to the Government servant concerned.

1[(ख) दो से कम जीवित संतान वाली महिला सरकारी सेवक की छुट्टी प्रारम्भ की तिथि से 135 दिनों की अवधि के लिए प्रसव छुट्टी दी जा सकेगी:

परंतु यह वैसी महिला सरकारी सेवक के संबंध में भी लागू होगा जो पहले ही प्रसव छुट्टी पर जा चुकी है और उसकी प्रसव छुट्टी समाप्त नहीं हुयी है।]

* Signature, name designation and full address of the attesting officer, with his official seal if any. The Officer attesting the Bond should be a Gazetted Officer, in the employment of the Government.

1. Subs. by Bihar Service (Amdt.) Code, 2014, vide Notifn. No. 5059, dated 16.6.2014.

(c) Leave-salary during such leave shall be equal to the pay drawn by the Government servant concerned at the time of taking leave.

¹[(d) Maternity leave may be combined with leave of any other kind but any leave applied for in continuation of maternity leave may be granted only if the request is supported by a medical certificate.]

Note 1.—Maternity leave under this Rule may also be granted in case of miscarriage, including abortion, subject to the conditions that—

²[(i) the period of leave does not exceed six weeks; and

³[(ii) the application for leave is supported by a certificate from a registered medical practitioner. The certificate of a Civil Surgeon or a Gazetted Medical Officer may, however, be called for in case of doubt.

⁴[**Note 2.**—In continuation of maternity leave, leave of any other kind may be granted in cases of illness of newly born baby, subject to the female Government servant producing a medical certificate from the authorised Medical Attendant to the effect that the condition of the ailing baby warrants mother's personal attention and her presence by the baby's side is absolutely necessary.]

(e) Maternity leave shall not be debited against the leave account.

⁵[**220A. Child Care Leave.**—(1) Women employees having minor Children may be granted Child Care Leave by an authority competent to grant leave, for a maximum period of two years (*i.e.* 730 days) during their entire service period for taking care of upto only two children for rearing or to look after in case of their examination, sickness etc.

(2) Child Care Leave shall be treated like the earned leave and shall be sanctioned like wise.

(3) Child care leave may not be claimed as a matter of right. In any circumstances, any employee may not proceed on Child Care Leave without prior proper permission of the leave by sanctioning authority and proper sanction.

(4) Child Care Leave will not be sanctioned for less than 15 days.

(5) Saturdays, Sundays, Gazetted holidays etc. falling during the period of leave will also be included in child care leave.

(6) Child Care Leave will not ordinarily be sanctioned during the probation period except in the case of certain extremely by difficult situations where the leave sanctioning authority is fully satisfied about the need of Child Care Leave to the probationer. It may also be ensured that the period of this leave during probation is minimum.

(7) Child Care Leave will not be sanctioned more than thrice in a calendar year.

(8) Child Care Leave may be sanctioned with any other leave due but any other leave applied for in continuation of Child Care Leave may be sanctioned only on

1. Subs. by C.S. No. 41 dated 24.7.1957.

2. Ins. by C.S. No. 20 dated 18.1.1955.

3. Subs. by C.S. No. 121, dated 26.4.1965.

4. Ins. by C.S. No. 129 dated 25.8.1966.

5. "Rule 220A" Ins. by Bihar Service (Amdt.) Code, 2014, vide Notifn. No. 640, dated 19.1.2015.

request supported by a medical certificate issued by Government Medical Practitioner.

(9) Child care leave shall be admissible for two eldest surviving children below the age of 18 years.

(10) During the period of such leave, the women employees shall be paid such leave salary as she is drawing immediately before proceeding on leave.

(11) Child care leave may be sanctioned even if earned leave is due to the concerned women employee.

(12) Child care leave shall not be debited against the leave account.

(13) The leave account for child care leave shall be maintained in the prescribed Performa enclosed, and it shall be kept along with the Service Book of the women Government servant concerned."

शिशु देखभाल छुट्टी लेखा संधारण हेतु प्रपत्र

ली गयी शिशु देखभाल छुट्टी की अवधि		अतिशेष शिशु देखभाल छुट्टी		छुट्टी मंजूर करनेवाले सक्षम प्राधिकारी का हस्ताक्षर एवं पदनाम
से	तक	बाकी	दिनांक	
1	2	3	4	5

Sub-section (4)—Hospital Leave

221. (a) Subject to the conditions here-in-after specified, hospital leave may be granted to the following classes of Government servants, while under medical treatment for illness or injury by the authority empowered to grant ordinary leave to the Government servant concerned.—

- (i) Police Officers not higher in rank than Assistant Sub-inspectors.
- (ii) Forest subordinate other than clerks, in receipt of pay not exceeding ¹[Rs. 90].
- (iii) Head-warders or warders, male or female, of jail or lunatic asylums and matrons of the jail department.
- (iv) Government Servants employed in Government presses whether on fixed pay or at piece-rates.
- (v) "Subordinates employed in Government laboratories.
- (vi) "Subordinates employed on the working of Government machinery including electric installation), or on manufacturing processes in Government factories, colleges, schools or institution liable to inspection under the Indian Factories Act.
- (vii) Peons and guards in permanent employ.
- (viii) Syees of Government stallions.
- ²[(ix) Subordinates employed on Government Farms, including Farms, under the Veterinary and Animal Husbandary, Departments, in receipts of

1. Subs. by C.S. No. 41 dated 24.7.1957.

2. Subs. by C.S. No. 7 dated 26.6.1953.

pay not exceeding Rs. 60 excepting ministerial servants subject to the proviso that hospital leave in these cases would be allowed if in the opinion of the Medical Officer, prescribed for his treatment, the accident, injury or sickness was directly due to nature of duties attached to the post held by the person concerned or that it was enhanced by the nature of the duties performed by him.]

- (x) Non-Gazetted Government servants employed in the Radium Institute at Patna, whose duties involve the handling of Radium.
- (xi) Subordinates employed in Medical Institutions whose duties involve risks to health as a result of an association with the sick.

(b) Such leave shall not be granted unless the illness or injury is directly due to risk incurred by the Government servants concerned in the course of his official duties.

Note.—Illness contracted by Police Officer of the rank mentioned in clause (a) as the result of being posted at an unhealthy police station, may be regarded as directly due to risks incurred in the course of his official duties, and he may be granted hospital leave under this Rule, provided:

- (a) that the officer granting it certify that the illness is not due to irregular or intemperate habits; and
- (b) that the leave is spent in hospital or while receiving medical aid as an outdoor patient at the station or headquarters of the district in which he serves;
- (c) Leave salary during such leave shall be equal to either average pay or half-average pay as the authority granted it may direct; provided that; in the case of person to whom the Workmen's Compensation Act, 1923, applies the amount of leave salary payable under this clause shall be reduced by the amount of compensation payable under Section 4(1)(D) of the said Act.
- (d) The amount of such leave which may be granted to a Government servant is limited to three months on half average pay in any period of three years. For the purpose of this limit leave on half average pay counts as half the amount of leave on average pay.
- (e) Such leave may be combined with leave of any other kind provided that the total period of leave, after such combination, shall not exceed twenty eight months.
- (f) Hospital leave shall not be debited against the leave account.

State Government decision:—

64.

Regarding.—Grant of special leave on half average pay upto a total of 12 months during the whole service in addition to any leave that may be admissible under the existing Rules to Government servants suffering from tuberculosis.

[Vide No. FI-706/2896F, dated 3.2.1961].

The question of grant of special leave on half average pay upto a total of 12 months to the Government servants who are diagnosed to be suffering from tuberculosis has been under the consideration of Government for sometime past. At present the above kind of leave is admissible to only non-Gazetted officer and men of Police Department.

It has now been decided that Government servant diagnosed to be suffering from tuberculosis shall be allowed, over and above any leave that may be due under the Rules in the Bihar Service Code, special leave on half average pay upto a total of 12 months during the whole service. The above concession is meant for permanent Government servants also if he has been in continuous Government service for a period exceeding one year and the post from which he proceeds on leave is likely to last till his return to duty.

The special leave will count for pension only. These orders will take effect from 1.4.1953.

Section VII-Revised Leave Rules

Sub-section (1)—General

222. (a) The Rules in this Section may be called the Revised Leave Rules.

(b) They apply to all Government servants in superior service whose domicile is Asiatic or who, if their domicile is non-Asiatic, have not been specially recruited overseas for service in India, and who are under the Rule making control of the State Government except—

- (1) those who held a lien or suspended lien on a permanent post on the 31st August, 1932;
- (2) those who, having entered Government service before the 1st September, 1931, in a temporary or officiating capacity or as probationers and having continued in the service of Government without break since that date, hold a lien or a suspended lien on a permanent post on the 1st February, 1937; and
- (3) sergeants-major and sergeants of police who are of ex-Asiatic domicile.

(c) They also apply to all Government servants in inferior service except those who having entered permanent service on or before the 31st August, 1932, elected before the 30th April, 1937, not to be governed by the Rules in this sub-section.

Note 1.—Persons in respect of whom special provisions regarding leave have been made shall be governed by such special provisions.

Note 2.—A person re-employed under the Re-employed Personal (Conditions of Service) Rules, Bihar and Orissa, shall be regarded as having had a break in service.

Note 3.—Government servants of non-Asiatic domicile specially recruited overseas for service in India, who are appointed to a permanent post, on or after the 1st September, 1932, will be governed in the matter of leave, by such terms as may be fixed by State Government in each individual case.

Note 4.—The terms 'permanent post', 'Government service' and 'service of Government' used in this Rule refer to post of 'service' under the Government of Bihar or the late Govt. of Bihar and Orissa. In any other case the question whether the old or revised leave Rules are applicable requires the special sanction of the Government in each individual case.

(d) They also apply to all Government servants in inferior service (governed by the Ordinary Leave Rules), who have elected under fresh option allowed to be governed by the Revised Leave Rules with effect from the 1st June, 1949.

(e) Notwithstanding anything contained in sub-clause (b)(2) of this Rule, the State Government may by special order in each case, exempt from the operation of these Rules any Government servant who having entered Government service

before the 1st September, 1931, in a temporary or officiating capacity is appointed to a permanent post after the 1st February, 1937.

Note 1.—The following principles should, generally govern the grant of exemption from the operation of Revised Leave Rules under clause (e)—

- (1) Where a Government servant has been in a temporary post since before the 1st September, 1931, which has eventually become permanent after the 1st February, 1937, he should if appointed substantively to the latter without a break, ordinarily be exempted.
- (2) Where a Government servant has been serving since before the 1st September, 1931, in a temporary or officiating capacity in a post in a cadre, he should, if appointed substantively permanent to another post in the same cadre without a break after the 1st February, 1937, be ordinarily allowed exemption.
- (3) Where a Government servant has been serving in a temporary or officiating capacity since before the 1st September, 1931, and has been appointed substantively without a break, to a permanent post after the 1st February, 1937, (whether in the same cadre or not) and it was all along the intention that he should be taken in permanent service under Government, than he should ordinarily be allowed exemption.

Note 2.—Where a Government servant has been serving in a temporary or officiating capacity since before the 1st September, 1931, and has accidentally or fortuitously continued to be employed in the same or different posts without break upto the date of his substantive appointment to a permanent post after the 1st February, 1937, he should not be allowed exemption from Revised Leave Rules.

Note 3.—The above is only an indication of the line on which examination should proceed and before exemption is allowed in any case special reasons must exist to justify such exemption.

222A. In these Rules—

- (i) leave includes 'earned leave', 'half pay leave', 'commuted leave' 'leave not due' 'and extraordinary leave';
- (ii) earned leave means leave earned in respect of period spent on duty;
- (iii) half pay leave means leave earned in respect of completed years of service;
- (iv) earned leave due means the amount of earned leave to the credit of a Government servant on the 31st May, 1949 under the Rules in force on that date plus the amount of earned leave, calculated as prescribed in Rules 227, 228 or 240, as the case may be, diminished by the amount of earned leave taken after the 31st May, 1949;
- (v) Half pay leave due means the amount of half pay leave calculated as prescribed in Rules 232 and 240 for the entire service, diminished by the amount of leave on private affairs, and leave on medical certificate taken before the 1st June, 1949, and half pay leave taken on or after that date;
- (vi) Commuted leave means leave taken under Rule 234;
- (vii) Government servant in permanent employ means a Government servant who holds substantively a permanent post or who holds a lien on a permanent post or who would hold a lien on a permanent post had the lien not been suspended.

223. Rules in other Sections of this Chapter in so far as they are not inconsistent with these Rules apply *mutatis mutandis* to all persons to whom these Rules apply in respect of matters not dealt with in these Rules.

224. Any kind of leave admissible under these Rules, may be granted in combination with any other kind of leave so admissible or in continuation of leave already taken whether of the same or of any other kind.

225. Leave earned in a post in superior service will be allowed to be carried forward on reversion to a post in inferior service provided that the maximum permissible leave in the latter class of the post is not exceeded. Any balance of leave earned in a post in superior service, which it has not been possible to carry forward on reversion to a post in inferior service will be credited to the leave account of the Government servant concerned if and when he is again promoted to a post in superior service.

226. Leave admissible under these Rules shall lapse on the date on which a Government servant must compulsorily retire:

¹[Provided that if in sufficient time before the date of compulsory retirement an officer has been denied in whole or in part on account of exigencies of public service any leave applied for and due as preparatory to retirement, then he may be granted, after the date of compulsory retirement, the amount of earned leave which was due to him on the said date of compulsory retirement subject to the maximum of 120 or 180 days, as prescribed in Rule 227, so long as which the leave so granted, including the leave granted to him between the date from which the leave preparatory to retirement was to commence and the date of compulsory retirement, does not exceed the amount of leave preparatory to retirement actually denied, the half pay leave if any applied for by an officer, preparatory to retirement and denied in the exigencies of public service being exchanged with earned leave to the extent such leave was earned between the date from which the leave preparatory to retirement was to commence and the date of compulsory retirement.]

²[Provided further that an officer whose service has been extended in the interest of the public service beyond the date of his compulsory retirement may similarly be granted either within the period of extension or after its expiry any earned leave which would have been granted to him under the preceding proviso had he retired on the date less the leave, if any, taken during the period of extension and in addition such earned leave due in respect of the extension as he had ³[formally applied for as preparatory to final cessation of his duties] for insufficient time, during the extension refused to him on account of exigencies of the service. The total earned leave to the credit at any time shall however, be subject to the limit up to which earned leave can be accumulated by him.]

³[**Explanation.**—For the purposes of this Rule a Government servant may be deemed to have been denied leave only if in sufficient time before the date on which he must compulsorily retire or the date on which his duties finally ceases, he has either formally

1. Subs. by C.S. No. 130 dated 13.10.1966.
2. Subs. by C.S. No. 21 dated 18.1.1955.
3. Subs. by C.S. No. 42 dated 24.7.1957.

applied for leave preparatory to retirement and has been refused on the ground of exigencies of public service or has ascertained in writing from the sanctioning authority that such leave if applied for would not be granted on the aforesaid ground.]

State Government decisions:—

65.

Regarding.—Grant of leave to re-employed Government servants.

[Vide No. FI—7022/61/24212 F, dated 22.8.1961]

It is to refer to Rules 183 and 226 of the Bihar Service Code, according to which a Government servant may be allowed leave extending beyond the date of compulsory retirement, or if has been allowed an extension of service then during the period of such extension or immediately after its expiry, if he had applied for leave in sufficient time before the date on which he must compulsorily retire or the date on which his duties finally ceases and it has been denied to him in the exigencies of public service.

There is no provision in the existing Rules for allowing a Government servant to avail of the refused leave if he is employed immediately after reaching the age of superannuation or after the period of extension in case extension was allowed. It often happens that although leave is allowed to a Govt. servant, extending beyond the date of retirement, he is re-employed immediately after retirement and is therefore, prevented, from availing of the leave already granted. Therefore, the concessions of Rules 183 & 226 become infructuous in such cases. There is also no clear provision in the Rules for regulating cases in which a Govt. servant may be recalled to duty while he is on leave preparatory to retirement. The State Govt. have had under consideration the above question and they have decided that the following procedure should govern the grant of leave to a Govt. servant who is re-employed during the period of leave granted beyond the date of compulsory retirement or is recalled to duty from leave preparatory to retirement.

2. Every officer, who wishes to have leave preparatory to retirement should apply formally in writing in the manner indicated in Rule 226 of the Bihar Service Code. The fact that an officer has been promised or expects re-employment will not be accepted as justification for non-submission of the application. Without being influenced by the possibility of the officer being employed, it should be decided whether the leave should be allowed or if it is refused in public interest whether the whole or any portion of the leave applied for should be granted after superannuation. An officer re-employed under the State Government without any break, *i.e.* from the date of superannuation, will be credited with leave for such period as should have been granted from the date of superannuation but for the fact this was made impossible by re-employment with effect from the date he ceases to be re-employed. The amount of leave that would be due should ordinarily be stated in the orders communicating the sanction of re-employment. The leave salary for this period should be the same as would have been admissible if the leave had been taken with effect from the date of Death-cum-retirement gratuity where an officer has drawn pension in addition.

(b) In addition the officers may during re-employment, earn leave which is admissible to temporary Government servants as indicated in the note below Rule 237 of Bihar Service Code. Such leave may be taken only during the period of re-employment *i.e.* it may not be added to the leave allowed to be taken after the period of re-employment.

(c) The grant of leave under (a) above shall not be treated as a sanction to an extension of service.

3. (a) When a Government servant is re-employed in any post under a Government other than the State Government or under a body corporate, corporation or undertaking owned or controlled by the State Government or Central Government or other State Government, he will have the option of availing of the leave after termination of the period of re-employment in accordance with the principles indicated in paragraph 2 (a) above or of enjoying the leave concurrently with such re-employment. In the latter case also the leave-salary which may be drawn in addition to pay of the post, should be the same as would have been admissible if the leave had been taken with effect from the date of superannuation less the amount of full pension including pension equivalent of Death-cum-Retirement gratuity.

(b) The period of leave availed of in the above manner shall not be treated as an extension of service.

4. 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 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 of duty will be cancelled. The leave so cancelled will be treated as resused leave and subject to the provisions of Rules 183 and 226 of the Bihar Service Code and in case of re-employment subject to the conditions laid down in paragraphs 2(a) and (c) and 3 above, it may be granted after retirement of the Government servant. Such recall may be treated as optional for the purpose of Rule 183 of the Bihar Service Code.

5. If the Government servant on reaching the age of superannuation is employed by any private employer, he will not be entitled to any leave beyond the date of retirement.

6. The position of extension of service consequent upon the grant of leave beyond the date of retirement is summed up as follows;—

(a) Refused leave, if actually availed of immediately after retirement will mean an extension of service under not 2 below Rule 74 of the Bihar Service Code.

(b) Refused leave will not mean an extension of service if it is availed of during or after re-employment in any capacity.

7. Besides being applicable to future cases, these orders will also apply to the retired Government servants who are under re-employment on the date of issue of these orders.

66.

विषय—निवृत्ति पूर्व छुट्टी का अस्वीकृतिकरण—सिद्धांत का अनुपालन।**[Vide F.D. Memo no. FI-701/70/5619-F. dated 16.5.1970]**

बिहार सेवा संहिता के नियम 226 के अनुसार सेवा निवृत्ति की अनिवार्य तिथि को ही किसी सरकारी सेवक की सम्पूर्ण छुट्टी व्यपगत हो जाती है तथा उक्त नियम के परन्तुक के अनुसार लोकहित में अस्वीकृत की गई निवृत्ति पूर्व के पश्चात भी स्वीकृत की जा सकती है। सरकार के समक्ष कुछ ऐसे मामले आये हैं जिससे यह पता चलता है कि उपर्युक्त नियम का प्रतिपालन उचित ढंग से नहीं हो रहा है। निवृत्तिपूर्व छुट्टी अस्वीकृत करने के सिद्धांत पर पूर्ण रूप से विचार करते हुए सरकार द्वारा यह निर्णय लिया गया है कि भविष्य में निवृत्तिपूर्व अनुमान्य छुट्टी अस्वीकृत कदापि नहीं की जाय। इसके अतिरिक्त यह भी निर्णय हुआ कि ऐसे पदाधिकारी जो अभी सेवा में हैं और जिन्हें निवृत्ति छुट्टी अस्वीकृत की जा चुकी है उन्हें अब से सेवा निवृत्ति की तिथि तक की छुट्टी स्वीकृत कर दी जाय और जितनी अवधि की अनुमान्य छुट्टी का उपभोग वे नहीं कर सकें उतनी अवधि की छुट्टी उन्हें सेवा निवृत्ति के बाद दे दी जाय।

कृपया अविलम्ब इस निर्णय के अनुसार कार्रवाई की जाय और इससे अधीनस्थ कार्यालय को अवगत करा दिया जाय।

*Sub-section (2)—Grant of Leave***1. Government Servant in Permanent Employ***A-Earned Leave*

227. (1) The earned leave admissible to a Government servant in permanent employ will be-

- (a) to a Government servants in superior service-¹[one eleventh] of the period spent on duty.
- (b) to a Government servant in inferior service- ¹[one-eleventh] of the period spent on duty.

(2) A Government servant will cease to earn such leave when the earned leave due amounts to-

- (a) ²[180 days] in the case of a Government servant in superior service; and
- (b) ²[90 days] in the case of a Government servant in inferior service:

Provided that in the case of a Gazetted Government servant employed in India, and who spends his earned leave elsewhere than in India (including, Foreign Possessions in India), Pakistan, Ceylon, Nepal, Burma, or Aden, the limit mentioned in clause (a) will be raised to 180 days. The earned leave admissible to a Gazetted Government servant after he has accumulated 120 days of such leave should be credited separately upto 60 days. The extra credit should be utilised only when leave is required ex-India, and the Government servant has exhausted his normal credit of earned leave.

Note.—In calculating 'earned leave' the actual number of days of duty performed should be counted and then divided by 11 or 16, as the case may be. Fractions of a day should not appear in the calculation, fractions below half being ignored and those of half and more reckoned as one day.

1. Subs. for "one sixteenth" Vide Memo no. 3/FI-7-1-80/5208, F. dated 24.5.1980.
2. Subs. vide Memo No. 702/69-8094F, dated 11.10.1969. Also see State Govt. decisions given below.

State Government Decisions:—**67.****Regarding.—Raising of the limit of accumulation of earned leave of State employees.****[Vide Memo No. F1/702/69-8094F dated 11.10.1969]**

Under Rule 227(2) and Rule 240 (a) (1) of the Bihar Service Code, the employees of the State Government are allowed to accumulate earned leave to their credit to the extent indicated:—

	Superior	Inferior
(a) Permanent Government servant	120 days	60 days
(b) Temporary Government servant	30 days	20 days

2. The position has since been reviewed and the State Government is now pleased to decide that the limit of accumulation of earned leave should be raised as detailed below:—

	Superior	Inferior
(a) Permanent Government servant	180 days	90 days
(b) Temporary Government servant	45 days	30 days

The enhancement of accumulation will be subject to the conditions that earned leave will be granted for a maximum period of 120 days at a time. As laid down in Rule 245 of the Bihar Service Code temporary Government servants would also accumulate leave upto the limit admissible to permanent Government servants after rendering three years of service under the State Government.

3. The Above benefit will be allowed with effect from 1st August, 1969 i.e., Government servants will be allowed to accumulate leave beyond the existing limit with effect from the aforesaid date. Consequential amendment in Rules of the Bihar Service Code will follow.

68.

विषय:— निचली सेवा के सरकारी सेवकों के प्रसंग में उपार्जित छुट्टी जमा होने की सीमा में वृद्धि के सम्बन्ध में।

[Vide memo No. 3/F 171/80/2587 F., dated 25.3.1980]

वित्त विभाग की ज्ञाप संख्या एफ 1-702/69-8094 वि० दिनांक 11.10.1969 की कंडिका 2 में निचली सेवा के सरकारी सेवकों के प्रसंग में निम्नलिखित दर से उपार्जित छुट्टी जमा होने का उल्लेख है:—

(क) निचली सेवा के स्थाई सरकारी सेवक	90 दिन
(ख) निचली सेवा के अस्थायी सरकारी सेवक	30 दिन

2. निचली सेवा के सरकारी सेवकों के प्रसंग में उपार्जित छुट्टी जमा होने की सीमा में वृद्धि का विषय राज्य सरकार के विचाराधीन था। इस विषय पर पूर्ण रूप से विचार करने के पश्चात् राज्य सरकार द्वारा, ज्ञाप संख्या एफ 1-702/69-8094 वि० दिनांक 11.10.1969 का आंशिक संशोधन करते हुए उपार्जित छुट्टी जमा होने की सीमा में निम्नलिखित वृद्धि करने का निर्णय लिया गया है:—

(क) निचली सेवा के स्थाई सरकारी सेवक	—	180 दिन
(ख) निचली सेवा के अस्थायी सरकारी सेवक	—	45 दिन

3. उपर्युक्त सुविधा आदेश निर्गत होने की तिथि से लागू होगी, अर्थात् निचली सेवा के सरकारी सेवकों के प्रसंग में वर्तमान सीमा से अधिक छुट्टी कथित तिथि के पश्चात् ही जमा होगी तथा बिहार सेवा संहिता के एतत् सम्बन्धी नियम के संशोधन के निमित्त शुद्धि पत्र निर्गत किया जायगा।

69.

विषय:—सरकारी सेवकों को उपार्जित छुट्टी जमा होने की सीमा की वृद्धि के सम्बन्ध में।

[ज्ञाप संख्या-3 पी० ए० आ० 01/86/326/वि० (2), दिनांक 27.1.1987]

वित्त विभाग के ज्ञाप संख्या एफ-1/702/69-8094 दिनांक 11.10.1969 एवं 3/एफ 1-7-/80/2587 एफ दिनांक 28.3.1980 के द्वारा यह निर्णय लिया गया है कि राज्य सरकार के अधीनस्थ स्थायी सरकारी सेवकों को उपार्जित छुट्टी जमा होने की अधिकतम सीमा 180 दिनों की होगी। चतुर्थ वेतन आयोग की अनुशंसा के आलोक में केन्द्रीय सरकार ने अपने सेविवर्ग को सेवा निवृत्ति के समय अव्यवहृत उपार्जित अवकाश के बदले नगद राशि का भुगतान अधिकतम 180 दिनों के स्थान पर 240 दिनों का करने का निर्णय लिया है। राज्य सरकार ने भी वित्त विभाग के संख्या-5 पी० ए० आ० 1/86-8889 दिनांक 24.12.1986 के जरिए अपने अधीनस्थ सेवकों को भी अव्यवहृत उपार्जित अवकाश के बदले 180 दिनों के स्थान पर 240 दिनों के अर्जित अवकाश के समतुल्य राशि नगद रूप में भुगतान करने का निर्णय लिया है।

(ii) सरकारी सेवकों को उपार्जित छुट्टी जमा करने सम्बन्धी पूर्व की निर्धारित सीमा में संशोधन नहीं करने से दिनांक 1.12.1986 के बाद सेवा निवृत्त होने वाले सरकारी सेवकों को अव्यवहृत अवकाश के बदले संशोधित दर से नगद भुगतान में कठिनाई होगी। अतः सरकार ने पूर्ण विचारोपरान्त यह भी निर्णय लिया है कि उपार्जित छुट्टी जमा होने की वर्तमान सीमा 180 दिनों के स्थान पर 240 दिन कर दिया जाय।

(iii) इस आदेश का प्रभाव दिनांक 1.12.1986 से होगा तथा सरकारी सेवकों के प्रसंग में वर्तमान सीमा से अधिक छुट्टी कथित तिथि के पश्चात् ही जमा होगी।

(iv) इस सम्बन्ध में निर्गत पूर्व के सभी आदेश को इस हद तक संशोधित समझा जाय।

70.

विषय:—सेवा निवृत्ति की तिथि को अव्यवहृत (un-utilised) उपार्जित अवकाश के बदले में नकद राशि का भुगतान।

[Vide F. D. Memo No. P.C. 2-9-278-8075F. dated 16.8.1978]

राज्य के सरकारी कर्मचारियों को सेवा निवृत्ति की तिथि को अव्यवहृत उपार्जित छुट्टी के अवकाश वेतन के समतुल्य नकद राशि भुगतान का प्रश्न राज्य सरकार के विचाराधीन था। सावधानीपूर्वक विचार करने के पश्चात् राज्य सरकार ने सरकारी कर्मचारियों को उनके वार्धक्य निवृत्ति (सुपरएनुएशन) के समय बकाये उपार्जित छुट्टी की अवधि के लिये अवकाश वेतन के समतुल्य राशि नकद रूप में भुगतान करने का निर्णय लिया है।

2. इस परिपत्र में निहित आदेश तिथि 30.9.1997 को या बाद में वार्धक्य आयु पर निवृत्ति होने वाले राज्य सरकार के कर्मचारियों पर लागू होगा।

3. यह सुविधा निम्नांकित शर्तों के अधीन देय होगी:—

(क) अवकाश वेतन के समतुल्य राशि का नकद भुगतान अधिकतम 180 दिनों की उपार्जित छुट्टी तक ही सीमित रहेगा। इस हद तक वित्त विभाग के ज्ञाप संख्या 8094 वि०, 11.10.1969 में निहित सुसंगत प्रावधान को संशोधित समझा जाय।

(ख) इस प्रकार अनुमान्य अवकाश वेतन के समतुल्य राशि का नकद भुगतान सेवा-निवृत्ति के समय एक ही निबटारा के रूप में एक मुश्त में होगा।

(ग) उपार्जित अवकाश के लिये अनुमान्य अवकाश वेतन और उस अवकाश वेतन पर सेवा निवृत्ति की तिथि को प्रचलित दर पर अनुमान्य केवल महँगाई भत्ते के बराबर नकद राशि इस निर्णय के अन्तर्गत भुगतान किया जायेगा। नगद क्षति-पूर्ति भत्ता तथा मकान भाड़ा आदि देय नहीं होगा।

(ब) छुट्टी स्वीकृत करने के सक्षम पदाधिकारी ही सेवा निवृत्ति की तिथि को बकाये उपार्जित अवकाश के समतुल्य नकद राशि भुगतान करने का आदेश निर्गत करेंगे।

4. यह आदेश बिहार सेवा संहिता के नियम 74 के अन्तर्गत या किसी अनुरूप नियम के अन्तर्गत अकालिक (प्री-मेच्योर)/स्वेच्छा से निवृत्त (वाल्नटरी रिटायरमेन्ट) के मामले में लागू नहीं होंगे। अनुशासनात्मक नियमों के अधीन दण्ड के रूप में अनिवार्य रूप से सेवा निवृत्ति कराये गये सरकारी कर्मचारियों को इस आदेश का लाभ नहीं मिलेगा।

5. जो सरकारी सेवक तिथि 30.9.1977 को या बाद में सेवा निवृत्ति की आयु प्राप्त कर लिये हों और उस तिथि के बाद उन्हें सेवा विस्तार स्वीकृत किया गया हो उन्हें भी इस आदेश का लाभ प्राप्त होगा। ऐसे मामलों में इस प्रकार का लाभ सेवा विस्तार की अवधि समाप्त होने के बाद अन्तिम रूप से सेवा निवृत्त होने पर दिया जायगा; परन्तु नकद राशि भुगतान के लिये उपार्जित छुट्टी की अवधि निर्धारित करते समय ऐसे कर्मचारी की वार्धक्य तिथि के समय बकाये उपार्जित अवकाश तथा सेवा विस्तार की अवधि में अर्जित उपार्जित अवकाश उपभोग करने के पश्चात् शेष उपार्जित अवकाश जो अधिकतम 180 दिनों तक सीमित हो, को मिलाकर हिसाब किया जायेगा। जो कर्मचारी तिथि 30.9.1977 के पूर्व सेवा निवृत्ति की आयु प्राप्त कर सेवा विस्तार पर हो उन्हें इसका लाभ मिलेगा।

6. इस आदेश के निर्गत होने के फलस्वरूप सेवा निवृत्ति पूर्व अवकाश के रूप में अस्वीकृत उपार्जित अवकाश की आवश्यकता नहीं रह जायेगी। फिर भी सरकारी सेवक अपने बकाये उपार्जित छुट्टी के एक अंश को सेवा निवृत्ति पूर्व छुट्टी के रूप में उपभोग कर सकते हैं। ऐसे सरकारी सेवकों को सेवा निवृत्ति के दिन बकाया छुट्टी के लिये इस आदेश में निर्धारित शर्तों के अनुसार लाभ मिलेगा।

7. बिहार सेवा संहिता के अवकाश नियमों का संशोधन यथा समय करने के पश्चात् प्रेषित होगा।

71.

विषय:—अव्यवहृत (Un-utilised) उपार्जित छुट्टी के बदले में नकद राशि के भुगतान सम्बन्धी सिद्धान्त को मृत सरकारी कर्मचारियों एवं वार्धक्य आयु प्राप्त करने पर पुनर्नियोजन समाप्त होने के मामले में लागू होना।

[Vide F.D. memo no. P.C. 2-9-2/78-5707 F., dated 18.4.1970]

वित्त विभाग परिपत्र संख्या पी० सी०—2-9-2/78-8075 वि०, दिनांक 16.8.1978 में निहित अव्यवहृत उपार्जित अवकाश के बदले में नगद राशि के भुगतान सम्बन्धी प्रावधानों को मृत सरकारी कर्मचारी एवं वार्धक्य आयु प्राप्त करने पर पुनर्नियोजन समाप्त होने के मामलों में लागू करने का प्रश्न राज्य सरकार के विचाराधीन था।

2. सावधानीपूर्वक विचार करने के पश्चात् राज्य सरकार ने यह निर्णय लिया कि—

(i) यदि कार्यरत सरकारी सेवक की मृत्यु सेवा-काल में तिथि 30.9.1977 को या बाद में हो जाती है, तो उनके परिवार को मृत्यु के समय अव्यवहृत देय उपार्जित अवकाश के बदले नगद भुगतान किया जाय। यह सुविधा वित्त विभाग के परिपत्र संख्या पी० सी० 2-9-2/78-8075 वि०, दिनांक 16.8.1978 में निहित प्रावधानों के अधीन होगी।

(ii) राज्य सरकार के अधीन ऐसे पुनर्नियोजित पेंशन भोगी जिनका पुनर्नियोजन वित्त विभाग के उक्त परिपत्र पी० सी०—2-9-2/78-8075 दिनांक 16.8.1978 के प्रावधानों के अधीन तिथि 30.9.77 को या बाद में वार्धक्यता की आयु (असैनिक पदों के लिए निर्धारित) प्राप्त करने

पर समाप्त हो जाता है, को भी वार्धक्य की आयु प्राप्त करने की तिथि को छुट्टी लेखा में जमा अर्जित छुट्टी के बदले समतुल्य नकद राशि का भुगतान किया जाय। इस कोटि के पुनर्नियोजित पेंशन भोगी के मामले में जिनकी वार्धक्यता की आयु (असैनिक पदों में) प्राप्त करने के बाद भी पुनर्नियोजित की अवधि का विस्तार किया जाता है तो पुनर्नियोजन की विस्तारित अवधि समाप्त होने पर सेवा की अन्तिम निवृत्ति की तिथि को वार्धक्यता की तिथि को उनके छुट्टी लेखा में जमा अर्जित छुट्टी तथा विस्तारित अवधि के दौरान अर्जन की गई अर्जित छुट्टी में से ऐसी अवधि के दौरान ली गई अर्जित छुट्टी को घटाने के पश्चात् शेष उपार्जित छुट्टी के बदले नकद राशि का लाभ देय होगा बशर्ते कि वह छुट्टी अधिक-से-अधिक 180 दिन तक ही सीमित रहे।

72.

विषय:—सेवा निवृत्ति की तिथि को अव्यवहत उपार्जित छुट्टी के बदले नगद राशि का भुगतान।

[ज्ञाप संख्या पी० सी० 2-9-8/81/2150/वि० दिनांक 19.7.1984]

वित्त विभाग के ज्ञाप सं० 8075/वि० दिनांक 16.8.1978 के द्वारा राज्य सरकार के सरकारी कर्मचारियों को उनके वार्धक्य निवृत्ति के समय बकाये उपार्जित छुट्टी की अवधि के लिए अवकाश वेतन के समतुल्य राशि नकद रूप में भुगतान की सुविधा दी गयी थी। राज्य सरकार के समक्ष कुछ अन्य स्थितियों में उपार्जित छुट्टी के बदले नगद राशि की सुविधा देने का प्रश्न विचाराधीन था। सावधानीपूर्वक विचार करने के पश्चात् राज्य सरकार ने निम्नांकित अवस्थाओं में उपार्जित छुट्टी के बदले नकद राशि के भुगतान करने का निर्णय लिया है:—

- (क) जो सरकारी सेवक बाह्य सेवा में प्रतिनियुक्त रहते हुए सेवा से निवृत्त हो जाते हैं, उन्हें अधिकतम 180 दिनों तक अव्यवहत उपार्जित छुट्टी के बदले नकद भुगतान की सुविधा दी जाय।
- (ख) जो निलम्बित सरकारी सेवक वार्धक्य आयु प्राप्त होने पर सेवा निवृत्त हो जाते हैं उन्हें पुनर्स्थापन के बाद अधिकतम 180 दिनों तक की अव्यवहत उपार्जित अवकाश के बदले नकद राशि की सुविधा दी जाय, बशर्ते की सक्षम पदाधिकारी इस बात का प्रमाण-पत्र दें कि सम्बन्धित सरकारी सेवक का निलम्बन उचित नहीं था।
- (ग) सरकारी सेवक जो स्वेच्छा से सेवा निवृत्त हुए हैं अथवा कराये जाते हैं उन्हें भी अधिकतम 180 दिनों तक की अव्यवहत उपार्जित अवकाश के बदले नकद राशि की सुविधा दी जाय। यह सुविधा इस शर्त के साथ दी जा सकती है कि छुट्टी की अवधि जिसके लिए नकद भुगतान किया जायेगा वह सरकारी सेवक जिस तिथि से सेवा-निवृत्त होंगे अथवा जिस तिथि से उन्हें सेवा निवृत्त कराया जायेगा एवं जिस तिथि को सामान्य रूप से सेवा निवृत्ति की आयु प्राप्त होने पर सेवा निवृत्त होते, उस बीच की अवधि से अधिक नहीं होगी।
- (घ) सरकारी सेवक जिन्हें सेवा में रहते हुए स्वास्थ्य प्राधिकार द्वारा सम्पूर्ण या स्थायी रूप से सरकारी सेवक के लिए अशक्त घोषित कर दिया जाता है उन्हें भी असमर्थता की तिथि को केवल बकाया उपार्जित छुट्टी के बदले नकद राशि का भुगतान अधिकतम 180 दिनों तक के लिए किया जाय।
- (ङ) जो सरकारी सेवक सेवा से त्याग पत्र अथवा सेवा छोड़ देते हैं उन्हें भी सेवा छोड़ने की तिथि को अनुमान्य उपार्जित छुट्टी के बदले नकद राशि के भुगतान की सुविधा अधिकतम 90 दिनों के लिए दी जाय।
- (च) जो सरकारी सेवक सेवा निवृत्ति के पश्चात् पुनर्नियुक्त होते हैं उन्हें पुनर्नियुक्ति की समाप्ति

के बाद अधिकतम 180 दिनों तक की अव्यवहृत उपार्जित छुट्टी के बदले नकद राशि भुगतान की सुविधा दी जाय, बशर्ते सेवा निवृत्ति के समय अवधि के लिए नकद भुगतान की गयी थी वह इस 180 दिनों में सम्मिलित रहेगी।

2. सरकार ने यह भी निर्णय लिया है कि अव्यवहृत उपार्जित छुट्टी के बदले नकद छुट्टी वेतन/वेतन का ही रूप है। अतएव अव्यवहृत उपार्जित छुट्टी के बदले नगद से सरकारी सेवकों के जिम्मे के सरकारी बकाये की बसूली एक मुस्त की जाय। जो मामले अभी तक अनिष्पादित हैं, उस पर भी यह लागू होगा।

3. जहाँ तक इस आदेश को उच्च न्यायालय, पटना/बिहार विधान सभा/विधान परिषद् के कर्मचारियों के प्रसंग में लागू करने से सम्बन्धित है मुख्य न्यायाधीश, उच्च न्यायालय, पटना/अध्यक्ष, बिहार विधान सभा/परिषद् की सहमति प्राप्त कर बाद में आदेश निर्गत किया जायेगा।

4. बिहार सेवा संहिता का अवकाश नियम इस हद तक संशोधित समझा जाय।

73.

विषय:—सेवा निवृत्ति की तिथि को 240 दिनों तक के अव्यवहृत (Un-utilised) उपार्जित छुट्टी के बदले में नकद राशि का भुगतान।

[ज्ञाप संख्या 3 पी० ए० आर० 1/86-8889 दिनांक 24.12.1987]

वित्त विभाग के ज्ञाप सं० पी० सी० 2-9-8/81-2150, दिनांक 19.7.1984 के द्वारा राज्य के सरकारी सेवकों को कतिपय शर्तों के साथ उनके वार्धक्य निवृत्ति (सुपरनुएसन) के समय अधिकतम 180 दिनों के बकाये उपार्जित छुट्टी की अवधि के लिए अवकाश वेतन के समतुल्य राशि नकद रूप में भुगतान करने का निर्णय लिया गया था।

2. चतुर्थ वेतन आयोग की अनुशंसा पर केन्द्रीय सरकार ने अपने सरकारी सेवकों को सेवा-निवृत्ति के समय अव्यवहृत उपार्जित अवकाश के बदले नकद राशि का भुगतान अधिकतम 180 दिनों के स्थान पर अधिकतम 240 दिनों का करने का निर्णय लिया है। राज्य सरकार के कर्मचारियों को भी इस तरह की सुविधा देने का प्रश्न सरकार के विचाराधीन था। राज्य सरकार ने पूर्ण विचारोपरान्त केन्द्रीय सरकार के अनुरूप अपने सेविवर्ग को सेवा-निवृत्ति के समय अव्यवहृत अधिकतम 180 दिनों के स्थान पर अधिकतम 240 दिनों के अर्जित अवकाश के समतुल्य राशि नकद के रूप में भुगतान करने का निर्णय लिया है।

3. इस सम्बन्ध में वित्त विभाग के ज्ञाप संख्या 2150, दिनांक 19.7.84 में निहित शेष सभी शर्तें पूर्ववत् प्रभावकारी रहेंगी।

4. इस आदेश का प्रभाव दिनांक 1.12.1986 से होगा तथा इस प्रसंग में पूर्व में निर्गत सभी आदेश इस अंश तक संशोधित समझे जायेंगे।

5. जहाँ तक इस आदेश को उच्च न्यायालय, पटना/बिहार विधान सभा सचिवालय/बिहार विधान परिषद् सचिवालय के कर्मचारियों के प्रसंग में लागू करने का प्रश्न है मुख्य न्यायाधीश, उच्च न्यायालय पटना/अध्यक्ष, बिहार विधान सभा/अध्यक्ष, बिहार विधान परिषद् पटना के अनुमोदन की प्रत्याशा में उन कर्मचारियों पर भी राज्य सरकार के कर्मचारियों के अनुरूप यह आदेश प्रभावकारी होंगे।

6. बिहार सेवा संहिता के अवकाश नियमों का संशोधन यथासमय किया जायगा।

74.

विषय:—राज्य सरकार के कर्मचारियों को अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी वेतन के समतुल्य नगद राशि की गणना प्रणाली।

[F.D. memo no. P.C.-1-4-1190-2130 F. dated 10.5.1990]

वित्त विभागीय ज्ञापक पी० सी० 2-9-2/78-8075 वि०, दिनांक 16.8.1978 की ओर ध्यान आकृष्ट करना है, जिसके अनुसार सेवा निवृत्त कर्मचारी को आदेश अव्यवहृत उपार्जित छुट्टी (अधिकतम 240 दिनों)

के लिये छुट्टी वेतन और सेवा निवृत्ति की तिथि को उस पर प्रचलित दर से अनुमान्य महंगाई भत्ता के समतुल्य नगद राशि का भुगतान किया जाना है।

2. वित्त विभाग के समक्ष ऐसे मामले आये हैं, जिनमें विभिन्न विभागों द्वारा उक्त प्रावधान के अनुसार नगद राशि की गणना करने में सही तथा समरूप प्रणाली नहीं अपनाई जाती है, क्योंकि वर्ष के सभी महीनों में दिनों की संख्या एक समान नहीं है। ऐसी विषम एवं अवांछित स्थिति के परिहार के लिये सही वस्तुस्थिति को सुस्पष्ट करना आवश्यक हो गया है।

3. सेन्ट्रल सिविल सर्भिसेज (छुट्टी) नियमावली के नियम 39(2)(b) में इस प्रयोजन के लिये तीस दिनों का माह मानने के स्पष्ट प्रावधान किये गए हैं। तदनुसार वित्त विभाग के ज्ञापांक 8075 वि०, दिनांक 16.8.1978 की कंडिका 3 (ग) के अन्तर्गत आदेय राशि की गणना अधोलिखित सूत्र के अनुसार ही की जाय, भले ही सम्बन्धित कर्मचारी जिस माह में सेवा निवृत्त हुए हों, उसमें दिनों की संख्या तीस से कम/अधिक ही क्यों न हो:-

सेवा निवृत्ति की तिथि को अनुमान्य वेतन और उस पर प्रचलित दर से अनुमान्य महंगाई भत्ता	सेवा निवृत्ति की तिथि को जमा अव्यवहृत उपार्जित छुट्टी के दिनों की संख्या-(अधिकतम 240 दिन)
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(क) नगद राशि—

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आधे वेतन पर अनुमान्य छुट्टी वेतन (+) महंगाई भत्ता, यदि देय हो (-) पेंशन उपादान के समतुल्य पेंशन और पेंशन पर देय महंगाई राहत, यदि आधे वेतन की छुट्टी पर महंगाई अनुमान्य हो

सेवा निवृत्ति की तिथि को जमा आधे वेतन की अव्यवहृत उपार्जित छुट्टी के दिनों की संख्या

(ख) नगद राशि—

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4. अपने अधीनस्थ सभी कार्यालयों को इससे कृपया अवगत कराया जाय।

75.

विषय:-राज्य सरकार के कर्मचारियों की अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी वेतन के समतुल्य नगद राशि के भुगतान के प्रसंग में।

[F.D. Memo no. P.C. 1-4-1 of 1/90-2131 dated 10.5.1990]

वित्त विभागीय ज्ञापांक पी० सी० 2-9-2/78-8075 वि०, दिनांक 16.8.1978 की ओर ध्यान आकृष्ट करना है, जिसकी कंडिका-3 (ख) में इस आशय का प्रावधान है कि सेवा निवृत्त होने पर आदेय अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी वेतन के समतुल्य नगद राशि का भुगतान “एक ही निबटारा के रूप में एक मुस्त में” किया जाय।

2. विभिन्न विभागों/कार्यालयों द्वारा उक्त निर्णय के परिप्रेक्ष्य में बहुधा इस बिन्दु पर जिज्ञासा की जाती है कि कर्मचारियों को महंगाई भत्ता/अतिरिक्त भत्ता में जो वृद्धि सरकार द्वारा भूतलक्षी प्रभाव से उसकी स्वीकृति प्रदान किये जाने के परिणामस्वरूप होती है, उसका लाभ वैसे सेवा निवृत्त कर्मचारियों को देय होगा अथवा नहीं, जिनके अव्यवहृत उपार्जित छुट्टी के बदले में नगद राशि का भुगतान एक ही निबटारा के रूप में एक मुस्त से किया जा चुका है।

3. उस विषय बिन्दु के सम्यक समीक्षोपरांत यह स्पष्ट करना है कि यदि महंगाई भत्ता अतिरिक्त महंगाई भत्ता में सरकार द्वारा भूतलक्षी प्रभाव से कोई वृद्धि की जाती है और सम्बन्धित सेवा निवृत्त कर्मचारी

सेवा निवृत्ति की तिथि को उसका भुगतान पाने का अधिकारी है, तो वैसी स्थिति में पूर्व में स्वीकृत छुट्टी वेतन के समतुल्य नगद राशि और नई दर पर आदेय छुट्टी वेतन के समतुल्य नगद राशि के अन्तर की राशि उसे अनुमान्य हो और उस प्रयोजन के लिए वित्त विभाग के ज्ञापांक 8075 वि०, दिनांक 16.8.1978 की कंडिका-3 (ख) में प्रयुक्त "एक ही निबटारा के रूप में एक मुस्त में" शब्दावली से कोई व्यवधान नहीं पड़ता है। उस अन्तर की राशि की स्वीकृति और भुगतान करने में इस पहलू पर गौर करने की कोई जरूरत नहीं है कि महंगाई भत्ता के स्वीकृत्यादेश निर्गत होने के पूर्व ही सम्बन्धित कर्मचारी के छुट्टी वेतन के समतुल्य नगद राशि का एक निबटारा के रूप में एक मुस्त से भुगतान किया जा चुका है।

4. अपने अधीनस्थ सभी कार्यालयों को इससे कृपया अवगत कराया जाय।

76.

विषय: राजपत्रित पदाधिकारियों को सेवा निवृत्ति के पश्चात् उनके द्वारा अव्यवहृत उपार्जित अवकाश के बदले नगद राशि का प्राधिकार-पत्र के संबंध में।

बिहार सरकार, वित्त विभाग, ज्ञाप संख्या-पी० सी०- मिस-50/97/4158/वि०, पटना, दिनांक 5.5.1998, सेवा में, सरकार के सभी विभाग, सभी विभागाध्यक्ष।

निदेशानुसार अधोहस्ताक्षरी को कहना है कि उपर्युक्त विषयक वित्त विभागीय ज्ञापांक-2150 दिनांक 17.7.1984 की कंडिका में यह स्पष्ट उल्लेख है कि अव्यवहृत उपार्जित अवकाश के बदले नगद छुट्टी, वेतन का ही एक रूप है।

राज्य के सेवा निवृत्त पदाधिकारियों एवं महालेखाकार, बिहार, द्वारा उक्त आदेश के परिप्रेक्ष्य में बहुधा इस बिन्दु पर जिज्ञासा की जाती है कि अव्यवहृत अवकाश के बदले नगद राशि के भुगतान से संबंधित प्राधिकार-पत्र में होने वाले विलम्ब के फलस्वरूप सेवा निवृत्ति वाले स्थान से भुगतान प्राप्त करने में कठिनाईयाँ होती हैं। अतः सेवा निवृत्त राजपत्रित पदाधिकारी के स्वेच्छा पर उनके गृह जिला अथवा उस कोषागार से जहाँ से वे सेवा निवृत्ति के पश्चात् पेंशन प्राप्त कर रहे हैं, को प्राधिकार पत्र निर्गत किया जाय।

2. राज्य सरकार द्वारा सम्यक विचारोपरान्त यह निर्णय लिया गया है कि बिहार कोषागार संहिता के नियम 20 में सन्निहित प्रावधानों के तहत राज्य के सेवा निवृत्त राजपत्रित पदाधिकारियों के आग्रह पर महालेखाकार बिहार द्वारा उनके इच्छित कोषागार यथा उनके गृह जिला अथवा जहाँ से सम्प्रति वे पेंशन प्राप्त कर रहे हों को अव्यवहृत अवकाश के बदले नगद राशि के भुगतान से संबंधित प्राधिकार पत्र निर्गत किया जायेगा।

3. यह सुविधा मात्र उन राजपत्रित पदाधिकारियों को ही अनुमान्य होगा जो स्वयं ही निकासी पदाधिकारी हैं। जहाँ तक इस आदेश को उच्च न्यायालय, पटना/बिहार विधानसभा/परिषद् के पदाधिकारियों पर लागू करने का संबंध है मुख्य न्यायाधीश, उच्च न्यायालय, पटना/ अध्यक्ष/सभापति, बिहार विधान सभा/परिषद् की सहमति/परामर्श प्राप्त कर बाद में आदेश निर्गत किया जायेगा।

77.

विषय:-राज्य कर्मियों को अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी समतुल्य नगद राशि की गणना की प्रणाली।

[ज्ञाप सं० पी० सी० 1-4-1/90/5333 वि० दिनांक 18.7.1992.]

उपर्युक्त विषयक वित्त विभागीय ज्ञापांक पी० सी० 1-4-1/90-2130 वि०, दिनांक 10.5.1990 की कंडिका-3 के प्रसंग में निदेशानुसार अधोहस्ताक्षरी को कहना है कि उसमें पूरे औसत वेतन को अव्यवहृत छुट्टी के लिए छुट्टी वेतन के समतुल्य राशि की गणना की प्रणाली स्पष्ट करने की सरकार की मंशा है, जिस क्रम में उक्त पत्र की कंडिका-3 (ख) में आधे वेतन की अव्यवहृत छुट्टी के लिए छुट्टी वेतन की गणना की प्रणाली का भी भूलवश उल्लेख हो गया है। वित्त विभाग के सूचनानुसार उक्त के आधार पर यह भ्रम पैदा हो रहा है कि अव्यवहृत आधे वेतन की छुट्टी के लिये भी नगद राशि का भुगतान सेवा निवृत्त

कर्मचारियों को अनुमान्य है। कथित भ्रम के निवारणार्थ इस विभाग के ज्ञापांक 2130 वि०, दिनांक 10.5.1990 की कॉडिका-3 (ख) में समाविष्ट प्रावधानों को विलोपित किया जाता है और यह स्पष्ट किया जा रहा है कि आधे वेतन की अव्यवहृत छुट्टी के लिये नगद राशि का भुगतान करना नियमानुकूल नहीं है।

2. जिन मामलों में इस विभाग के ज्ञापांक 2130 वि०, दिनांक 10.5.1990 के आधार पर पहले ही आधे वेतन की छुट्टी का नगदीकरण स्वीकृत एवं भुगतान किया गया है, उसकी वसूली की जायेगी।

3. अपने अधीनस्थ सभी कार्यालयों को इससे कृपया अवगत कराया जाए।

78.

विषय:-सेवा निवृत्ति की तिथि को अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी वेतन के समतुल्य नगद राशि का भुगतान।

[ज्ञापांक-3/एफ-2-01/93/4564/वि० (2), दिनांक 6.7.1993]

उपर्युक्त विषय के प्रसंग में निदेशानुसार अधोहस्ताक्षरी को कहना है कि कतिपय विभागों द्वारा यह जिज्ञासा की जा रही है कि यदि किसी सरकारी सेवक के विरुद्ध चल रही विभागीय कार्रवाई, फौजदारी मुकदमा अथवा न्यायिक जाँच उसके सेवा-निवृत्त होने तक अनिर्णीत हो और सम्बन्धित कर्मचारी निलम्बन में रहते हुये ही सेवा-निवृत्त हो जाये, तो वैसी स्थिति में अव्यवहृत उपार्जित छुट्टी के बदले छुट्टी वेतन के समतुल्य नगद राशि के भुगतान का मामले के अन्तिम निष्पादन तक रोक रखा जा सकता है या नहीं। स्मरणीय है कि वित्त विभागीय ज्ञापांक-2150 वि०, दिनांक 19.7.1984 (प्रतिलिपि संलग्न) की कॉडिका-2 में यह सुविवेचित प्रावधान समाविष्ट है कि अव्यवहृत उपार्जित छुट्टी के बदले में छुट्टी-वेतन के समतुल्य भुगतान की जाने वाली नगद राशि निर्विवादित वेतन की कोटि का ही एक भुगतान है। इस कारण इस नगद राशि से सम्बन्धित सरकारी सेवक के जिम्मे सरकार के बकाये की एक मुश्त वसूली की जा सकती है। इन प्रावधानों से यह स्पष्टतः विवक्षित (Implied) होता है कि जिस सेवा-निवृत्त कर्मचारी के विरुद्ध किसी भी तरह की जाँच चल रही है, उसके मामले में वसूली की सहज संभावना है और यदि ऐसे मामले में जाँच अन्तिम निष्पादन के पूर्व ही अव्यवहृत उपार्जित छुट्टी के लिये छुट्टी-वेतन के समतुल्य नगद राशि का भुगतान कर दिया जायेगा, तो जाँच के फलाफल के आधार पर वसूली करना व्यावहारिक दृष्टिकोण से कठिन अवश्य होगा। इसी उद्देश्य से यह प्रावधान भी किया गया है कि पूर्व के अनिर्णीत मामलों में भी यह वसूली की जा सकती है। इसके बावजूद यह महसूस किया जाता है कि केन्द्रीय सिविल सेवायें (छुट्टी) नियमावली के नियम-29 (3) के प्रावधान के समान राज्य सरकार के नियम के स्थिति मुखर नहीं हैं।

2. उपर्युक्त सन्दर्भ में अधोहस्ताक्षरी को पुनः यह स्पष्ट करने का निदेश हुआ है कि छुट्टी स्वीकृत करने के लिये सक्षम पदाधिकारी स्वविवेक से सम्पूर्ण नगद राशि अथवा उसके एक निश्चित अंश के भुगतान को वैसे मामले में रोक सकते हैं, जिसमें सेवा-निवृत्त कर्मचारी के विरुद्ध सेवा-निवृत्ति की तिथि तक किसी भी तरह की विभागीय कार्रवाई, फौजदारी मुकदमा अथवा न्यायिक जाँच का अन्तिम निष्पादन नहीं हो पाया हो और जिसमें जाँच के फलाफल के रूप में वसूली की क्षीण संभावना भी विद्यमान हो। जाँच के अन्तिम निष्पादन होने पर रोके गये भुगतान को विमुक्त कर दिया जायेगा, परन्तु जाँच के परिणामस्वरूप यदि कोई वसूली करने का निर्णय हो, तो वैसी वसूली करने के बाद ही शेष राशि विमुक्त की जायेगी।

अनुगोध है कि इस स्पष्टीकरण से अपने अधीनस्थ कार्यालयों को भी अवगत करा दिया जाय।

79.

विषय:-अव्यवहृत उपार्जित अवकाश के समतुल्य नगद राशि के भुगतान के निमित्त संबंधित शीर्ष के संबंध में।

बिहार सरकार वित्त विभाग पत्र संख्या-ए०/ई० 4 (लि०)-4/2000/1275 वि० 2 दिनांक 2 मार्च, 2001 ई०। प्रेषक, भानु प्रताप शर्मा, अपर वित्त आयुक्त (व्यय)। सेवा में, सभी आयुक्त एवं सचिव। सचिव, सभी विभागाध्यक्ष, बिहार।

निदेशानुसार उपर्युक्त विषय के संबंध में मुझे कहना है कि सेवा निवृत्त कर्मचारियों/पदाधिकारियों के अव्यवहृत उपार्जित अवकाश के समतुल्य नगद राशि का भुगतान वर्तमान में उसी मुख्य/उप मुख्य/लघु/उप शीर्षादि से करने की व्यवस्था है जिस मुख्य/उप मुख्य/लघु/उप शीर्षादि से वे सेवा-निवृत्ति के पूर्व वेतन आदि प्राप्त करते थे। वित्त विभाग के संकल्प संख्या-2561 दिनांक 17.4.1998 में ऐसे मामलों में भुगतान के लिए आवंटन की अनिवार्यता नहीं है। वर्तमान व्यवस्था में संबंधित शीर्ष में पर्याप्त उपबंध नहीं रहने पर ऐसे भुगतान से अधिकाई व्यय की संभावना बनी रहती थी।

2. वित्त-मंत्रालय, भारत सरकार ने अपने पत्रांक-2(1) 98/टी० एस०/208 दिनांक 14.1.1999 द्वारा सेवा निवृत्त/मृत कर्मचारियों/पदाधिकारियों को भुगतेय अव्यवहृत उपार्जित अवकाश के समतुल्य राशि के लिए नियंत्रक महालेखा परीक्षक के परामर्श के आलोक में मुख्यशीर्ष 2071-पेंशन एवं अन्य सेवा निवृत्ति लाभ-01-असैनिक-115 छुट्टी नगदीकरण लाभों के अन्तर्गत उप शीर्ष खोलकर तथा उनके लिए उक्त उप शीर्ष में बजट का उपबंध कर व्यय करने का निदेश अपने मंत्रालयों के लिए दिया है।

3. राज्य सरकार ने निर्णय लिया है कि भारत सरकार में अपनाई जा रही व्यवस्था की भाँति ही वित्तीय वर्ष 2001-2002 के प्रभाव से 15.11.2000 के बाद सेवानिवृत्त होने वाले कर्मियों के छुट्टी नगदीकरण के लाभ की स्वीकृति मुख्यशीर्ष-2071-पेंशन एवं अन्य सेवा निवृत्ति लाभ-01-सिविल-115 निम्नांकित उप-शीर्ष के अन्तर्गत दी जाय:-

मुख्य शीर्ष-2071-पेंशन और सेवा निवृत्ति लाभ

उप मुख्य शीर्ष-01-असैनिक

लघु शीर्ष-115 सेवा निवृत्त/मृत कर्मचारियों/पदाधिकारियों को भुगतेय अवकाश के समतुल्य राशि उप शीर्ष-0001-वेतन एवं जीवन-यापन भत्ता।

4. जहाँ तक 15.11.2000 के पूर्व सेवानिवृत्त हुए कर्मियों का प्रश्न है भुगतान निम्नांकित उपशीर्ष से किया जाय:-

मुख्य शीर्ष-2071-पेंशन और सेवा निवृत्ति लाभ

उप मुख्य शीर्ष-01-असैनिक

लघु शीर्ष-115 सेवा निवृत्त/मृत कर्मचारियों/पदाधिकारियों को भुगतेय अवकाश के समतुल्य राशि।

उप शीर्ष-0002-15.11.2000 के पूर्व सेवानिवृत्त/मृत कर्मचारी/पदाधिकारी को भुगतेय अव्यवहृत अवकाश के समतुल्य राशि

अनुरोध है कि अव्यवहृत अवकाश के समतुल्य राशि का भुगतान उपर्युक्त के अनुसार ही किया जाय। वित्त विभाग के पत्रांक -2561 (वि) 2 दिनांक 17.4.1998 की कड़िका 6 (ड) के प्रावधान के अनुसार इसके लिए अलग से आवंटन आदेश जारी करने की आवश्यकता नहीं होगी।

228. The following provisions apply to Government servants who are in a vacation department—

(i) For a Government servant in superior service—

(a) For each year of duty in which a Government servant has availed himself of the vacation, his earned leave shall be reduced as follows—

(1) for subordinate judges, *munsifs* and staff of Civil Courts by 15 days.

(2) for all other Government servants by 30 days.

(b) If a part only of the vacation has been taken in any year, the period by which the earned leave shall be reduced shall be a fraction of fifteen days or 30 days, as the case may be, equal to the

proportion which the part of the vacation taken bears to the full period of vacation.

- (c) In cases of urgent necessity the earned leave as reduced by clauses (a) and (b) of the Rule may, except in the case of subordinate judges, *munsifs* and other staff of Civil Courts be increased by $\frac{1}{22}$ nd of the period of duty in a vacation department.
- (ii) For a Government servant in inferior service—

The earned leave shall be reduced by 20 days for each year of duty, if the Government servant has availed himself of the vacation. If a part only of the vacation has been taken in any year, the period by which the earned leave shall be reduced shall be a fraction of 20 days equal to the proportion which the part of the vacation taken bears to the full period of the vacation.

Explanation.—For the purpose of this Rule vacation counts as duty.

229. The amount of earned leave due is the amount of earned leave diminished by the amount of earned leave which has been taken and one-half of the amount of special disability leave taken on full pay under Rule 201(g)(ii).

230. A Government servant may at any time be granted the whole or any part of earned leave due to him.

231. Earned leave may be combined with vacation, provided that in the case of a Government servant in superior service:—

- (1) no additional expense shall be incurred by the State for the period of vacation;
- (2) vacation shall not be both prefixed and suffixed to leave;
- (3) leave will not be both prefixed and suffixed to vacation;
- (4) the combined period of such leave and vacation shall not exceed the limit up to which leave may be accumulated by the Government servant concerned under Rule 227(2)(a) and in the case of a Government servant in the inferior service the combined period of earned leave and vacation leave does not exceed 60 days.

B—Half Pay Leave

232. Half pay leave will be earned without any restriction to the limit of accumulation, in the course of service, at the following rates, for each completed year of service:—

- (a) 20 days in the case of a Government servant in superior service; and
- (b) 15 days in the case of a Government servant in inferior service.

Such leave can be availed of on private affairs as well as on medical certificate. There will be no limit on the half pay leave that can be availed of at a time on medical certificate and this will apply even when such leave is taken preparatory to retirement.

Provided that no half pay leave may be granted unless the authority competent to sanction leave has reason to believe that the Government servant will return to duty after its expiry.

Explanation 1.—The term "completed year of service" used in this Rule means continuous service of specified duration under the Government of Bihar or the late Government of Bihar and Orissa, and includes period spent on duty as well as on leave (including extraordinary leave).

Explanation 2.—Half pay leave in respect of any completed year of service during which the service rendered by a Government servant has been partly in a superior and partly in an inferior service, should be calculated on *pro rata* basis separately in respect of superior service and inferior service and added up. The fraction, if any, present in the total or half pay leave for the particular year should be ignored if it is less than half, or reckoned as one day if it is half or more.

¹[Provided further that if a regular Government Servent, proceeds on half pay leave/ commuted leave on medical ground, but does not return on duty due to death then Half Pay leave/commuted leave may be granted under section 232/234 of Bihar Service Code, in relaxation of the provision of joining duty].

233. Half pay leave may be combined with vacation, provided that—

- (1) any additional expense shall be incurred by the State for the period of vacation;
- (2) vacation shall not be both prefixed and suffixed to leave;
- (3) leave will not be both prefixed and suffixed to vacation;
- (4) the combined period of leave and vacation taken at any one time shall not exceed the total amount admissible under Rule 232 above; and
- (5) no vacation or portion of vacation will be prefixed or suffixed during which the Government servants was ill and unfit to perform duties.

C—Commuted Leave

234. At his option, a Government servant can have the half pay leave due converted into half the amount of full pay leave. Such converted leave will be termed "commuted leave". It will be granted only on medical certificate subject to a limit of 180 days in the case of a Government servant in superior service and 120 days in the case of a Government servant in inferior service, during the entire service.

Commuted leave may be combined with earned leave but such combination will be limited to 180 days, whether such leave is availed of in India or out of India, in case of a Government servant, in superior service, and 120 days in the case of a Government servant in inferior service. The maximum limit of 180 days in case of a Government servant in superior service and 120 days in the case of Government servant in inferior service, will apply also to the combination of earned leave, vacation and commuted leave:

Provided that no commuted leave may be granted under this Rule, unless the authority competent to sanction leave has reason to believe that the Government servant will return to duty on its expiry.

²[Provided further that commutative leave facility will be given to Government servants in the case of illness of his/her father-mother/father in law/mother in law as a patient of out door/indoor, on presentation of certificate of their illness.]

1. *Ins. proviso Amdt. Code, 2013, vide Notifn. No. 9785, dated 23.9.2013 (w.e.f. 1.1.2013)*

1. *Ins. proviso Amdt. Code, 2011, vide Notifi. No. 3A-9 Misc. 18/2011-11080-F, dated 8.12.2011.*

¹[Provided further that if a regular Government Servent, proceeds on half pay leave/ commuted leave on medical ground, but does not return on duty due to death then Half Pay leave/commuted leave may be granted under section 232/234 of Bihar Service Code, in relaxation of the provision of joining duty].

²[Provided further that commuted leave facility will also be given to government servants in the case of outdoor/indoor treatment of his/her Wife/ Husband and son/ daughter on presentation of certificate of their illness.]

Comments & Case law

● **Commuted leave**—Claim for wilful absence from duty despite rejection as application for leave after being transferred from one place to another. Authorities rightly rejected the claim giving specific reasons. Impugned order upheld. *Kailash Bihari Choudhary vs. State of Bihar*, 2013(4) PLJR 426.

● **Govt. Order dated 24.9.62. entitlement of a Govt. employee on extraordinary leave to count the time spent on such leave for pension**—Govt. by an order dated 24.9.1962 decided that all kinds of leave, Including extraordinary leave will count for pension without any restriction. Even if, in view of Rule 243 of the Code the appellant was not entitled to extraordinary leave for period spent by him for purpose of undergoing study, but while granting extraordinary leave to the appellant for said period, in view of decision dated 24.9.1962, a rider could not be put that the period spent on such leave shall not be counted for pensionary benefits allowed. *Dr. Sunil Kumar vs. State of Bihar*, 2009(2) PLJR 279.

● **Period of commuted leave.** Commuted leave may be combined with earned leave but such combination will be limited to 180 days or 120 days. Commuted leave can be granted only on medical certificate. *Yashoda Prasad Gupta vs. State of Bihar*, 2006(4) BBCJ 148.

D—Leave not Due.

235. Save in the case of leave preparatory to retirement, leave not due may be granted on medical certificate, such leave being limited during the entire service to 180 days in the case of a Government servant in superior service and 120 days in case of a Government servant in inferior service. This will be debited against the half pay leave which the Government servant earned subsequently. Leave not due should be granted only if the authority empowered to sanction leave is satisfied that there is a reasonable prospect of the Government servant returning to duty on expiry of the leave and earning equal amount of half pay leave thereafter.

Note.—In case where a Government servant who has been granted leave not due under this Rule applies for permission to retire voluntarily the leave not due shall if the permission be granted, be cancelled and his retirement shall have effect from the date on which such leave commenced.

³[An undertaking to this effect should therefore, be taken from Government servants who avail of leave not due'. The question whether a Government servant should be called

1. Proviso *Ins.* by Bihar Service (Amdt.) Code, 2013, *vide* Notifn. No. 9785, dated 23.9.2013 (*w.e.f.* 1.1.2013)
2. Proviso *Ins.* by Bihar Service (2nd Amdt.) Code, 2015, *vide* Notifn. No. 7152, dated 18.8.2015.
3. *Ins.* by C.S. No. 116 dated 18.6.1964.

upon to refund the amount of leave-salary should be decided on the merits of each case, e.g. if the retirement of such Government servant is voluntary, refund should be enforced, if it is unavoidable by reason of ill health, incapacitating him for further service, no refund should be insisted upon.]

E—Extraordinary Leave

236. Extraordinary leave may be granted to a Government servant in special circumstances:—

- (i) when no other leave is admissible under these Rules;
- (ii) when, other leave being admissible, the Government servant concerned applies in writing for the grant of extraordinary leave.

[See also Rule 180]

[**Comments.**—The relevant Articles 306 and 198 from the Civil Service Regulations are reproduced below which relates to leave:—

Article 306. (a) Subject to privileges of any Statute applicable to this case, the authority competent to grant leave may, in special circumstances, and when no other kind of leave by rule is admissible grant leave of absence from duty otherwise than under these Regulations :—(i) an officer absent from duty or on leave granted shall receive no absence allowance and (ii) if he is a member of the Indian Civil Service or military officer, subject to 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 provision of Article 198, there is no limit to the length of leave under this Article.

Article 198.—After 5 years of continuous absence, whether with or without leave, an officer is considered to be out of Government employ.

Article 198 was framed in analogy of the provisions Statute 33 GEO-III/- Lap 528-70. The intention of the rule is to fix a limit which cannot be exceeded under any circumstances. The Government of India have the power to relax the rule in this Article in the case of the officers who are lent to the Government of Siam and Iraq.]

Section II—Government Servants not in Permanent Employ

237. The Rules under this sub-head prescribe the conditions on which leave may be granted to a Government servant who does not hold a lien, or a suspended lien, on a permanent post, while officiating in a post or holding a temporary post.

Note.—The service of a person re-employed in Government service after having retired on superannuation or retiring pension should be regarded as temporary, and leave should be granted to him under this sub-head.

238. The State Government may grant to a temporary engineer of the Public Works Department, leave during the first three years of service on such terms and with such leave-salary as it may think fit; provided that the terms and leave-salary shall not be more favourable than those admissible to a permanent Government servants in superior service subject to the Revised Leave Rules.

239. The provisions regarding leave and holidays applicable to temporary Government servant also apply to the establishment of the Public Works Department and Irrigation Department (including Public Health Engineering and the Electric Departments) charged to work and remunerated on monthly rates except to the extent as modified below:—

They will be granted festival holidays not exceeding 12 days in a year with full pay, the holidays to be fixed for each division by the Superintending Engineer concerned (or Chief Engineer where there is no Superintending Engineer) each year after ascertaining the general sense of the work-charged employees and with due regard to the festival of the communities.

Week end holidays, once a week, not necessarily Sunday, will also be allowed in addition to festival holidays. Compensatory leave will be allowed for week end or festival holidays denied to a worker.

240. (a) For a Government servant other than a temporary Engineer of the Public Works Department to whom the Rules under this sub-head apply, it serving in a non-vacation department, the leave admissible in respect of the first three years of his service will be—

I. Earned Leave.—

- (i) to a Government servant in superior service—one twenty-second of the period spent on duty; provided that he will cease to earn leave while he has to his credit such leave amounting to 30 days; and
- (ii) to a Government servant in inferior service ¹[one twenty-second of the period spent on duty, provided that he will cease to earn leave while he has to his credit such leave amounting to 20 days.

II. Half Pay Leave.—

- (i) to a Government servant in superior service-15 days for each completed year of service; and
- (ii) to a Government servant in inferior service—10 days for each completed year of service.

Explanation—Half pay leave in respect of any completed year of service during which the service rendered by a Government servant has been partly in a superior and partly in an inferior service, should be calculated on *pro rata* basis separately in respect of superior service and inferior service and added up. The fraction, if any, present in the total half-pay leave for the particular year should be ignored if it is less than half or reckoned as one day if it is half or more.

(b) During the first three years of service, half pay leave under clause II above will be admissible to a temporary or officiating Government servant on medical certificate only and he will not be eligible to commute such leave to full pay leave:

Provided that no half pay leave may be granted unless the authority competent to sanction leave has reason to believe that the Government servant will return to duty after its expiry, ²[except in the case of a Government servant who has been declared completely and permanently incapacitated for further service by a medical authority.]

(c) A Government servant in superior service serving in a vacation department shall not during the first three years of his service earn any leave; provided that if he has been permitted to avail of less than 20 days of the vacation, and has rendered continuous duty for not less than one year he may be allowed 'earned' leave up to a

1. Subs. for "One thirtieth" vide Memo no. 3F1-7-1/80/5208-F, dated, 24.5.1980.

2. Ins. by C.S. No. 57 dated 10.3.1958.

maximum of 20 days reduced by the number of days of the vacation which he has been allowed to avail and provided further that he shall cease to earn leave while he has to his credit such leave amounting to 20 days.

(d) A temporary or officiating Government servant in inferior service serving in a vacation department does not during the first three years of his service earn any leave. He may be permitted to take extraordinary leave without pay not exceeding one month for every eleven months of duty subject to a maximum of two months at any one time. He may also be permitted to take casual leave.

State Government decisions:—

80.

Regarding.—Raising of the limit of accumulation of earned leave for State employees.

[Vide Memo No. FI/702/69-8094, F. dated 11.11.1969]

[See Sl. No. 67 at Pg. 181]

81.

विषय:—निचली सेवा के सरकारी सेवकों के प्रसंग में उपार्जित छुट्टी जमा होने की सीमा में वृद्धि के सम्बन्ध में।

[Vide Memo No. 3/F 1-7—1/80/2587 F., dated 25.3.1980]

[See Sl. No. 68 at Pg. 181]

82.

विषय:—सरकारी सेवकों को एक बार में एक ही अवसर पर लगातार 120 दिनों से अधिक की उपार्जित छुट्टी स्वीकृत नहीं किये जाने वाली शर्त को समाप्त किया जाना।

[ज्ञाप संख्या 3586 वि०, (2) दिनांक 21.7.1995]

उपर्युक्त विषय के प्रसंग से निदेशानुसार अधोहस्ताक्षरी को यह कहना है कि वित्त विभाग ज्ञाप सं० 8094/वि०, दिनांक 11.1.1969 के साथ पठित वित्त विभाग के ज्ञाप संख्या 2578/वि०, दिनांक 25.3.1980 के जरिए बिहार सेवा संहिता के नियम 227(2) एवं 240 (ए) में उपार्जित छुट्टी के संचयन की सीमा स्थायी सरकारी सेवक के मामले में 180 (एक सौ अस्सी) दिन तथा अस्थायी सरकारी सेवक के लिए 45 (पैंतालिस) दिन इस शर्त के साथ तय की गई कि सरकारी सेवक को एक बार में लगातार 120 (एक सौ बीस) दिन से अधिक की उपार्जित छुट्टी स्वीकृत नहीं की जायेगी। कालान्तर में राज्य सरकार ने वित्त विभाग के ज्ञाप संख्या 326/वि०, (2) दिनांक 27.1.1987 के जरिए अपने कर्मियों के प्रसंग में दिनांक 1.12.1986 के प्रभाव से उपार्जित छुट्टी के संचयन की पुरी सीमा को 180 दिन से पुनरीक्षित कर 240 (दो सौ चालीस) दिन करने का निर्णय लिया, किन्तु एक समय में उपार्जित छुट्टी स्वीकृत एवं उपभोग किये जाने की 120 (एक सौ बीस) दिनों पर की ऊपरी सीमा में किसी भी प्रकार का परिवर्तन नहीं किया गया।

2. उक्त परिप्रेक्ष्य में एक समय में उपार्जित छुट्टी स्वीकृत एवं उपभोग करने की 120 (एक सौ बीस) दिन की ऊपरी सीमा के पुनरीक्षण का विषय राज्य सरकार के विचाराधीन था। इस विषय पर पूर्ण-रूपेण विचार करने के बाद तथा बिहार सेवा संहिता के नियम 230 के प्रावधान को दृष्टिगत रखते हुए राज्य सरकार द्वारा अब वित्त विभाग के ज्ञाप सं० 8094/वि०, दिनांक 11.10.69 की कंडिका 2 में निहित शर्त की जिससे एक समय में उपार्जित छुट्टी स्वीकृत एवं उपभोग किये जाने की 120 (एक सौ बीस) दिनों की ऊपरी सीमा का प्रावधान किया गया है, को विलोपित करने का निर्णय लिया गया है। इसका सहज तात्पर्य है कि बिहार

सेवा संहिता के नियम 227(2) एवं 240(ए)(1) के तहत संचित होने वाली 240 (दो सौ चालीस) दिनों की उपार्जित छुट्टी में से सम्पूर्ण या उसका कोई भी अंश किसी भी सरकारी सेवक को स्वीकृत किया जा सकता है और तदुपरान्त वह उसका अबाध उपभोग भी कर सकता है। छुट्टी की स्वीकृति से सम्बन्धित अन्य शर्तें पूर्ववत् बरकरार रहेंगी। उक्त निर्णय आदेश निर्गत होने की तिथि से अमल में आयेगा।

3. अनुरोध है कि अपने अधीनस्थ सभी पदाधिकारियों को इस निर्णय से कृपया अवगत कराया जाय।

83.

विषय:—निचली सेवा के सरकारी सेवक के प्रसंग में उपार्जित छुट्टी परिगणना के मापदण्ड में संशोधन करने के सम्बन्ध में।

[Vide Memo No. 3/F1-7-1/80/5208. F., dated 24.5.1990]

बिहार सेवा संहिता के नियम 227 एवं 240 के अधीन सरकारी सेवकों की उपार्जित छुट्टी की परिगणना की प्रक्रिया निम्नांकित है:—

उपार्जित छुट्टी		
कर्मचारियों की कोटि	स्थाई	अस्थाई
(1) उत्कृष्ट सेवा के कर्मचारी	कर्तव्य पर बितायी गयी अवधि का 1/11	कर्तव्य पर बितायी गयी अवधि का 1/22
(2) निचली सेवा के कर्मचारी	कर्तव्य पर बितायी गयी अवधि का 1/16	कर्तव्य पर बितायी गयी अवधि का 1/30

2. उत्कृष्ट सेवा के सरकारी सेवकों एवं निचली सेवा के सरकारी सेवकों की उपार्जित छुट्टी की परिगणना की उपर्युक्त प्रक्रिया में एकरूपता लाने के लिए सरकार ने यह निर्णय लिया है कि निचली सेवा के सरकारी सेवकों की उपार्जित छुट्टी की परिगणना की निम्नांकित प्रक्रिया अपनायी जाय:—

उपार्जित छुट्टी		
कर्मचारियों की कोटि	स्थाई	अस्थाई
(1) निचली सेवा के सरकारी सेवक	कर्तव्य पर बितायी गयी अवधि का 1/11	कर्तव्य पर बिताई गयी अवधि का 1/22

3. उपर्युक्त सुविधा दिनांक 1.5.1980 से लागू होगी। बिहार सेवा संहिता के एतद् सम्बन्धी नियम 227(1)(ख), 240(ख)(1)(2) में उपर्युक्त संशोधन के निमित्त शुद्धि पत्र निर्गत किया जायेगा।

241. The amount of leave due is the amount of earned leave and half pay leave admissible diminished by the amount of earned leave and half pay leave respectively which have been taken.

242. A Government servant to whom the Rules in this sub-head apply may be granted the whole or any part of the leave due to him.

243. A Government servant to whom the Rules under this sub-head apply may during the first three years of service be granted extraordinary leave upto a limit of two months at any one time:

¹[Provided that extraordinary leave upto eighteen months on any one occasion may be granted to a temporary Government servant who is undergoing treatment for (i) pulmonary tuberculosis in a recognised sanatorium, or (ii) tuberculosis of any other part of the body by a qualified T.B. specialist or Civil Surgeon; or (iii) leprosy in

a recognised leprosy institution or by a Civil Surgeon or a Specialist in leprosy recognised as such by the State Government. This concession is admissible also to a temporary Government servant who for want of accommodation in any recognised sanatorium at or near the place of his duty receives treatment at his residence under a tuberculosis specialist recognised as such by the State Government and produces a certificate signed by that Specialist to the effect that he is under this treatment and that he has reasonable chances of recovery on the expiry of the leave recommended. The concession of extraordinary leave upto eighteen months is admissible only to those temporary Government servants who have been in continuous Government service for a period exceeding one year. The grant of leave upto eighteen months is also subject to the condition that the post from which the Government servant proceeds on leave is likely to last till his return to duty.]

¹[Annexure

1. Bhagalpur Leprosy Home and Hospital.
2. Purulia Leprosy Home and Hospital.
3. Naya Kustha Nivas, Purulia.
4. Gaya leper Asylum.
5. R. K. Leper Asylum, Deoghat.
6. Sadoha Leper Colony, Santhal Parganas.
7. New Leper Asylum, Bhagalpur.
8. Muzaffarpur Leper Asylum.
9. Tetulmari Leper Asylum, Dhanbad.
10. Brahmbe Leprosy Institute.

²[Provided further that extraordinary leave upto two years ordinarily and upto three years in very special circumstances, may be granted at any time to a temporary Government servant for purpose of undergoing an approved course of study or training. This concession will however be admissible only to those temporary Government servant who have been in continuous Government service for a period exceeding one year and in whose cases the post from which they proceed on leave are likely to last till their return to duty.]

³[**Note 1.**—Government servants diagnosed to be suffering from tuberculosis shall be allowed, over and above any leave that may be due under the Rules in the Bihar Service Code, special leave on half average pay upto a total of 12 months during the whole service. Above concession is meant for permanent Government servants only, but it may be extended to temporary Government servants also if he has been in continuous Government service for a period exceeding one year and the post from which he proceeds on leave is likely to last till his return to duty. These orders will take effect from 1.4.1963.]

⁴[**Note 2.**—The benefit of 12 months' Special Leave on half average pay shall be allowed to a Government servant suffering from leprosy on the same line as allowed to the Government servant suffering from Tuberculosis.]

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1. 'Annexure: added by No. 1203/56—10614F, dated 13.9.1956.
 2. 'Proviso' added by C.S. No. 18 dated 14.10.1954.
 3. Made out from Memo no. F-1—706/61/2796 F dated 3.2.1961.
 4. *Ins.* by Memo No. CDR—FT—709/65—13079F, dt. 2.11.1966. It has effect from 1.4.1964.

¹[**Note 3.**—The benefit of 12 months special leave on half average pay shall be allowed to a Govt. servant suffering from "Cancer"; on the time as allowed to the Govt. Servant suffering from Tuberculosis.]

[**Comments.**—State Govt. Order which relates to 'Special leave' admissible to Govt. servants suffering from T.B. are being reproduced below.]

State Government decision:—

84.

Regarding.—*Grant of special leave on half average pay upto a total of 12 months during the whole service in addition to any leave that may be admissible under the existing Rules to Government servants suffering from tuberculosis.*

[Vide Memo No. FI—706/61/2796 F, dated 3.2.1961]

The question of grant of special leave on half average pay upto a total of 12 months to the Government servants, who are diagnosed to be suffering from tuberculosis has been under consideration of Government for some time past. At present the above kind of leave is admissible to only non-Gazetted officers and men of the Police Department.

It has now been decided that the Government servants diagnosed to be suffering from tuberculosis shall be allowed, over and above any leave that may be due under the Rules in the Bihar Service Code, special leave on half average pay upto a total of 12 months during the whole service. The above concession is meant for permanent Government servants only, but it may be extended to a temporary Government servant also if he has been in continuous Government service for a period exceeding one year and the post from which he proceeds on leave is likely to last till his return to duty.

This special leave will count for pension only. These orders will take effect from 1.4.1953.

85.

Subject.—*Grant of special leave on half-average pay for 12 months during the entire period of service of the Government servant suffering from leprosy.*

[Letter no. F.T.-709/65-13079-F., dated, the 2.11.1966]

It is to invite a reference to Finance Department Memo no. F-1-708/61-2796 F., dated the 3rd February, 1961 (copy above) on the above subject and to say that the State Government have been pleased to extend the benefit of 12 months special leave on half average pay to a Government servants suffering from leprosy on the same line as allowed to the Government servants suffering from Tuberculosis.

2. This order will take effect from 1st April, 1964.

1. Ins. by Memo No. FI-503/69-7312F, dated 26.9.1969. It has effect from 1.1.1969.

86.

विषय:—राज्य सरकार के विभागों, कार्यालयों, लोक उपक्रमों की ओर से खिलाड़ी कर्मचारियों के मुख्यालय से बाहर या राज्य से बाहर खेलकूद प्रतियोगिता, सांस्कृतिक कार्यक्रम अथवा समारोह आदि में भाग लेने के लिए विशेष आकस्मिक अवकाश की स्वीकृति।

[का० एवं प्र० सु० विभाग ज्ञाप संख्या 3 आर० 1-7088-का 13867-दिनांक 13.11.1990]

उपर्युक्त विषयक बिहार सरकार के खिलाड़ी कर्मचारियों को भारत सरकार द्वारा अपने खिलाड़ी कर्मचारियों को दी गई विशेष छुट्टी के अनुरूप देने का आश्वासन बिहार विधान सभा में तत्कालीन शिक्षा मंत्री द्वारा दिया गया था। इस क्रम में गृह मंत्रालय भारत सरकार के कार्यालय ज्ञापन संख्या-64/7/50-इस्ट दिनांक 5.4.1954 में खिलाड़ी कर्मचारियों को विशेष आकस्मिक छुट्टी की सुविधा के आलोक में भाग लेने के लिए एक कैलेंडर वर्ष में विशेष आकस्मिक छुट्टी स्वीकृत की जाय जो 30 (तीस) दिनों से अधिक नहीं होगी। 30 (तीस) दिनों से अधिक दिनों की छुट्टियों को सामान्य छुट्टी नियमों के अन्तर्गत विनियमित किया जाय, जो उन कर्मचारियों पर लागू हैं। सरकारी कर्मचारी को यह भी सुविधा दी जाय कि वे विशेष परिस्थिति में विशेष आकस्मिक छुट्टी के साथ नियमित छुट्टी को सम्मिलित कर सकें। विशेष आकस्मिक छुट्टी साधारण आकस्मिक छुट्टी के साथ स्वीकृत नहीं की जा सकती है।

2. विशेष आकस्मिक छुट्टी निम्न आधार पर ही स्वीकृत की जा सकती है:—

(क) राज्य स्तरीय एवं अन्तर्राज्य खेल कूद में भाग लेने हेतु।

(ख) जब सरकारी कर्मचारी का इन खेलों में सम्मिलित होने के लिए चयन किया जायगा।

3. (i) विशेष आकस्मिक छुट्टी मान्यता प्राप्त खेल संस्थानों द्वारा चयनित होने तथा उनकी अनुशंसा पर स्वीकृत की जा सकेगी।

(ii) राष्ट्रीय महत्व के खेलों जो अन्तर्राज्य, इन्टर जोनल या इन्टर सर्किल के आधार पर खेले जाते हैं, उन स्पर्धाओं में भाग लेने के लिए राज्य, जोन तथा सर्किल द्वारा सरकारी कर्मचारी मनोनीत किए जाते हों।

(iii) यदि सरकारी सेवक प्रतिनिधि की हैसियत से चयनित न होकर साधारण हैसियत से चुने जाते हों, तो उन्हें ये सुविधा प्राप्त नहीं होगी।

(iv) विशेष आकस्मिक छुट्टी विभागाध्यक्ष द्वारा स्वीकृत की जायेगी।

4. इसके अतिरिक्त राज्य सरकार ने यह भी निर्णय लिया है कि राज्य के मान्यता प्राप्त खेल संघों के पदाधिकारियों एवं निर्णायकों को खेल संघों में भाग लेने के लिए एक कैलेंडर वर्ष में 5 (पांच) दिनों की विशेष आकस्मिक छुट्टी दी जाय।

244. If an interruption of duty other than leave occurs in the service of a temporary Government servant, all leave to his credit shall lapse.

Note.—A reversion to the original position, after a period of temporary or officiating service, of the class of persons specified in the 'note' below Rule 197 shall not be treated as an interruption of a duty within the meaning of this Rule.

245. On completion of three year's continuous service a temporary or officiating Government servant will be eligible for the leave terms indicated in sub-head I except that he will not be eligible for any leave not due. The provisions relating to earned leave or half, pay leave will not have any retrospective effect in such cases i.e. he will begin earning earned leave or half-pay leave at the rates mentioned in Rules 227 and 232 respectively only from the date on which the fourth year of service commences.

Explanation.—The terms "completed year of service" and "three years continuous service" used in this Rule mean continuous service of specified duration under the Government of Bihar or the late Government of Bihar and Orissa and include periods spent on duty as well as on leave (including extraordinary leave).

246. The grant of leave to a temporary Government servant shall be subject to condition that but for the grant of leave, he would have continued to hold a post in Government service until the expiry of the leave.

247. If a Government servant to whom the Rules under this sub-head apply is without interruption of duty substantively appointed to a permanent post, his leave account shall be credited with the amount of leave which would have been admissible to him under the Rules in sub-head 1 of this sub-section if he had been in permanent employ in respect of his previous duty diminished by the amount of all leave which has already been taken prior to his substantive appointment.

Explanation.—Leave does not count as interruption of duty for the purpose of this Rule.

Sub-section (3)—Leave Salary

1[248. (a) Except as provided in clause (b), a Government servant on earned leave is entitled to leave salary at uniform rate equal to average monthly pay earned during ten complete months immediately preceding the month in which the leave commences.

(b) A Government servant who proceeds on earned leave from a post the maximum pay of which does not exceed Rs. 110/- per month is entitled to leave salary equal to the pay drawn immediately before proceeding on leave.

(c) A Government servant on half-pay leave or on leave not due is entitled to leave-salary equal to half the amount specified in clause (a) or clause (b), as the case may be, subject to a maximum of Rs. 750/- per month:

Provided that the said limit shall not apply if the leave is on medical certificate or for pursuing an approved course of study otherwise than on study leave terms.

(d) A Government servant on commuted leave is entitled to leave-salary equal to the amount admissible under clause (a) or clause (b) as the case may be.

(e) A Government servant on extraordinary leave is not entitled to any leave-salary.]

State Government decisions:—

87.

Regarding:—Payment of leave-salary in advance.

[Vide memo No. (CDR)—PAR-4057/61 1910F, the 14.2.1962]

On the line of decision taken by the Government of India, on the recommendation of the Central Pay Commission, the State Government have been pleased to decide that Government servants, both permanent and temporary proceeding on leave may be allowed one month's leave-salary in advance subject to the following conditions:—

1. Subs. by C.S. No. 109 dated 21.9.1963. This Rule has been again amended vide F.D. No. 3/M2-5-11/82/1982 F(2) dated 14.12.1983. See State Govt. decision No.2 of Page 192 (Part I).

- (1) No advance may be granted when the leave taken is for less than a month/30 days.
- (2) Amount of the advance should be restricted to the net amount of the leave-salary and C.L.A. thereon for the first month of leave that are clearly admissible to the Government servant after deduction on account of Income Tax, Provident Fund, House Rent, repayment of advances, etc. so that there is no financial risk involved.

The advance may be made on the basis of leave payable for one month of leave irrespective of the fact that a portion of leave may extend to the month following the month in which it is being drawn. For example if a Govt. servant proceeds on leave say for 45 days with effect from 12.9.1960. the advance of leave-salary for a month viz. from 12.9.1960 to 11.10.1960 may be paid.

The deductions to be effected from the leave-salary in the case of Gazetted Government servant can be ascertained from the previous pay bills of the officer concerned. Deduction 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 if extent information is readily available. The deduction may be effected from the leave salary of duty pay which the Government servant will draw during the major portion of the month.

- (3) The advance should be adjusted in full in the leave-salary bill in respect of the leave availed of in the case where the advance cannot be so adjusted in full the balance will be recovered from the payment of pay or/and leave salary.
- (4) The advance may be sanctioned by the Head of the Office both in the case of Gazetted and non-Gazetted Officers.
- (5) Officers who are Heads of Office may sanction the advance to themselves but if the Head of Office is a temporary Government servant, the advance may be sanctioned by his immediate superior officer and not by himself.
- (6) The advance in respect of temporary Government servant will be sanctioned subject to furnishing by them of the surety of a permanent Government servant.
- (7) The amount of advance will be debited to the Head of Account to which the pay etc. of the Government servants is debited and the adjustment of the advance will be watched through objection book by the Accountant-General.
- (8) Advance under these orders shall be sanctioned in whole rupee.
- (9) In the case of a Gazetted Government servant where it can be

ascertained by the sanctioning authority that the Gazetted Government servant proceeding on leave has to his credit one month's leave, the advance may be sanctioned by him even without awaiting the Accountant-General's report regarding the admissibility of leave. The sanctioning authority can ascertain whether there is one month's leave at the credit of the officer from the application for leave in which the nature and the period of leave availed of by him on the previous occasions is mentioned and it can be reckoned what amount of leave the Government servant has earned during the period from the date of his return from leave to the date he again proceeds on leave. The Accountant General's reports should be awaited when information as above is not available with the Head of the Office and also in doubtful cases.

- (10) The advance sanctioned under these orders 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.

2. In so far as persons serving under the High Court and in the Legislative Assembly Secretariat and in the Legislative Council Secretariat are concerned, these orders have been issued with the concurrence of the Chief Justice and after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council.

88.

विषय:—दिनांक 1.4.1981 से या उसके बाद छुट्टी में प्रस्थान करनेवाले सरकारी सेवकों के प्रसंग में छुट्टी वेतन की परिगणना के निमित्त अपुनरीक्षित वेतनमान में देय महंगाई भत्ता आदि को जोड़ने के सम्बन्ध में।

[ज्ञाप संख्या-3एफ-1-6-01/82/4563/वि० दिनांक 27 अप्रिल, 1982]

बिहार सेवा संहिता के नियम 248 के अनुसार किसी सरकारी सेवक को उपार्जित छुट्टी की अवधि में छुट्टी में प्रस्थान करने के दस माह पूर्व प्राप्त वेतन का औसत छुट्टी वेतन के रूप में देय है। वित्त विभाग के संकल्प संख्या 10770 दिनांक 30 दिसम्बर, 1981 के जरिए दिनांक 1 अप्रिल, 1981 से लागू किये गये पुनरीक्षित वेतनमान में दिनांक 31.3.1981 को प्राप्त महंगाई भत्ता की सम्पूर्ण राशि वेतन में सम्मिलित कर ली गयी है जिसके परिणामस्वरूप दिनांक 1.4.1981 से या उसके बाद छुट्टी में प्रस्थान करनेवाले सरकारी सेवकों के प्रसंग में अपुनरीक्षित वेतनमान में प्राप्त महंगाई भत्ता, अतिरिक्त महंगाई भत्ता एवं अंतरिम सहायता की राशि को छुट्टी वेतन की परिगणना के लिए जोड़ा जाय अथवा नहीं, यह विषय सरकार के विचाराधीन था। इस विषय पर पूर्ण रूप से विचारोपरान्त सरकार द्वारा यह निर्णय लिया गया है कि दिनांक 1.4.1981 से या उसके बाद छुट्टी में प्रस्थान करनेवाले सरकारी सेवकों के प्रसंग में छुट्टी वेतन की परिगणना में अपुनरीक्षित वेतनमान में प्राप्त वेतन, महंगाई भत्ता, अतिरिक्त महंगाई भत्ता एवं अन्तरिम सहायता की राशि सम्मिलित की जाएगी। पुनरीक्षित वेतनमान में सरकारी सेवकों को देय महंगाई भत्ता छुट्टी वेतन की परिगणना में सम्मिलित नहीं किया जाएगा, किन्तु इस प्रकार परिगणित छुट्टी वेतन पर दिनांक 1.4.1981 से पुनरीक्षित वेतनमान से समय-समय पर देय महंगाई भत्ता भी वित्त विभागीय संख्या 22082 दिनांक 10.10.1949 की कौडिका 1(iii) के अनुसार मिलेगा।

89.**Subject:—Amendment of Rule 248 of the Bihar Service Code.****[Vide. F.D. letter no. 3/M2-5-11/82/1982 F, (2) dated 14.12.1983]**

The question of amendment of procedure for calculation of leave salary was under the consideration of the State Govt. After careful consideration State Government have decided to insert following Rules in place of the present provisions of Rule 248 of the Bihar Service Code:—

Rule 248. (a) A Govt. servant who proceeds on earned leave is entitled to leave salary equal to the pay drawn immediately before proceeding on earned leave.

(b) A Govt. servant on half pay leave or leave not due is entitled to leave salary equal to half the amount specified in sub-rule (a).

(c) A Govt. servant on commuted leave is entitled to leave salary equal to the amount admissible under sub-rule (a).

(d) A Govt. servant on extraordinary leave is not entitled to any leave salary.

2. The amendment would come into force from the date of issue of order.

249. Subject to the condition that his leave-salary shall in no case exceed the amount admissible under Rule 248 (a) the leave-salary drawn by a Government servant on leave out of India, including foreign possession in India, Ceylon, Nepal, Burma, Pakistan, or Aden is subject to the monthly minimum shown below:—

Outside Asia	...	...	...	£ 25
In Asia	...	...	...	Rs. 250

Section IX—Transitional

Note—Rules 227, 232, 233, 234, 235, 240, 241, 243 and 245 in Sections VIII came in to force with effect from 1st June, 1949.

250. (a) The earned leave to the credit of a Government servant under the Rules previously in force on the 1st June, 1949, will be carried forward and there will be no retrospective calculation of such leave. For half pay leave, it will be necessary to make retrospective calculation in respect of such leave, for the entire continuous service of a Government servant, viz., under Rule 232 for a Government servant in permanent employ and under Rule 240 a Government servant not in permanent employ. The half pay leave to be carried forward under these Rules will, therefore be the total half pay leave earned in respect of completed years of service on the 1st June, 1949, reduced by the amount of leave on private affairs and leave on medical certificate availed of prior to that date. If this calculation results in a minus balance, it should be adjusted against the half-pay leave that will be earned subsequently.

This Rule also does not authorise the retrospective calculation of leave-salary in respect of the leave availed of before the 1st June, 1949. In the case of a person on leave on that date, leave-salary calculated on the basis of this Rule should be granted with effect from the date.

(b) In the case of Government servant coming under Rule 222 (a), the leave on average pay to the credit of the Government servant on the 1st June, 1949, will be treated as earned leave and may be carried forward subject to a maximum limits of accumulation prescribed in Rule 227(2)(b) and the half pay leave to be carried forward will be the total amount of half-pay leave admissible in respect of the number of completed years of service on the 1st June, 1949, reduced by the total amount of leave on half-average pay or on quarter average pay availed of before that date. If this calculation results in a minus balance, it should be adjusted against the half pay leave that will be earned subsequently, such minus balance being treated as leave not due for the purpose of 120 days's limit mentioned in Rule 235.

Note—The half-pay leave to be carried forward on the 1st June, 1949 is the amount of leave which accrued on that date in respect of completed years of previous service less the leave taken on medical certificate and private affairs. Such leave in respect of any fraction of a years' service left over on the 1st June, 1949, accrues on completion of another year of service which will include the fraction left over on the 1st June, 1949. To illustrate the point, in the case of a person in superior service who entered permanent Government service on the 1st September, 1947 and has taken no leave on medical certificate, or, on private affairs, the credit to the half pay leave account on the 1st June, 1949, will be 20 days and the person will get a further credit of 20 days on the 1st September, 1949.

251. The grant of half-pay leave on medical certificate and commuted leave will also continue to be subject to the production of medical certificate from the prescribed medical authority and for a period not exceeding that recommended by such medical authority.

CHAPTER VII

Joining Time

252. Joining time may be granted to a Government servant to enable him—

- (a) to join a new post to which he is appointed while on duty in his old post; or
- (b) to join a new post,—
 - (i) on return from leave on average pay of not more than four month's duration; or
 - (ii) when he has not had sufficient notice of his appointment to the new post, on return from leave other than that specified in sub-clause (i); or
- (c) to travel from the port of debarkation and organise his domestic establishment when he returns from leave out of India of more than four month's duration; or
- (d) on departure on or return from leave, to proceed from or to the place at which he is posted to or from specified stations when the place concerned is in a locality which has been declared by the State Government to be remote and difficult of access; or
- (e) on departure to or return from a course of training exceeding three months, to proceed to the place of training or return from it to the station to which he is posted.