

## CHAPTER V

### SUSPENSION

#### 1. **Effect of suspension**

An order of suspension has the effect of debarring a Government servant from exercising the powers and discharging the duties of his office for the period the order remains in force.

#### 2. **When a Government servant may be suspended.**

2.1. A Government servant may be placed under suspension when a disciplinary proceeding against him is contemplated or is pending or where, in the opinion of the competent authority, he has engaged himself in activities<sup>A(4)</sup> prejudicial to the interest of the security of the State or when a case against him in respect of any criminal offence is under investigation, enquiry or trial.

2.2 The suspended Government servant retains a lien on the permanent<sup>A(18)</sup> post held by him substantively at the time of suspension and does not suffer a reduction in rank. However, suspension may cause a lasting damage to Government servant's reputation even if he is exonerated or is ultimately found guilty of only a minor misconduct. The discretion vested in the competent authority in this regard should, therefore, be exercised with care and caution after taking all factors in account.

2.3 It may be considered whether the purpose would not be served if the officer was transferred from his post. If he would like to have leave that might be due to him and if the competent authority thinks that such step would not be inappropriate, there should be no objection to leave being granted instead of suspending him.

2.4 Public interest should be the guiding factor in deciding whether or not a Government servant, including a Government servant on leave, should be placed under suspension or whether such action should be taken even while the matter is under investigation and before a prima facie case has

been established. Certain circumstances under which it may be considered appropriate to do so are indicated below for the guidance of disciplinary authorities:

- B(41) i) where the continuance in office of the Government servant  
B(78) will prejudice investigation, trial or any inquiry (e.g., ap-  
B(81) prehended tampering with witnesses or documents);  
B102)  
B(120)
- ii) where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which he is working;
- iii) where the continuance in office of the Government servant will be against the wider public interest, e.g., if there is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;
- iv) where a preliminary enquiry into allegations made has revealed a prima facie case justifying criminal or departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service;
- v) where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

2.5 In the circumstances mentioned above, it may be considered desirable to suspend a Government servant for misdemeanours of the following types:

- i) an offence or conduct involving moral turpitude;
- ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse

- of official powers for personal gains;
- iii) serious negligence and dereliction of duty resulting in considerable loss to Government;
  - iv) desertion of duty;
  - v) refusal or deliberate failure to carry out written orders of superior officers.

In case of types (iii), (iv) and (v) discretion should be exercised with care.

2.6 Without prejudice to the above guidelines, there are certain kinds of cases where the SPE will, invariably, advise that the officer should be placed under suspension. Suspension of public servants in these cases would be fully justified. The cases and the stage of the proceedings, where SPE will advise suspension are given below:-

- i) in a case where a trap has been laid to apprehend a Government servant while committing an act of corruption (usually receiving-illegal gratification) and the Government servant has been so apprehended; immediately after the Government servant has been so apprehended;
- ii) in a case where, on conducting a search it is found that a Government servant is in possession of assets disproportionate to his known sources of income and it appears, prima facie, that a charge under Section 5(1) (e) of the Prevention of Corruption Act could be laid against him immediately after the prima facie conclusion has been reached.
- iii) in a case where a charge sheet accusing a Government servant of specific acts of corruption or any other offences involving moral turpitude has been filed in a criminal court: immediately after the filing of the charge sheet.

- iv) in a case, where, after investigation by SPE a prima facie case is made out, and pursuant thereto, regular departmental action for imposition of major penalty has been instituted against a Government servant and a charge sheet has been served upon him alleging specific acts of corruption or gross misconduct involving moral turpitude : immediately after the charge sheet has been served upon the Government servant.

2.7 A Government servant may also be suspended by the competent authority in cases in which the appellate, revising or reviewing authority, while setting aside an order imposing the penalty of dismissal, removal or compulsory retirement directs that de novo enquiry should be held or that steps from a particular stage in the proceedings should be taken again and considers that the Government servant should be placed under suspension even if he was not suspended previously. The competent authority may in such cases suspend a Government servant even if the appellate or reviewing authority had not given any direction that the Government servant should be suspended.

2.8 A Government servant against whom proceedings have been initiated on a criminal charge but who is not actually detained in custody (e.g., a person released on bail) may be placed under suspension by an order of the competent authority under clause (b) of Rule 10 (1) of the Central Civil Services (Classification, Control and Appeal) Rules 1965.

2.9 A Government servant shall be placed under suspension, by the competent authority, by invoking the provisions of sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965, if he is arrested in connection with the registration of the police case under Section 304-B of the IPC for his involvement in a case of dowry death, immediately, irrespective of the period of his detention. If he is not arrested, he shall be placed under suspension immediately on submission of a police report under section 173 (2) of the Code of Criminal Procedure, 1973 to the Magistrate, if the report prima facie indicates that the offence has been committed by the Government servant.

2.10 The Supreme Court in the case of Niranjana Singh and others vs. Prabhakar Rajaraj Kharote and others (SLP No. 393 of 1980) have made some observations about the need/desirability of placing a Government servant under suspension, against whom serious charges have been framed by a criminal court, unless exceptional circumstances suggesting a contrary course exist. As and when criminal charge are framed by a competent court against a Government servant, the disciplinary authority should consider and decide the desirability or otherwise of placing such a Government servant under suspension in accordance with the rules, if he is not already under suspension. If the Government servant is already under suspension or is placed under suspension, the Competent Authority should also review the case from time to time, in accordance with the instructions on the subject and taken a decision about the desirability of keeping him under suspension till the disposal of the case by the Court. <sup>B(112)</sup>

### 3. Competent Authority

3.1 A Government servant governed by the Central Civil Services (CC&A) Rules, 1965 may be placed under suspension :

- a) by the “appointing authority” as defined in Rule 2(a) of the Central Civil Services (CC&A) Rules, 1965; or
- b) by any authority to which the appointing authority is subordinate; or <sup>A(4)</sup>
- c) by the disciplinary authority, i.e. the authority competent to impose any of the penalties specified in Rule 11 of the Central Civil Services (CC&A) Rules, 1965; or
- d) by any other empowered in that behalf by the President by a general or special order.

3.2. If an order of suspension is made by an authority lower than the appointing authority, but which is competent to pass an order of suspension

in respect of the Government servant concerned, such authority shall report to the appointing authority the circumstances in which the order was made. However, such report need not be made in the case of an order of suspension made by the Comptroller and Auditor General in respect of a member of the India Audit and Accounts Service and also in respect of a holder, other than a regular member of the India Audit and Accounts Service of a post of Assistant Accountant General or equivalent.

3.3. Before passing an order of suspension, the authority proposing to make the order should verify whether it is competent to do so. An order of suspension made by an authority which does not have the power to pass such an order is illegal and will give cause of action for:

- a) setting aside of the order of suspension; and
- b) claiming full pay and allowances for the period the Government servant remained away from duty due to the order of suspension.

3.4. When an order of suspension is made by an authority subordinate to the appointing authority, the appointing authority, should, as soon as information about the order of suspension is received, examine whether the authority by whom the order was made was competent to do so.

A(4) 3.5. Where the services of a Government servant are lent by one department to another department or borrowed from or lent to a State Government or an authority subordinate thereto or borrowed from or lent to a local authority of other authority, the borrowing authority can suspend such Government servant under Rule 20 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The leading authority should however, be informed forthwith of the circumstances leading to the Order of suspension.

A(7) 3.6. In the circumstances stated in Rule 3 of the All India Services (Discipline & Appeal) Rules, 1969, the Central Government can suspend a member of an All India Service if he is serving under the Central Government

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or is on deputation to a corporate public enterprise or to local authority under the Central Government.

#### 4. Deemed suspension

4.1. Under Rule 10(2), (3) and (4) of the Central Civil Services (CC&A) Rules, 1965, a Government servant is deemed to have been placed under suspension in the following circumstances:-

A(4)

- (i) If a Government servant is detained in custody, whether on a criminal charge or otherwise, for a period exceeding 48 hours, he will be deemed to have been placed under suspension by an order of the appointing authority with effect from the date of detention. A Government servant who is detained in custody under any law providing for preventive detention or as a result of proceedings for his arrest for debt will fall in this category.
- (ii) If a Government servant is convicted of an offence and if he is sentenced to a term of imprisonment exceeding 48 hours and is not forthwith dismissed, removed or compulsorily retired consequent upon such conviction, he shall be deemed to have been placed under suspension by an order of the appointing authority with effect from the date of his conviction. For this purpose the period of 48 hours will be computed from the commencement of imprisonment after the conviction and intermittent periods of imprisonment, if any, will be taken into account.
- (iii) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review and the case is remitted by the appellate or reviewing authority for further enquiry or action or with any other direction, the order of suspension shall be deemed to have continued in force on and from the date of original order of dismissal, removal or

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compulsory retirement and shall remain in force until further orders.

- (iv) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continued to remain under suspension until further orders. The further enquiry referred to above should not be ordered except in a case where the penalty of dismissal, removal or compulsory retirement, has been set aside by a court of law on technical grounds without going into the merits of the case or when fresh material has come to light which was not before the court. A further enquiry into the charges which have not been examined by the court can, however, be ordered depending on the facts and circumstances of each case.

B(99)

- 4.2. An order of suspension made or deemed to have been made under clauses (1) to (4) of Rule 10 of the CCS (CCA) Rules, 1965, continues to remain in force until it is modified or revoked by the competent authority under Rule 10(5) *ibid*.

A(4)

- 4.3. The police authorities will sent prompt intimation or arrest and/or release on bail etc., of a Central Government servant to the latter's official superior as soon as possible after the arrest and/or release indicating the circumstances of the arrest etc.

B(9)

- 4.4. A duty has also been cast on the Government servant who may be arrested, or convicted, for any reasons to intimate promptly the fact of his



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arrest/conviction and circumstances connected therewith to his official superior even through he might have been released on bail subsequently. Failure on the part of Government servant to do so will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone, apart from the action that may be called for, on the outcome of the police case against him.

### 5. Order of suspension

5.1. A Government servant can be placed under suspension only by a specific order made in writing by the competent authority. A standard form in which the order should be made is given in Section E. A Government servant should not be placed under suspension by an oral order.

5.2. In the case of deemed suspension under Rule 10(2), (3) or (4) of the CCS (CC&A) Rules, 1965, suspension will take effect automatically even without a formal order of suspension. However, it is desirable for purposes of administrative record to make a formal order, a standard form of which is given in Section E.

5.3. If the two standard form are not found fully to meet the requirements of any case, the competent authority may simplify/modify the appropriate form suitably to meet the requirements of the case and should indicate all the cases (criminal/departmental under investigation/trial/contemplation) on the basis of which it is considered necessary to place the Government servant under suspension so that in the event of the reinstatement of the Government servant, the outcome of all such cases can be taken into account, while regulating the period of suspension.

5.4. A copy of the order of suspension should be endorsed to the Central Vigilance Commission also in cases involving a vigilance angle in respect of category "A" employees, i.e. involving employees in whose case Commission's advice is necessary.

### 6. Duration of order of suspension

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6.1. An order of suspension made or deemed to have been made will continue to remain in force until it is modified or revoked by the authority competent to do so. In cases in which the proceedings result in an order of dismissal removal of compulsory retirement, the order of suspension will cease to exist automatically from the date from which the order of dismissal, removal or compulsory retirement takes effect.

6.2. Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may for reasons to be recorded by him, in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings. Therefore whenever a Government servant is under suspension and any other case is initiated against him and the competent authority considers it necessary that the Government servant should remain under suspension in connection with that case also, the competent authority should pass fresh orders on the Government Servant's suspension with specific reference to all the cases against the Government servant so that in the event of reinstatement of the Government servant in one case the facts of other case (s) can also be taken into account while regulating the period of his suspension.

### **7. Date of effect of order of suspension**

7.1. Except in cases in which a Government servant is deemed to have been placed under suspension in the circumstances described in paragraph 4 above, an order of suspension can take effect only from the date on which it is made. Ordinarily it is expected that the order will be communicated to the Government servant concerned simultaneously.

7.2 Difficulty may, however, arise in giving effect to the order of suspension from the date on which it is made if the Government servant proposed to be placed under suspension:-

- a) is stationed at a placed other than where the competent au-

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thority makes the order of suspension;

- b) is on tour and it may not be possible to communicate the order of suspension;
- c) is an officer holding charge of stores and/or cash, warehouses, seized goods, bonds, etc.

7.3. In cases of types (a) and (b) above, it will not be feasible to give effect to an order of suspension from the date on which it is made owing to the fact that during the intervening period a Government servant may have performed certain functions lawfully exercisable by him or may have entered into contracts. The competent authority making the order of suspension should take the circumstances of each such case into consideration and may direct that the order of suspension will take effect from the date of its communication to the Government servant concerned.

7.4. When a Government servant holding charge of stores and/or cash is to be placed under suspension, he may not be able to hand over charge immediately without checking and verification of stores/each etc. In such cases the competent authority should, taking the circumstances of each case into consideration, lay down that the checking and verification of stores and/or cash should commence on receipt of suspension order and should be completed by a specified date from which suspension should take effect after formal relinquishment of charge.

7.5. An officer who is on leave or who is absent from duty without permission will not be performing any functions of his office. In such cases there should be no difficulty in the order of suspension operating with immediate effect. It should not be necessary to recall a Government servant if he is on leave for the purpose of placing him under suspension. When a Government servant is placed under suspension while he is on leave, the unexpired portion of the leave should be cancelled by an order to that effect.

7.6. No order of suspension should be made with retrospective effect ex- B(10)

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cept in the case of deemed suspension under para 5. A retrospective order will be both meaningless and improper.

## **8. Headquarters during suspension**

<sup>B(10)</sup> 8.1 The order of suspension should specify the headquarters of the Government servant during the period that the order will remain in force. It should normally be the last place of duty. The competent authority may, however, for reasons to be recorded in writing, fix any other place as his headquarters in the interest of public service.

8.2. If a Government servant under suspension requests for a change of headquarters, the competent authority may accede to the request if it is satisfied that such a course will not put Government to any extra expenditure like grant of travelling allowance etc., or create difficulty in investigation or in processing the departmental proceeding etc.

8.3 A Government servant under suspension is subject to all the conditions of service applicable to Government servants and cannot leave the headquarters without prior permission.

## **9. Speedy investigation into cases in which an officer is under suspension**

<sup>B(52)</sup>  
<sup>B(49)</sup>  
<sup>B(70C)</sup>  
<sup>B(78)</sup> 9.1 Though suspension is not a punishment, it constitutes a great hardship for a Government servant. In fairness to him, the period of suspension should be reduced to the barest minimum. Investigation into cases of officers under suspension should, therefore, be given high priority and every effort should be made to file the charge sheet in the court of competent jurisdiction in cases of prosecution or serve the charge sheet on the officers in cases of departmental proceedings within three months of the date of suspension. In cases which are taken up by, or are entrusted to the Central Bureau of Investigation for investigation, the time limit of three months will be reckoned from the date on which the case is taken up for investigation by the Central Bureau of Investigation.

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9.2 If investigation is likely to take more time, it should be considered whether it is still necessary, taking the circumstances of the case into account, to keep the officer under suspension or whether the suspension order could be revoked, and if so whether the officer could be permitted to resume duty on the same post or transferred to another post or office.

9.3 When an officer is suspended either at the request of the Central Bureau of Investigation or on the Department 's own initiative in regard to a matter which is under investigation or inquiry by the CBI or which is proposed to be referred to the CBI, a copy of the suspension order should be sent to the Director, Central Bureau of Investigation, with an endorsement thereof to the Special Police Establishment Branch concerned. To reduce the time-lag between the placing of an officer under suspension and the reference of the case to the CBI for investigation, such cases should be referred to the CBI promptly after the suspension orders are passed if it is not possible to refer them before the passing of suspension orders.

9.4 The instructions contained in sub-paragraphs 9.1 and 9.2 aim at reducing the time taken in investigation into cases of officers under suspension and speeding up the progress of cases at the investigation stage. They do not in any way abridge the inherent powers of the disciplinary authority in regard to the review of cases of Government authority servants under suspension at any time either during investigation or thereafter. The disciplinary authority may review periodically cases of Government servants under suspension in which charge sheets have been served/filed to see :

- i) whether the period of suspension is prolonged for reasons directly attributable to the government servant;
- ii) what steps could be taken to expedite the progress of the court trial/departmental proceedings;
- iii) whether the continued suspension of the officer is necessary having regard to the circumstances of the case at any particular stage; and

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- iv) whether having regard to the guide-lines enunciated in paragraph 2 regarding the circumstances in which a disciplinary authority may consider it appropriate to place a Government servant under suspension, the suspension may be revoked and the Government servant concerned permitted to resume duty at the same station or and a different station.

9.5 In cases in which the order of suspension is revoked and the Government servant is allowed to resume duty before the conclusion of criminal or departmental proceedings, an order under the relevant rule (s) of the Fundamental Rules, regarding the pay and allowances to be paid to him for the period of suspension from duty and whether or not the said order shall be treated as a period spent on duty can be made only after the conclusion of the proceedings against him.

## **10. Appeals against and modification or revocation of order of suspension**

10.1 An order of suspension made or deemed to have been made may be modified or revoked at any time for good and sufficient reasons by the authority that made the order or is deemed to have made the order or by an authority to which that authority is subordinate.

10.2 Subject to the provisions of Rule 22 of the Central Civil Services (Classification, Central & Appeal) Rules, 1965, a Government servant may prefer an appeal against an order of suspension made or deemed to have been made under Rule 10. This would imply that a Government servant who is placed under suspension should generally know the reasons leading to his suspension so that he may be able to prefer an appeal against it. Where a Government servant is placed under suspension on the ground that a disciplinary proceeding against him is pending or a case against him in respect of any criminal offence is under investigation, inquiry or trial the order placing him under suspension would itself contain a mention in this regard and he would, therefore, be aware of the reasons leading to his suspension. Where a Government servant is placed under suspension on the ground of “con-

templated” disciplinary proceeding, every effort would be made as stated in para 9.1 to finalise the charges against the Government servant within three months of the date of suspension. If these instructions are strictly followed, a Government servant who is placed under suspension on the ground of contemplated disciplinary proceedings will become aware of the reasons for his suspension without any loss of time. However, there may be some cases in which it may not be possible for some reasons or the other to issue a charge sheet within 3 months from the date of suspension. In such cases, the reasons for suspension should be communicated to the Government servant concerned immediately on the expiry of this time-limit prescribed for the issue of the charge sheet so that he may be in a position effectively to exercise the right of appeal available to him, if he so desires. Where the reasons for suspension are communicated to him on the expiry of time-limit prescribed for issue of charge-sheet, the time-limit for submission of appeal (45 days) should be counted from the date on which the reasons for suspension are communicated. This will not apply to cases where Government servant are placed under suspension on the ground that he has engaged himself in activities prejudicial to the interest of the security of the State. B(120)

10.3. On receipt of the appeal, the appellate authority shall consider whether in the light of the provisions of Rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

10.4 An order of suspension should be revoked without delay whether the Government servant was placed under suspension pending completion of :

- (i) departmental investigation or inquiry:-
  - a) if it is decided that no formal proceedings need be drawn up with a view to imposing a penalty of dismissal, removal, compulsory retirement or reduction in rank,
  - b) if the Government servant is exonerated of the charges against him,

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- c) If the penalty awarded is not dismissal, removal of compulsory retirement;
  - (ii) investigation or trial in respect of any criminal offence -
    - a) if investigation does not disclose any prima facie case of an offence having been committed,
    - b) if he is acquitted by a competent court; provided it is further decided that no departmental proceedings need be initiated on the basis of facts disclosed during investigation or on the basis of facts which led to the launching of prosecution in a court of law.

10.5 If a Government servant who was deemed to have been placed under suspension due to detention in police custody erroneously or without basis is released without any prosecution having been launched, the deemed suspension may be treated as revoked from the date the Government servant is released from police custody without any prosecution having been launched. A formal order for revocation of such prosecution may however be issued for administrative record.

10.6. In the case of a Government servant under suspension who is acquitted in a criminal proceeding and against whose acquittal an appeal or a revision application is filed, it may be considered whether it is necessary to continue him under suspension. If not, the order of suspension should be revoked immediately (see also paragraph 16.2 of Chapter VII).

10.7. The order of revocation of suspension will take effect from the date of issue. However, where it is not practicable to reinstate a suspended Government servant with immediate effect, the order of revocation of suspension should be expressed as taking effect from a date to be specified.



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10.8. On revocation of an order of suspension, a Government servant is reinstated in service. Further action should be taken after such reinstatement as indicated in Chapter XIV.

10.9. An order of revocation of suspension should be made in the prescribed form. E(10)

### **11. Resignation during suspension**

If a Government servant who is under-suspension submits his resignation, the competent authority should examine with reference to the merits of the disciplinary case pending against him whether it would be in the public interest to accept the resignation. Normally an officer is placed under suspension only in cases of grave delinquency and it would not be correct to accept resignation of an officer under suspension. Where, however, the acceptance of resignation as considered necessary in the public interest, because of one or more of the following conditions, the resignation may be accepted with the prior approval of the Head of the Department in case of holders of Group C and Group D posts and that of Minister-in-charge in respect of holders of Group 'A' and Group 'B' posts. In case of Group B officers serving in the Indian Audit and Accounts Department such a resignation may be accepted with the prior approval of the Comptroller and Auditor General:

B(16)  
B(68)

- a) The alleged offence does not involved moral turpitude; or
- b) The evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would removed or dismissed from service; or
- c) The departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept resignation.

Concurrence of the Central Vigilance Commission should also be

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obtained before submission of the case to the Minister of charge/C&AG, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

**12. Promotion/confirmation of Government servants who are under suspension or against whom disciplinary/court proceedings are pending or whose Conduct is under investigation.**

12.1. At the time of considerations of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom disciplinary proceedings are pending or a decision has been taken to initiate disciplinary proceedings;
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending or sanction for prosecution has been issued or a decision has been taken to accord sanction for prosecution;
- (iv) Government servants against whom an investigation on serious allegations of corruption, bribery or similar grave misconduct is in progress either by CBI or any other agency, departmental or otherwise.

12.2. The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned in para 12.1 along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending or contemplated against them or where the investigation is in

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progress. The assessment of the DPC, including 'Unfit for Promotion', and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "Findings regarding suitability for promotion to the grade/post of ..... in respect of Shri ..... (name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution/investigation against Shri .....". the proceedings of the DPC need only contain the note. 'The findings are contained in the attached sealed cover'. The authority competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

12.3. The same procedure outlined in para 12.2 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution/investigation pending or contemplated against the Government servant concerned is concluded.

12.4. On the conclusion of the disciplinary case/criminal prosecution, or an investigation which results in dropping of allegation or complaints against the Government servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis or such position. The Government servant may be promoted, if necessary by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior but he will be allowed any arrears of pay for the period preceding the date of actual promotion.

12.5. If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

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12.6 In a case where disciplinary proceedings have been held under the relevant disciplinary rules, ‘ warning’ should not be issued as a result of such proceedings. If it is found as a result of the proceedings, that some blame attaches to the Government servant, at least the penalty of censure should be imposed.

12.7. It is necessary to ensure that the disciplinary case/criminal prosecution/investigation instituted against any Government servant is not unduly prolonged and all efforts to finalise expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the following aspects:-

- i) The progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion;
- ii) Scrutiny of the material/evidence collected in the investigation to take a decision as to whether there is a prima facie case for initiating disciplinary action or sanctioning prosecution against the officer. If, as a result of the review, the appointing authority comes to a conclusion in respect of cases covered by item (ii) above that there is no case for taking action against the Government servant concerned, the sealed cover may be opened and he may be given his due promotion with reference to the position assigned to him by the DPC.

12.8 The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension etc. A permanent vacancy should be reserved for such an officer

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when his case is placed in a sealed cover by the DPC.

12.9 In spite of the six monthly review referred to in para 12.7 above, there may be some cases, where the disciplinary case/investigation/criminal prosecution against the Government servant are not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- a) Whether the promotion of the officer will be against public interest;
- b) Whether the charges are grave enough to warrant continued denial of promotion;
- c) Whether there is no likelihood of the case coming to a conclusion in the near future;
- d) Whether the delay in the finalisation of proceedings, departmental or in a court of law or the investigation is not directly or indirectly attributable to the Government servant concerned;
- e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after ad-hoc promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of investigations conducted by the Bureau. Where the investigation as contemplated in para 12.1 (iv) above is still pending, the CBI or the other authorities concerned should be consulted.

12.10. In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the Government servant is considered for ad-hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution/investigation against him.

12.11. After a decision is taken to promote a Government servant on an ad-hoc basis, an order of promotion may be issued making it clear in the order itself that:-

- (i) the promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel the ad-hoc promotion and revert at any time the Government servant to the post from which he was promoted.

12.12. If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings or the investigation did not lead to criminal prosecution/disciplinary proceedings, the ad-hoc promotion already made may be confirmed and the promotion treated as a regular one from the date of the ad-hoc promotion with all attendant benefits. In case the Government servant could have normally got regular promotion from a date prior to the date of his ad-hoc promotion with reference to his placement in the DPC proceeding kept in the sealed cover (s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 12.4 above.

12.13 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the ad-hoc promotion granted to him should be brought to an end.

12.14. A Government servant, who is recommended for promotion by<sup>B(31)</sup> the Department Promotion Committee but in whose case any of the circumstances mentioned in Para 12.1 arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions stated above will be applicable in his case also.

12.15 A Government servant placed under suspension while officiating in a higher post can be reverted to the lower post otherwise than as<sup>B(31)</sup> punishment even during his suspension.

### 13. Subsistence allowance

13.1 The competent authority should pass an order regarding the subsistence and other allowances to be paid to the Government servant during the period of suspension simultaneously with the orders of suspension or as early as possible after the issue of the order of suspension to avoid hardship to the concerned Government servant. It may be noted that, by its very nature, subsistence allowance is E(a) meant for the subsistence of a suspended Government servant and his family during the period he is not allowed to perform any duty and thereby earn a salary. The authorities concerned should, therefore, take prompt steps to ensure that after a Government servant is placed under suspension, he receives subsistence allowance without delay.<sup>A(18)</sup><sup>B(9)</sup>

13.2. A Government servant under suspension is entitled, upto the first

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three months of the period of suspension, to subsistence allowance at an amount equal to the leave salary which he would have drawn if he had been on leave on half average pay or half pay and, in addition, dearness allowance on the basis of such leave salary.

13.3. the competent authority may vary the amount of subsistence allowance for any period exceeding the first three months as follows:-

- (i) The amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first 3 months, if in the opinion of the competent authority, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the Government servant;
- (ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of first three months, if, in the opinion of the competent authority, the period of suspension has been prolonged due to reasons to be recorded in writing directly attributable to the Government servant;
- (iii) The rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance under sub-clauses (i) and (ii) above.

- D(6) 13.4. In view of the fact that any failure on the part of the competent authority to pass an order for an increase or decrease of the subsistence allowance, as soon as the suspended officer has been under suspension for three months, can either involve serious hardship to the officer concerned or invoke unnecessary expenditure to Government, it should be ensured by the competent authority that action is initiated in all such cases and a decision is taken in sufficient time before the expiry of the first three months of suspension so that the requisite



order can take effect as soon as the suspended Government servant has completed three months under suspension. Under F.R. 53, it is obligatory that such action is taken before the expiry of the first three months of suspension. It is not desirable that any order revising the amount of subsistence allowance should be given retrospective effect. However, this is merely an advice of caution intended to serve as a guideline to the competent authority ordering variation in subsistence allowance which is supposed to initiate action in all cases in sufficient time so that the requisite order can take effect as soon as the suspended officer completes three months under suspension. Obviously, this caution cannot over-ride the power conferred by the statutory provisions in F.R. 53. In case an order for variation of subsistence allowance under F.R. 53 is passed by the competent authority quite some time after the expiry of the requisite three months and that authority is satisfied that the variation has got to be given retrospective effect for reasons to be recorded in writing and order accordingly, the same would be valid and binding on all concerned. D(9)

13.5 Having regard to all circumstances of the case, the competent authority should decide whether the rate of subsistence allowance should be increased or decreased or whether no alteration at all in the rate of subsistence allowance is called for. In each case specific orders should be passed by the competent authority placing on record the reasons for the decision taken and copies of the orders should be sent to all concerned even when the competent authority decides not to vary the amount of subsistence allowance.

13.6. The maximum and the minimum limits in respect of leave on half average pay prescribed in F.R. 89 and 90 and in respect of leave on half pay in Rule 15(2) of the Revised Leave Rules will have to be taken into account in fixing the initial rate of subsistence allowance but will not apply when the subsistence allowance is increased or decreased after the first three months. In other words, when the subsistence allowance is increased or decreased, the proportionate increase or decrease will be calculated on the amount of subsistence allowance initially fixed and will not be subject to the maximum or minimum limits on leave salary on half average pay or on half pay. D(7)

13.7 When the rate of subsistence allowance payable during the period subsequent to the period of the first three months of suspension has been re-fixed by the competent authority after a review under F.R. 53(i), (ii), it will D(25)

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be open to the competent authority to make a further review or reviews at any time at its discretion. As a result of such subsequent review or reviews, it will be permissible to reduce the amount of subsistence allowance increased on the basis of an earlier review if the period of suspension is subsequently found to have been prolonged for reason directly attributable to the Government servant, .e.g. by his adopting dilatory tactics. Similarly, where the amount of subsistence allowance had been reduced on the first review, the same can be increased on the subsequent review if the period of suspension is found to have been prolonged for reasons not directly attributable to the Government servant and the Government servant has given up dilatory tactics. Such subsequent increases or decreases in the amount of the subsistence allowance will be subject to the limit of 50 percent of the subsistence allowance granted initially.

13.8. If the suspended Government servant is not satisfied with the increase/decrease in the subsistence allowance allowed by the competent authority, he may file an appeal to the appellate authority against such an order. The appellate authority may increase/decrease the rate of subsistence allowance not exceeding 50 percent of the original rate of subsistence allowance.

#### **14. Recoveries from subsistence allowance**

14.1. The following compulsory deductions should be enforced from the subsistence allowance:-

- (i) Income-tax (provided the employees' yearly income calculated with reference to subsistence allowance is taxable);
- (ii) house rent and allied charge, i.e. electricity, water, furniture, etc., and
- (iii) repayment of loans and advances taken from the Government at such rates as may be refixed, if necessary, by the competent

authority;

- (iv) CGHS contribution.
- (v) Contribution towards Central Government Employees' Insurance Scheme, 1977.
- (vi) Subscription to the Central Government Employees' Group Insurance Scheme, 1980.

14.2. The following deduction which are optional should not be made from the subsistence allowance except with the Government servant's written consent:

- i) Premia due on Postal Life Assurance policies.
- ii) Amount due to co-operative stores and co-operative credit societies, and
- iii) Refund of advance taken from General Provident Fund.

14.3. the following deductions should not be made from the subsistence allowance:-

- (i) Subscription to General Provident Fund.
- (ii) Amount due on court attachments, and
- (iii) Recovery of loss to Government for which Government servant is responsible.

14.4. There is no bar to effecting the recovery of over payment from subsistence allowance, but the competent authority will exercise discretion and decide whether the recovery should be held wholly in abeyance or whether it should be effected. If it is decided to make the recovery, it

D(17)

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should not be effected at a rate exceeding 1/3<sup>rd</sup> of the subsistence allowance excluding dearness allowance and other compensatory allowances, if any, admissible to him.

### **15. Dearness allowance admissible during suspension**

15.1. A Government servant under suspension is entitled to draw dearness allowance, if admissible on the basis of leave salary as would be admissible to him, if he were on leave on half average pay or on half pay.

15.2. If the rate of subsistence allowance is increased or decreased after the expiry of three months of suspension, the rate of dearness allowance will be recalculated on the basis of the increased or decreased amount of subsistence allowance payable from time to time. In other words, the dearness allowance, if admissible to the Government servant under suspension, will be equal to the amount admissible to a Government servant on leave and drawing leave salary equivalent to the subsistence allowance payable to him from time to time.

### **16. Compensatory allowance admissible during suspension**

A Government servant under suspension is entitled to draw other compensatory allowance e.g., compensatory (city) allowance, house rent allowance, admissible from time to time on the basis of pay of which he was in receipt on the date of suspension subject to the fulfilment of other conditions laid down for the drawal of such allowances. If the headquarters of a Government servant under suspension are changed in the public interest by order of a competent authority, he shall be entitled to the allowance as admissible at the new station provided he furnishes the requisite certificate with reference to such station.

### **17. No payment admissible to a Government servant who engages himself in other employment during suspension.**

17.1. A Government servant under suspension is subject to the provisions of CCS (Conduct) Rules, 1964 and cannot engage himself in any

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employment, business, profession or vocation without the prior permission of the competent authority. If he does so, he is liable to disciplinary action on that ground also.

17.2. Except in cases covered by para 19, a Government servant who engages himself in any employment, business, profession or vacation while under suspension will not be entitled to any payment. A Government servant under suspension should, therefore, be required to furnish to the competent authority a certificate in the prescribed form every month. The certificate should be counter-signed by the controlling authority in token of his having satisfied himself regarding its correctness. <sup>E(11)</sup>

### **18. Rent free concession during the period of suspension**

18.1. A Government servant who has been in occupation of rent free accommodation will cease to enjoy the concession from the date of suspension. He will not be required to vacate the rent free accommodation unless the accommodation is specifically attached to any particular post. However, from the date of suspension, rent will be recovered from him on the assumption that he was not in occupation of rent free accommodation at the time of suspension i.e. for the purpose of recovery of rent, his emoluments will be taken as laid down in F.R. 45-C(vi). <sup>D(26)</sup>

18.2. If subsequently such a Government servant is allowed full pay and allowance for the period of suspension, the concession of rent free accommodation will stand restored and the rent, if recovered for the period of suspension, will be refunded to him.

18.3. If the period of suspension is treated as period spent on leave, the officer will be refunded the rent charged for the first month only. The difference between rent recovered on the basis of the subsistence allowance and the rent due in terms of paragraph 1 (i) of the Ministry of Works & Housing's Office Memorandum No.2/52/64-Acc-1, dated 20.03.1965 shall be recovered in respect of period exceeding one month.

18.4 If such a Government servant is made to vacate the rent free accommodation either because it is specifically attached to a particular post or for

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any other reason, he will not be allowed to draw house rent allowance prescribed in lieu of rent free concession. but if his headquarters, at the time of suspension, is at a place which is classified city or a hill station at which house rent allowance is admissible to other Central Government servants, he will be allowed the house rent allowance at the rates and subject to the conditions applicable to other Government servants. The house rent allowance will be calculated with reference to the pay that he was drawing at the time of suspension.

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**19. Payments admissible to a Government servant dismissed or removed or compulsorily retired from service who is deemed to be under suspension under Rule 10(3) or (4) of CCS (CC&A) Rules, 1965.**

In the case of a Government servant dismissed, removed or compulsorily retired from service, who is deemed to have been placed or to continue to be under suspension from the date of such dismissal or removal or compulsory retirement under sub-rule (3) or sub-rule (4) of Rule 10 of Central Civil Services (Classification, Control and Appeal) Rules, 1965, and who fails to produce a certificate as required to be produced under F.R. 53 (2) for any period or periods during which he is deemed to be placed or continued to be under suspension, he shall be entitled to subsistence allowance and other allowances from the date of order of dismissal/removal/ compulsory retirement equal to the amount by which his earnings, if any, during such period or periods, as the case may be, fall short of the amount of subsistence allowance and other allowances that would otherwise be admissible to him. If the subsistence allowance and other allowance admissible to him are equal to or less than the amount earned by him, he shall not be paid any subsistence allowance. The subsistence allowance in such cases is to be paid with retrospective effect from the date of Orders of dismissal/removal/compulsory retirement. The law of limitation for the purpose of payment of arrears of subsistence allowance will not be involved.

**20. Payment to a suspended Government servant against whom**

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**major penalty action is initiated but ends in imposition of minor penalty.**

Where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension should be treated as wholly unjustified in terms of F.R. 54B and the employee concerned should be paid full pay and allowances for the period of suspension. B(132)

**21. Deemed suspension - Suspension be treated as revoked from the date the cause of suspension ceases to exist.**

If a Government Servant, who was deemed to have been placed under suspension due to detention in police custody erroneously or without basis, is released without any prosecution having been launched, the competent authority should apply its mind at the time of revocation of the suspension and re-instatement of the official and if he comes to the conclusion that the suspension was wholly unjustified, full pay and allowances may be allowed. In all such cases, suspension under Rule 10(2) of the CCS (CCA) Rules, 1965, may be treated as revoked from the date the cause of suspension itself ceases to exist i.e. the Government Servant is released from police custody without any prosecution having been launched. A formal order for revocation of such suspension, under Rule 10(5) of the CCS (CCA) Rules, 1965, may however, be issued for the purpose of administrative record. B(96) B(134)

**22. Provisional pension if the Government servant retires while under suspension.**

If the Government servant was under suspension on the date of retirement, the provisional pension equal to the maximum pension which would have been admissible to him on the basis of qualifying service upto the date immediately preceding the date on which he was placed under suspension should be authorised. No gratuity should, however, be paid until the conclusion of the departmental or judicial proceedings and issue

of final orders thereon, except in those cases where departmental proceedings have been instituted under rule 16 of the CCS (CCA) Rules, 1965, for imposing any of the penalties specified in clauses (i), (ii) and (iv) of Rule 11 of the said Rules.

**23. Payments admissible to a Government servant suspended while on leave.**

A Government servant who is suspended while on leave will be entitled to subsistence allowance at the rate admissible and not to leave salary irrespective of whether the rate of subsistence allowance admissible is more or less than the rate of leave salary he was already drawing. The unexpired portion of his leave will be cancelled and the B(132) suspension will take effect from the date of cancellation of leave.

**24. Revision of scale of pay - whether Government servant under suspension may be given an option to elect.**

24.1. When the scale of pay of a post held by the Government servant under suspension is revised and the revision takes effect from a date prior to the date of suspension, the Government servant should be allowed to exercise the option under F.R. 23 even if the date by which he is to exercise the option falls within the period of suspension. He will be entitled to the benefit of increase in pay, if any, in respect of the period before suspension and also in the subsistence allowance for the period of suspension.

24.2. If the revision of the scale of pay takes effect from a date falling during the period of suspension:

- a) A Government servant who retains a lien or a suspended lien on his substantive post, should be allowed to exercise his option under F.R. 23 even while under suspension. The benefit of option will, however, accrue to him in respect of the period of suspension only after reinstatement depending upon the fact whether the period of suspension is treated as duty or



not;

- b) A Government servant who does not retain a lien on a post the pay of which is changed, is not entitled to exercise the option under F.R. 23. However, if he is reinstated in the post and the period of suspension is treated as duty, he may be allowed to exercise the option after re-instatement. In such cases if there is time limit prescribed period for exercising the option and if such limit had already expired before his reinstatement, a relaxation may be made in each individual case extending the period for exercising the option.

**25. Arrangements for carrying out the work of a Government servant under suspension.**

In an establishment where provision for leave reserve exists, a vacancy caused on account of suspension of a Government servant should be filled by a reservist. Where a reservist is not available, the post should be filled by an officiating appointment. It is not necessary to create an extra post. <sup>D(5)</sup>

**26. Continuance of the post held by a Government servant under suspension.**

26.1. In the case of a temporary Government servant, if the term of the post held by him at the time of suspension is likely to expire or if the post held by him, if permanent, is proposed to be abolished or if he otherwise becomes liable to be retrenched from service before the disciplinary proceedings are likely to be completed, it may be considered on merits whether:- <sup>D(4)</sup>

- a) he should be discharged from service on the expiry of the term of the post held by him, or
- b) his services should be terminated under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 or

- c) the disciplinary proceedings should be continued to its logical conclusion.

26.2. If it is decided to continue disciplinary proceedings, the post should be continued for an appropriate period under orders, where necessary, or the authority competent to sanction such continuance. If delay is anticipated in obtaining sanction of the competent authority, the authority competent to dismiss or remove the Government servant concerned from service may issue orders continuing the post without reference to the competent authority. The vacancy caused by such extension should not, however, be filled.

### **27. Grant of leave while under suspension.**

<sup>A(18)</sup> It is not permissible to grant leave to a Government servant under suspension under F.R. 55.

### **28. Termination of the services of a temporary Government servant under suspension.**

<sup>B(20)</sup> The services of a temporary Government servant can be terminated under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, while he is under suspension or/and departmental proceedings are pending against him.

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