

Service Rules in Court Management & Principles of disciplinary proceedings

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1. The Judicial Officers and the court staff are governed by West Bengal Service Rules, Part I & II. The important aspects of service condition laid down in various provisions of WBSR Part I are as follows :
 - 1.1 **Duty hours:** The whole time of the government employee is reserved for the government (Rule 15).
 - 1.2 **Place of residence :** The government employee will have to reside at headquarters and permission of Head of Office is required for leaving the headquarters or residing outside the headquarters (Rule 29A).
 - 1.3 **Lien:** A government employee acquires lien on the post on confirmation of his appointment to the permanent post. No substantive appointment can be made to the post on which the government employee holds lien (Rules 19 to 23).
 - 1.4 **Joining time:** A government employee on transfer can avail of joining time of 10 days when the distance between the old headquarters and the new headquarters is upto 1000 KM. and 12 days when the distance is more than 1000 KM.

However, the Joining time will be for one day when the government employee is transferred in the same station or there is no change of residence. The joining time can be extended upto 30 days by the head of the department

and beyond 30 days by the government. When the holidays follow the joining time, the period of joining time is extended by holidays. Joining time can also be reduced. Joining time not availed of will be credited as earned leave (Rules 80 to 96).

1.5 Leave is not a matter of right (Rule 153).

1.5.1 **Earned Leave:** 30 days in one year, but 16½ *days* rounded off to 17 days in one calendar year in vacation department. Total accumulation may extend upto 300 days which can be encashed after retirement (Rules 169 to 172).

1.5.2 **Half - Pay Leave:** 20 days of half pay leave can be commuted to 10 full days in one calendar year. A government employee can avail of this leave only after completion of one year of service. 360 days of half pay leave can be commuted to 180 days of full leave in the entire service period of any government employee. This leave starts from the date of illness and ends on the date of fitness (Rules 173 & 155).

1.5.3 **Maternity Leave:** It is available to female employee for child birth, abortion or miscarriage. 180 days of this leave can be availed of on each occasion of child birth plus one year of leave of any kind (except casual leave) without production of medical certificate. A female employee is entitled to get this leave upto 45 days for miscarriage or abortion, but the leave application is to be supported by medical certificate. An adoptive mother is entitled to leave of any kind from three months to one year depending on the age of the adopted child without

production of medical certificate (Rule 199).

1.5.4 Child Care Leave : A female Government employee having minor children may be granted this leave for maximum period of two years during the entire service career for taking care of maximum two children below 18 years of age, but this leave shall not be granted in more than three spells in a calendar year and not less than 15 days in a spell. It can be combined with other leave, but it cannot be debited against Earned leave Account of the employee. [Memo No. 1364-F (P) dated 15th February, 2012 of Finance Department, Govt. of West Bengal].

1.5.5. Casual Leave: A government employee is entitled to enjoy 14 days of this leave in one calendar year, but not more than 7 days including holidays and Sundays at a stretch. (Appendix- 10). The special casual leave can be enjoyed for 6 days by males and 14 days by females for undergoing sterilisation operation (F.D. No. 4013F dt. 21.06.73). The special casual leave upto 30 days can also be enjoyed for sports and cultural activities on fulfilment of some conditions (Appendix - 11).

1.5.6. Study Leave: A government employee is eligible to enjoy study leave upto 2 years on completion of minimum 5 years of service on fulfilment of some conditions (Appendix - 5).

1.5.7. Combination of leave: Except casual leave, all other kinds of leave can be combined together. However, casual leave can be combined with special casual leave. The earned leave or commuted leave can be combined with joining time (Rules 155 and 167).

2. The conditions of service of judicial officers are also governed by the West Bengal Judicial (Conditions of Service) Rules, 2004. The method of recruitment, promotion, deputation and seniority of the judicial officers are guided by these rules. The pay and allowances, and assured career progression of the judicial officers are guided by the West Bengal Judicial Service (Revision of Pay and Allowances) Rules, 2003 and subsequent G.Os issued by the Government of West Bengal.
3. The judicial officers and court staff are governed by the West Bengal Services (Duties, Rights and Obligations of government employees) Rules, 1980, whose salient features are as follows :

3.1 Duties (Rule 3):

3.1.1 The government employee must have integrity which include honesty and uprightness.

3.1.2 The government employee must rise above personal, social and religions view of the individual and discharge the duty impartially.

3.1.3 The government employee must be diligent, laborious and devoted to duty.

3.1.4 The behaviour of the government employee with the public, colleagues and members of the Bar must be courteous and there is need of collective functioning in discharge of administrative duties.

3.1.5 Except group 'D' employees, all other government employees will have to submit the declaration of assets in respect of Immovable property and any movable property

costing two months' basic pay or above, as they stood on 1st January of every year.

3.2 Rights (Rule 4): The government employee has the following rights, viz, (a) right to form association, (b) right to strike (except group 'A' employees), (c) full democratic right except being member of a political party, (d) right to intellectual pursuits.

The government employee has no right to participate in electronic media without the permission of the appointing authority. However, no permission is required for contributing literary or scientific writing.

3.2.1 The rights of the judicial officers are further restricted by rules laid down in Civil Rules & Orders Vol. 1, viz,

(a) not to become guests of or entertain private individuals or government servants who may be interested in cases coming up before the Judge for decision (Rule 958 of CRO - Vol - 1);

(b) not to attend places of amusement without payment except when invited to officiate on ceremonial occasion (Rule 959 of CRO-Vol-1); (c) no mixing up in local affairs politically or otherwise (Rule 961 of CRO).

3.3 Obligations (Rule 5):

3.3.1 The government employee cannot receive illegal gratification and accept valuable things without proper consideration.

3.3.2 The movable property valued at more than basic pay of two months and immovable property of any valuation

cannot be acquired by any government employee or any member of his family by purchase, gift or inheritance and cannot be disposed of without the permission of the appointing authority.

3.3.3 The lending and borrowing of money by the government employee is prohibited, except borrowing from bank for the following purposes, viz,

- (a) marriage of self, daughter, sister;
- (b) medical expenses of self, daughter, son and wife;
- (c) educational expenses of self and children;
- (d) purchase of consumer items like TV, refrigerator, motor car etc;
- (e) purchase or construction of house ;
- (f) and expenses related to tour in India. However, information is to be given to the appointing authority with regard to the bank loan.

3.3.4 The government employee is prohibited

- (a) from contracting bigamous marriage,
- (b) from disclosing official secrets ,
- (c) from making addiction to drinks and drugs,
- (d) from accepting gifts except as per social and religions custom and
- (e) from undertaking any trade or employment except honorary work of social and charitable nature of co-operative societies.

3.3.5 **Procedure of ventilating grievances (Appendix - 11 &**

Rule 22) : The application to the higher authority must be sent through proper channel. However, advance copy can be sent in case of emergency. The application for

ventilating grievances against government must be addressed initially to the lowest authority and then to the higher authority.

4. **Disciplinary proceeding** : The disciplinary proceeding of the court staff is governed by the West Bengal Services (Classification, Control and Appeal) Rules 1971, whereas the disciplinary proceeding of the judicial officers is governed by the West Bengal Judicial Service (Classification, Control and Appeal) Rules, 2007
- 4.1 **Suspension**: A government employee can be suspended (a) when departmental enquiry is contemplated against him, (b) when he has engaged himself in activities prejudicial to the interest of the security of state, (c) when criminal case is pending against him, (d) when he is detained in custody exceeding 48 hours. The government employee is entitled to subsistence allowance during suspension and this amount can be increased from 50% after expiry of three months of suspension.
- 4.2 **Departmental enquiry**: The disciplinary authority has the discretion to start departmental enquiry against any employee either *suo motu* or on the basis of any allegation made against the employee. The disciplinary authority can initiate the fact finding enquiry to ascertain the necessity of holding departmental enquiry against any employee. The departmental enquiry can also be started after acquittal of the government employee of the criminal charge. When both departmental enquiry and criminal trial are started on the same allegation, the normal procedure is to stay the proceeding of

departmental enquiry till completion of criminal trial, but in some cases depending on the fact situation, both can run simultaneously.

4.3 Procedure of departmental enquiry:

4.3.1 The specific charge is to be framed by the disciplinary authority. The Enquiry Officer and Presenting Officer are to be appointed by the disciplinary authority.

4.3.2 The Enquiry Officer will conduct the enquiry in fair and impartial manner by following the principles of natural justice. The delinquent must be given an opportunity to engage Defence Assistant at the cost of the disciplinary authority and to cross examine the witnesses of the Presenting Officer and to adduce evidence both documentary and by way of examining the witnesses. The delinquent must be given the copy of all the statements and documents on which the Presenting Officer relies to prove the charge in the enquiry. The Enquiry Officer will decide whether or not the charge is established, but cannot recommend for any punishment. The disciplinary authority may agree or disagree with the report of Enquiry Officer and impose the penalty enumerated in the rules.

4.4 Penalty without departmental enquiry: The penalty can be imposed on the government employee without departmental enquiry under the following circumstances, viz, (a) when the employee is convicted of the criminal charge by the court of law, (b) when it is not possible at all to conduct the departmental enquiry and (c) when the question of security of state is involved.