

Maharashtra Civil Services (Joining Time, Foreign Service And Payments During Suspension, Dismissal And Removal) Rules, 1981

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Maharashtra Civil Services (Joining Time, Foreign Service

And Payments During Suspension, Dismissal And Removal) Rules, 1981

CHAPTER 1 GENERAL

1. Short title and commencement :-

(1) These Rules may be called the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules 1981.

(2) They shall come into force on the 15th day of August 1981.

2. Extent of application :-

Except where it is otherwise expressed or implied, these rules apply to all members of services and holders of posts whose conditions of service the Government of

Maharashtra are competent to prescribe. They shall also apply to

(a) any person for whose appointment and conditions of employment special

provision is made by or under any law for the time being on force,

(b) any person in respect of whose service , pay and allowances and pension or any

of them special provision has been made by an agreement made with him - in

respect of any matter not covered by the provisions of such law or agreement, and

(c) Government servants paid from Local Funds administered by Government except

rules relating to the Foreign Service.

Note 1.- As regards the amount of leave and pension, Government servants of the

former States of Saurashtra, Kutch, Madhya Pradesh and Hyderabad, allocated to the

State of Mumbai, who have opted to be governed by the rules of the former States

applicable to them before the 1st day of November 1956, in accordance with

Government Resolution, Finance Department , No.INT 1056 - s- 8, dated the 7th

January 1957, as modified from time to time will be governed by

those rules. Option
once exercised is final.

Note 2.- By virtue of the rule 3 All India Services (Compensatory Allowances) Rules 1954, and Rule 3 of All India Services (Travelling Allowances) Rules 1954, the

Compensatory and Travelling Allowances of the All India Services offices, serving in connection with the affairs of the Government of Maharashtra, are regulated by the

relevant provisions of the Maharashtra Civil Services Rules, pertaining to

Compensatory Allowances and Travelling Allowances .

Note 3.- Persons transferred to Government services from a Local Fund which is not

administered by Government will be treated as joining a first post under Government

their previous service shall not count as service performed under Government.

Government may, however, allow previous service in such cases to count as service performed on such terms, as it thinks fit.

3. Right to interpret :-

Government reserve to themselves the right of interpreting these rules.

4. Power of relaxation :-

Where Government is satisfied to that the operation of any of these rules causes or

is likely to cause undue hardship in the case of any Government servant or class of

Government servants from any provisions of these rules or may direct that such

provisions shall apply to such Government servants or class of Government servants

with such modifications not affecting the substance thereof as may be specified in

such order.

5. Validity of terms of contract :-

The terms of a specific contract enforceable at law necessarily override the provisions of these rules.

6. Regulation of claims to pay, allowances, leave and pension :-

A Government servants claim to pay and allowances is regulated by the rules in force at the time in respect of which the pay and allowances are earned; to leave by the rules in force at the time the leave is applied for and granted; and to pension by the rules in force at the time when the Government servant retires or is discharged from the service of Government:
Provided that, if during his service, changes disadvantageous to him are introduced in the rules, to which he became subject on entry into the service of Government, his pension shall not be less than that which would have been admissible but for the introduction of such changes.

7. Exercise and delegation of powers under these rules :-

No powers any be exercised or delegated under these rules except after consultation with the Finance Department. It shall be open to that Department to prescribe, by general or special order, cases in which its consent may be presumed to have been given.

Note - For powers delegated under these rules, see Appendix I.

8. Reasons for concession to be communicated to Audit Officer :-

When competent authority, other than Government, communicates to the Audit officer an order granting any concessions under these rules to any Government

servant in cases in which it is prescribed that the reasons therefor should be recorded, he should at the same time forward to him a copy of his reasons.

CHAPTER 2 DEFINITIONS

9. DEFINITIONS :-

(The definition given below are reproduced from Chapter II of the Maharashtra Civil Services (General Conditions of Services) Rules-1981, and are only those definitions which are relevant for the purpose of the subject matter contained in this set of rules.)

6) Unless the context otherwise requires, the terms defined in this Chapter are used in the various sets of Maharashtra Civil Services Rules, in the sense here explained:-

7) Audit Officer means and audit Officer, appointed by the Comptroller and Auditor General of India whatever his official designation, in whose circle of audit a public servant is serving, or (in respect to verification of services) has served.

8) Compensatory allowance means an allowance granted to meet personal expenditure necessitated by the special circumstances in which duty is performed. It includes different types of travelling allowances

9) Competent Authority, in relation to the exercise of any power, means Government, or any authority to which the power is delegated by or under these rules.

10) Consolidated Fund of India or the State All revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall from one consolidated fund

to be entitled "

the Consolidated Fund of India " Similarly all revenues received by the Government

of a State, all loans raised by that Government by the issue of treasury bills, loans or

ways and means advances and all moneys received by that Government in

repayment of loans shall from one consolidated fund it be entitled "the Consolidated

Fund of the State."

12) Date of first appointment means the date the Government servant assumes

the duties of his first post in Government service, or, if this be earlier, the date of his

assumption of and duty which is treated, as service counting for pension.

16) Family means a Government servants wife or husband, as the case may be

residing with the Government and legitimate children and step-children residing with

and wholly dependent upon the Government servant. It includes, in addition,

parents, sisters and minor brothers if residing with and wholly dependent upon the

Government servant.

Note1:- Not more than one wife is included in the term "family" for the purpose of

these rules.

Note 2:-An adopted child shall be considered to be a legitimate child if, under the

personal law of the Government servant, adoption is legally recognized as conferring

on it the status of a natural child.

18) First appointment means the appointment of a person who is not holding any

appointment under Government, even though he may have previously held such an

appointment.

19) Foreign service means service in which a Government servant receives his pay

with the sanction of Government from any source other than the Consolidated Fund

of India or of a State, or of a Union Territory.

20) A Gazetted Government servant is one who is a member of an All India or

State Services or a person appointed in accordance with the terms of a contract or

agreement and whose appointment is Gazetted by Government. Members of

Subordinate Civil Services, whose appointments are Gazetted by Heads of

Departments are Non-Gazetted Government. Notifications investing Government

servants with powers under different Acts, in order that the Courts may take judicial

cognizance of them, do not constitute the persons invested with such powers as

Gazetted Government servants within the meaning of this sub-rule.

Exception:- Officer whose appointment to Class-II services or posts are made by

the Heads of Departments or Heads of Offices subordinate to them and are not

published in the Gazette should be treated as Gazetted Government servants.

21) Government unless there is anything repugnant in the subject or context, as

respects anything done or to be done after the commencement of the Constitution,

shall mean the Governor of Maharashtra.

22) Heads of Departments. This term includes the officers mentioned in Appendix

II in Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and any

others whom Government may from time to time declare to be Head of Departments.

23) Holiday means -

a) a holiday prescribed or notified by or under section 25 of the Negotiable

Instruments Act, 1881 : and

b) in relation to a any particular office, a day on which such office is ordered by

Government, or by a duly constituted authority, by notification in the Gazette or

otherwise, to be closed for the transaction of Government business

without reserve
or qualification.

27) Joining time means the time allowed to a Government servant to join a new post or to travel to or from a station to which he is posted.

28) Leave means permission to remain absent from duty granted by a competent authority under the Maharashtra Civil Services (Leave) Rules, 1981.

29) Leave-salary means the monthly amount paid by Government to a Government servant on leave.

30) Lien mean the title of a Government servant to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively.

36) Pay means the amount drawn monthly by a Government servant as -

i) the pay (including special dearness pay) which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason

of his position in a cadre; and

ii) personal pay, and special pay ; and

iii) any other emoluments which may be specially classed as pay by Government.

39) Personable service means service, which qualifies the Government servant performing it to receive a pension from the Consolidated Fund.

40) Permanent post means a post carrying a definite rate of pay sanctioned without limit of time.

48) Special pay means an addition, of the nature of pay, to the emoluments of a

post or of a Government servant granted in consideration of-

a) the specially arduous nature of the duties;

b) a specific addition to the work or responsibility.

50) Subsistence allowance means a monthly grant made to a Government servant who is not in receipt of pay or leave salary.

51) Substantive pay means the pay other than special pay,

personal pay or emoluments classed as pay by Government under sub-rule 36(iii) to which a Government servant is entitled on account of a post to which he has been appointed substantively or by reasons of his substantive position in a cadre.

53) Temporary post means a post carrying a definite rate of pay sanctioned for a limited time.

Note - Substantive appointments to temporary posts should be made in a limited number of cases only, as for example, when posts are, to all intents and purposes, quasi-permanent or when they have been sanctioned for a period of not less than or there is reason to believe that they will not terminate within a period of three years. In all other cases, appointments in temporary posts should be made in an officiating capacity only.

Instruction: - The benefit of substantive to temporary posts contemplated in the above note should not be allowed to be enjoyed by more than one person simultaneously. Therefore, a Government servant has already been appointed substantively to a temporary post and there is an interruption in his tenure of the post, it would not be proper to appoint another Government servant substantively to the post during such temporary interruption. For this purpose, interruptions which are likely to last for less than 3 years may be treated as temporary. It follows

therefore, that where a Government servant is already appointed substantively to a temporary post, a second Government servant should not be appointed substantively to it unless the previous holder of the post has been transferred from it permanently or unless he has been transferred temporarily and there is reason to believe that he

will remain absent from the post for a period of not less than three years.

56) Transfer means the movement of a Government servant from one headquarter

station in which he is employed to another such station, either-

a) to take up the duties of a new post; or

b) in consequence of a change of his headquarters.

57) Transit time means the actual time required to reach the destination of tour

from the headquarters or from one outstation to another outstation by ordinary

mode of travel.

CHAPTER 3 JOINING TIME

10. When admissible Joining time may be granted to a Government servants to enable him :-

1) to join a new post either at the same or a new station without availing himself of

any leave on relinquishing charge of his old post;

2) to join a new post in a new station on return from-

a) leave of not more than 180 days duration.

b) Leave other than that specified in sub-clause (a) when he has not had sufficient

notice of his appointment to the new post.

Note 1.- The authority which ordered the transfer will decide whether Government

servant has not had sufficient notice under rule 10 (2) (b).

Note 2. - Joining time may also be admissible under this rule to Government servant

shifted enblock from one place to another in consequence of a change of his

headquarters due to shifting of office.

11. Joining time admissible to permanent Government servant under other Governments when appointed by nomination :-

Joining time shall also be granted under rule 10 to a Government servant who holds

a permanent post under any Government in a substantive capacity, when he is

appointed to a new post on the results of a competitive examination or interview which is open to both Government servants and other.

12. Change of appointment at the same station :-

(1) No Joining time is admissible when the change of appointment does not involve an actual change of office.

(2) Joining time of not more than one day is allowed when -

(a) the appointment to a post in a new office does not involve a change of residence

from one station to another or

(b) there is an actual change of office in the same station.

(3) A holiday or Sunday counts as a day for the purpose of this rule

Note 1. - The offices of Collectors and Assistant/Deputy Collectors are distinct offices

for the purpose of this rule.

Note 2. - Where different/Departments of Government are situated in one and the

same building and where is a chain of transfers of Government servants working in

the offices/Departments of the same building, a joining time of not more than one

day may be allowed. This benefit will not be admissible where is isolated transfer of a

Government servant from one office to another situated in the same building.

13. Joining time to join another Government servant on tour :-

When a Government servant is transferred without change of headquarters and at

the same time obliged to join another Government servant on tour, the time for his

journey out to camp calculated in the manner laid down in rule 15 may be allowed in

addition to the day admissible under rule 12.

14. Extension of joining time when holidays follow-joining time :-

When one or more holidays follow joining time the normal joining time may be deemed to have been extended to cover such holidays.

15. How joining time is calculated :-

(1) The joining time of a Government servant in cases involving a transfer from one station to another is subject to a maximum of 30 days. seven day including Sunday and holiday are allowed for preparation and in addition a period to cover the actual journey calculated as follows :-

(a) One day for journeys on transfer to a place within the same district or in an adjoining district (i.e. a district having a common border at any point);

(b) Two day for journeys on transfer to a place other than those mentioned in clause

(a) above.

(2) When a Government servant is required to join a new post without availing of the full joining time, the number of days of joining time as admissible under sub-rule

(1), subject to a maximum of 10 days, reduced by the number of days actually

availed of, shall be credited to his leave account as earned leave.

Note.- Sunday does not count as a day for the purpose of calculating the days of

actual journey but a holiday shall be included therein. However, Sundays are

included in the maximum period of 30 days.

16. Admissibility of joining time when appointment is changed while in transit :-

If a Government servant is appointed to a new post while in transit from one post to

another, his joining time begins on the day following that on which he receives the

order of appointment; but a second period of seven days for preparation will not be

allowed to him.

17. Leave taken while in transit :-

If a Government servant takes leave while in transit from one post to another, the period which has elapsed since he handed over charge of his old post must be

included in his leave:

Provided that in cases where leave on medical grounds is taken after availing of normal

joining time, the split up of the spell of absence allowing joining time first and leave

afterwards, may be allowed to stand.

18. Joining time on return from leave out of India :-

When a Government servant returning from leave out of India exceeding 180 days,

takes joining time before joining his post, his joining time shall begin from the date

of arrival in India at the port of debarkation, or, if he returns by air, from the day

following that on which the aircraft in which he returns, arrives at its first regular

port in India, and be calculated as from such port:

Provided that, if the port of debarkation/airport is not in Maharashtra State the

Government servant may be allowed the joining time to the extent of days, which he

has spent in journey for arriving at the headquarters, subject to a maximum of three

days.

19. Calculation of joining time when appointment is made while on leave :-

1) When a Government servant returning from leave out of India exceeding 180 days

duration, his joining time will be calculated from his old headquarters to the new

headquarters irrespective of the place where he spends leave or receives postings

orders. If he is on leave out of India and receives the order before he arrives at the

port of debarkation, then for the purpose of this rule, it will be assumed that he received the order of debarkation. If the post to which he is at the post transferred is at the port of debarkation, he may be allowed joining time of one day.

2) The period of joining time admissible to a Government servant, who proceeds on leave not exceeding 180 days from his old spending the leave, should be calculated under rule 12. This provision is also applicable to cases falling under rule 10(2)(B).

20. Joining time to be calculated from place of handing over charge :-

If a Government servant is authorized to make over charge of a post elsewhere than its headquarters, his joining time shall be calculated from the place at which he makes over charge.

21. Joining time to be calculate4d from the old haeadquarters to the new Headquarters n tour to the tour station. :-

If the headquarters of a Government servant while on tour is changed to the station itself, of his temporary transfer is converted into permanent transfer by the competent authority, his joining time may be calculated from the old headquarters to the new headquarters, in case he actually performs journey to his old headquarters for winding up his household etc.

22. Special provisions for grant of joining time :-

Notwithstanding anything contained in these rules-

a) In cases where Government servants are to undergo special courses of Instructions or training, or when Maharashtra Medical or Veterinary, Class III Officers

are posted temporarily on fair or epidemic duty for a period not exceeding three months or when they are directed to proceed on duty to other areas without change of headquarters, the Heads of Offices sanctioning such deputation should see that no more joining time than what is absolutely necessary is allowed in each case.

b) Government teachers sent for training for the B. Ed. Course at the Government

Secondary Training Colleges in this State or to the Training Institute for Physical

Education, Kandivali, for training in long term courses in Physical Education, and

Trainees sent by Government at G. B. Training Center at Bordi, may be granted the

minimum period required by them for actual journey plus one day as Joining time,

after the completion of their training.

c) The Officers of the Jail Department sent for training to the Jail Officers Training

School, Pune, should be allowed joining time under rule 15.

e) The work-charged staff who are entitled to travelling allowance on transfer in the

public in the interest should be allowed joining time and joining time pay as

admissible to Government servants under rule 15.

23. Transfer during vacation :-

A Government servant transferred during vacation may join his new appointment at

the end of the vacation, even though the joining time calculated under rule 15 is

hereby exceeded.

24. Joining time admissible when vacation is combined with leave :-

If vacation is combined with leave joining time should be regulated under rule 10

(2)(a) if the total period of leave and vacation combined is of not more than 180

days duration.

25. Extension of joining time when charge consists of several stores or scattered works or offices :-

(1) In cases in which the charge to be transferred consists of several stores and/or scattered works which the relieving and the relieved Government servants are required for completing the transfer of charge.

(2) The Maintenance Surveyors of the Land Records Department, who are in charge of more than one City Survey Office at different places with headquarters at one of these places, are entitled to the concessions granted under the above sub-rule.

26. Extension of joining by Government :-

Government may in any case extend the joining time admissible under these rules.

27. Circumstances in which joining time can be extended by a competent authority :-

With the prescribed maximum of 30 days, a competent authority may, on such conditions as it thinks fit, grant to a Government servant a longer period of joining time than is admissible under the rules in the following circumstances.:-

(a) When the Government servant has been unable to use the ordinary mode of travelling or, notwithstanding due diligence on his part, has spent more time on the journey than is allowed by the rules; or

(b) When such extension is considered necessary for the public convenience or for the saving of such public expenditure as is caused by unnecessary or purely formal transfer ;or

(c) When the rules have in any particular case operated harshly, as for example

when a Government servant has, through no fault on his part, missed a steamer or has fallen sick while on the journey.

28. Joining time not admissible when transferred at own request :-

If a Government servant is transferred at his own request, he will not be entitled to any joining time. The competent authority in the former Department may grant, at its discretion, leave due and admissible to him, for the period from handing over charge at the old station to taking over at the other, if Government servant applies for it.

29. Overstayal :-

A Government servant who does not his post within his joining time is entitled to no pay or leave salary after the end of the joining time. Willful absence from duty after the expiry of joining time may be treated as misbehavior for the purpose of rule 27 of Maharashtra Civil Services (General Conditions of Services) Rules, 1981.

30. Pay during joining time :-

A Government servant on joining time shall be regulated as on duty and shall be entitled to be paid as follows:-

a) where joining time is granted under sub-rule (1) of rule 10, the pay which he

would have drawn, if he had continued in the old post;;

b) where the joining time is granted under sub-rule (2) of rule 10, pay equal to the

leave salary which the Government servant would have drawn had he been on

earned leave:-

Provided that -

i) a Government servant on transfer shall not be entitled to any pay

for the period of
joining time unless his transfer is in the interest of public service.
ii) No joining time pay shall be granted to a Government servant
who does not hold
a permanent post under any Government in a substantive capacity,
when he is
appointed to a new post on the results of a competitive
examination or interview
which is open to both Government servants and others.

31. Joining time while joining a post under another Government :-

When a Government servant under the administrative control of the
Government of
Maharashtra, is transferred to the control of another Government,
his joining time for
the journey to join his post under that Government and for the
return journey shall
be governed by the rules made by that Government.

**32. Audit officer to move the Head of Department for report
to Government & report to Government about concession
made under rule 27. :-**

The Audit Officer shall move the Head of Department concerned to
report to
Government any concession made under rule 278 which appears to
him contrary to
the spirit of the rule. The latter officer may not finally overrule the
Audit Officer
without a reference to Government.

CHAPTER 4 FOREIGN SERVICE

33. Scope :-

The rules in this Chapter apply to those Government servants only
who are
transferred to Foreign Service after these rules come into force.
Government
servants transferred before that date will remain subject to the
rules in force at the
date of transfer.

34. Transfer to Foreign Service to be treated as fresh transfer after these rules come into force :-

In respect of Government servants who were transferred to foreign service prior to the date these rules came into force, further extension of periods of foreign service ending after that date should be treated as fresh transfer and dealt with under these rules.

35. Transfer to foreign service when not admissible. :-

A transfer to foreign service is not admissible unless:-

- a) the duties to be performed after the transfer are such as should, for public reasons, be rendered by a Government servant, and
- b) the Government servant whether permanent or temporary to be transferred holds, at the time of transfer, a post paid from the Consolidated Fund of the State.

36. Transfer to foreign service not permissible without consent :-

1) No Government servant may be transferred to foreign service against his will:

Provided that, in so far as the transfer of a Government servant on foreign service to

a Zilla Parishad under the provisions of section 253-B of the Maharashtra Zilla

Parishads and Panchayat Samitis Act-1961 (as amended from time to time) is

concerned, his transfer on foreign service shall be regulated in accordance with the

provisions of that section.:

Provided further that this sub-rule shall not apply to the transfer of a Government

servant recruited in service on or after 30th July 1977, to the service of a body

incorporated or not, which is wholly or substantially owned or controlled by

Government.

@) Subject to the provisions of rule 39, a transfer to foreign service may be sanctioned by a competent authority on the terms and conditions mentioned in rule 40..

37. Transfer to foreign service while on leave :-

If a Government servant is transferred to Foreign Service while on leave, he ceases from the date of such transfer to be on leave and to draw leave salary.

38. Date from which pay drawn from foreign employer :-

A Government servant in Foreign Service will draw pay from the foreign employer from the date he relinquishes charge of his post in Government service. Subject to the provisions of rule 39, the amount of his pay, the period of joining time admissible to him, and his pay during such joining time, will be fixed by the authority sanctioning the transfer in consultation with the foreign employer.

39. Principles regulating remuneration in foreign service :-

The amount of remuneration to be granted to a Government servant transferred to foreign service in India should be regulated by the following principles:-

1) When the transfer of a Government servant to foreign service in India is sanctioned; the pay which he shall receive in such service must be precisely specified in the order sanctioning the transfer. If it is intended that he shall receive any remuneration or enjoy any concession of pecuniary value in addition to his pay proper, the exact nature of such remuneration or concession must be similarly specified. No Government servant will be permitted to receive any remuneration or

enjoy any concession which is not so specified; and, if the order is silent as to any particular remuneration or concession, it must be assumed that the intention is that it shall not enjoyed.

2) The following two general principles must be observed by a competent authority in sanctioning the conditions of transfer.

(a) the terms granted to the Government servant transferred must not be such as to impose an unnecessary heavy burden on the foreign employer.

(b) The terms granted must not be so greatly in excess of the remuneration, which the Government servant would receive in Government service, as to render foreign service appreciably more attractive than Government service:

Provided that the two principles laid down above are observed, a competent authority may sanction n grant of the following concessions by the foreign employer.

Such concessions must not be sanctioned as a matter of course, but in those cases

only in which their grant is in accordance with local custom and the wishes of the

foreign employer and is in the opinion of the competent authority justified by the

circumstances. The value of the concessions must be taken into account in

determining an appropriate rate of pay for the Government servant in foreign service

a) the payment of contribution towards leave-salary and pension under the rules regulating such contributions.

b) The grants of travelling allowance under the travelling allowance rules of

Government or under the rules of the foreign employer and of permanent travelling

allowance, or conveyance allowance;

c) The use of tents, boats and transport on tour; provided that this is accompanied

by a corresponding reduction in the amount of travelling allowance admissible;

d) The grant of free residential accommodation, which may be furnished, in cases in which the competent authority considers this to be desirable, on such scale as may seem proper to the competent authority;

e) The use of motors, carriages and animals.

3. The grant of any concession not specified in proviso to sub-rule (2) above requires the sanction of Government.

40. Terms and conditions of transfer to Foreign Service :-

1) Foreign service of any kind (whether in India or out of India) other than under a body corporate owned or controlled by Government, during leave preparatory to retirement should be treated as "private employment" for the purpose of rule 37 i.e.

a Government servant who has reached or is approaching the age of superannuation, notwithstanding his employment under a foreign employer, should be allowed to take

leave which would be admissible to him, had he not accepted such employment, and

pension contribution should not be recovered. The concession should not be granted

to Government servants who are already in foreign service and propose to continue

on duty in the service of the same employer during leave preparatory to retirement.

It shall not also be granted to Government servants who retire before reaching the

age of superannuation, if they take such leave after being offered, or having made

arrangements for employment in foreign service. In such cases they should be

required either to retire or to go on foreign service terms.

2) A Government servant, who is already on foreign service in or out of India

Under a body corporate owned or controlled by Government, applies for leave

preparatory to retirement will not be permitted to continue in

employment under the foreign employer while on leave preparatory to retirement. Non-eligibility for leave preparatory to retirement as a result of continuance in service under the foreign employer will not be treated as refusal of leave for the purposes of rule 67 of Maharashtra Civil Services (Leave) Rules, 1981. If he is allowed to continue in employ of the foreign organisation after the date of superannuation, he will be treated purely as on private employment.

41. Regulation of foreign service while on leave preparatory to retirement :-

XXX XXX XXX

42. Continuance of Foreign Service after retirement :-

When any Government servant lent on Foreign Service retires from Government service but continues in the service of his foreign employer, the Audit Officer shall communicate to the foreign employer, through the usual authorities, a statement showing the date of retirement and the amount of pension drawn from the Government so as to give the foreign employer the opportunity, if the be so inclined, of revising the existing terms of the employment.

43. Conditions under which the services of Civil Surgeons are available to a Gazetted Government Servant while in foreign service. :-

A Gazetted Government servant in foreign service is entitled to the services of the Civil Surgeon of the District in or near which he is employed-

- a) if no Medical Officer is provided by the foreign employer, or
- b) if the medical attendant provided by the foreign employer is not of Gazetted rank.

44. Government servant primarily responsible for payment

of pension and leave-salary contributions :-

1) While a Government servant is in foreign service contribution towards the cost of his pension must be paid to the Consolidated Fund of the State on his behalf.

2) If the foreign service is in India, contributions must be paid on account of the cost of leave-salary also.

3) Contributions due under sub-rule (1) and (2) above, shall be paid by Government servant himself unless the foreign employer consents to pay them. They shall not be payable during leave taken while in foreign service.

4) By special arrangement made under rule 58, contributions on account of leave-salary may be required in the case of foreign service out of India also, the contributions being paid by the foreign employer

5) When an officer of the Maharashtra Police Service is deputed to foreign service, contributions towards uniform and charger grants should also be recovered from the foreign employer at the rates prescribed by Government from time to time. These contributions are payable during leave also.

Note 1. - Throughout this chapter, pension includes Government contribution, if any payable to a Government servants credit in a contributory provident fund.

Note 2.- A Government servant in foreign service shall be held to have lost his lien in

Government service from the date on which the post held by him in Government

service is abolished, and no contribution shall be received after that date. He shall be

regarded as having retired from Government service from that date, and he shall

thereafter be permitted to draw the Compensation pension to which he is entitled in

addition to the pay which he receives at the time from his foreign employer.

45. Rates of pension and leave salary conditions :-

(1) Contributions on account of pension and leave-salary should be calculated at the rates and by the method prescribed in appendix IV.

(2) In return for the contributions Government accept the liability for the pension, and, if the foreign service is in India, the leave-salary of the Government servant.

Note.- Pension contribution in respect of Forest subordinates lent to the Defense

Authorities to take charge of Cantonment Forests should be recovered under this rule.

46. Remission of contributions in certain cases :-

Government may remit the contributions due in any specified case or class of cases.

Note. - The following classes of Government servants are exempted are from the payment of contribution, and their leave-salaries and pensions are calculated

according to the rules applicable to Government servants :-

(i) Medical officers lent to charitable dispensaries or hospitals in India

(ii) The Municipal Commissioner for Greater Mumbai.

47. Contributions not be withheld :-

A Government servant in foreign service shall not withhold contributions payable under rule 44. Neither he nor the foreign employer has any right of property in a contribution paid and no claim for refund can be entertained.

48. Claim to pension and leave-salary if contributions paid :-

(1) The rates of pension contribution prescribed in Appendix IV are designed to secure to the Government servants the pension that he would have earned by

service under Government if he had not been transferred to Foreign service.

(2) The rates of contribution prescribed on Appendix IV for leaves salary are designed to secure to the Government servant leave-salary on the scale and under the conditions applicable to him. In calculating the rate of leave-salary admissible, the drawn in foreign service, less, in the case of a Government servant if paying his own contribution, such portion of his pay as may be paid as contribution, will count as pay for the purpose of leave-salary.

49. Rates of interest payable on overdue contributions :-

1. Contributions for leave-salary or pension, due in respect of a Government servant on foreign service, may be paid annually within fifteen days from the end of each financial year or at the end of the foreign service, if the transfer to foreign service expires before the end of a financial year, and if the payment is not made within the said period, interest must be paid to Government on the unpaid contribution, unless it is specifically remitted by Government, at the rate of two paise per day per Rs.100 from the date of expiry of the period aforesaid, upto the date on which the contributions is finally paid. The interest shall be paid by the Government Servant or the foreign employer according as the contribution is paid by the former or the latter.

2. The leave-salary and pension contributions should be paid separately as they are credited to different Head of Accounts and no dues recoverable from Government on any account, should be set off against these contributions.

50. Remission of interest :-

Interest on overdue contribution will only be remitted in

exceptional circumstances

when, for instance, the payment of the contribution has been delayed through no

fault of the Government servant or the foreign employer concerned.

Interest will not

be remitted in consequence of delay on the part of the Audit Officer to make a claim,

if the facts on which the claim is based were within the knowledge of the

Government servant or the foreign employer concerned.

51. Consequence of non-payment of contributions :-

When the contribution falls into arrears the Audit Officer should bring the fact to the

notice of the Government servant in Foreign Service and claim interest in accordance

with rule 49. If any amount due including interest, is not paid within twelve months

of its accrual, the Audit Officer should intimate to the Government servant the

amount due up to the date, and inform him that in consequence of default he has

forfeited his claim to pension, or pension and leave salary, as the case may be..In

order to revive his claim, the Government servant must at once pay the amount due

and represent his case to Government who will finally deal with it.

52. Date from which pay and contribution cease to be paid on reversion from foreign service :-

When a Government servant reverts from foreign service to Government service, his

pay will cease to be paid by the foreign employer, and his contributions will be

discontinued with effect from the date of reversion.

53. Remission of contribution in respect of vaccinators. :-

Recovery of contribution is remitted in the case of vaccinators who have been

declared to be pensionable servants of Government and are

employed in
cantonments or under municipalities or paid from Local Funds.

54. Reversion/re-call from foreign service :-

A Government servant in foreign service will be entitled to revert six months after he has given notice to Government of his wish to revert, but a competent authority may allow him to revert sooner; provided that this rule shall not apply to a Government servant transferred to foreign service under the first proviso to sub-rule (1) of rule 36. A Government servant in Foreign Service is liable to be recalled by a competent authority at any time.

55. Date from which reversion from Foreign Service is effective :-

A Government servant reverts from foreign service to Government service, on the date on which he takes charge of his post in Government service provided that, if he takes leave preparatory to retirement on the conclusion of foreign service, his reversion shall take effect from the date on which he proceeds on leave.

Note:- If a Government servant on foreign service applies for leave preparatory to retirement, the foreign employer is not the competent authority to sanction or refuse the leave.

56. Personal responsibility of a Government servant for accepting leave or Leave-salary while on foreign service. :-

1. A Government servant in foreign service is personally responsible for the observance of the provisions of rule 58. By accepting leave to which he is not entitled under these rules he renders himself liable to refund the leave-salary

irregularly drawn, and, in the event of his refusing to refund the period for which he has irregularly drawn leave -salary will not be counted either for leave or pension.

2. When it comes to the notice of the Audit Officer that a Government servant in foreign service has accepted leave to which he was not entitled under these rules, he shall require the leave so granted to be commuted into leave for which the Government servant is eligible under the rules, and call upon him to refund any leave salary drawn in excess of the amount admissible.

57. Government servant to acquaint himself with leave and leave-salary rules. :-

A Government servant transferred to foreign service must, before taking up his duties in foreign service, make himself acquainted with the rules or arrangements which will regulate his leave during such service.

58. Grant of leave and payment of leave-salary while in foreign service :-

A Government servant in foreign service in India may not be granted leave, otherwise than in accordance with the rules applicable to the service which he is a member, and may not take leave or receive leave-salary from Government unless he actually quits duty and goes on leave.

59. Grant of leave during foreign service out of India :-

1. a Government servant in foreign service out of India may be granted leave by his employer on such conditions as the employer may determine. In any individual case the authority sanctioning the transfer may determine beforehand, in consultation with the employer, the conditions on which leave will be granted by

the employer .

The leave-salary in respect of leave granted by the employer will be paid by the employer and the leave will not be debited against the Government servants leave account.

2. In special circumstances, the authority sanctioning a transfer to foreign service out of India may make an arrangement with the foreign employer, under which leave may be granted to the Government servant, if foreign employer pays to the Consolidated Fund of the State., leave salary contribution at the rate prescribed under Appendix-IV.

60. Treatment of service in India/out of India while in foreign service :-

If a Government servant on foreign service in India is sent by his employer, out of India on duty, he should be treated as in foreign service out of India .Similarly a Government servant on foreign service out of India deputed by his employer to India on duty should be treated as in foreign service out of India. The fact of the Government servants being so deputed should, however, be brought to the notice of the lending authority, as it might be necessary to reconsider the question of remuneration.

Note:- The responsibility of giving the information required under the last sentence of this rule lies with the Government servant.

61. Acceptance of pension or gratuity from foreign employer not permissible without sanction :-

A Government servant transferred to foreign service may not, without the sanction of Government, accept a pension or gratuity from his employer in respect of such

service.

62. Principles governing promotions of a Government servant in his cadre while in foreign service :-

A Government servant transferred to foreign service shall remain in the cadre or

cadres in which he was included in substantive or officiating capacity immediately

before his transfer, and may be given such substantive or officiating promotion in

those cadres as the authority competent to order promotion may decide. In giving

promotion, such authority shall take into account-

a) the nature of the work performed in foreign service; and

b) the promotion given to juniors in the cadres in which the question of promotion

arises.

In any individual case, Government may grant a Government servant even outside

his cadre but in his own line such promotion as they consider he would have got had

he not been transferred to foreign service.

Note:- The words "in his own line" used in the above rule refer to posts to which the

Government servant may normally look for promotion in his own department or

office.

63. Fixation of pay while holding two or more posts in foreign service :-

The pay of a Government servant holding simultaneously two or more appointments

in foreign service should be fixed as far as possible in accordance with the provisions

of the rules contained in Chapter V of Maharashtra Civil Services (Pay) Rule, 1981

and keeping in view the provisions of rules 38 and 39.

64. Pay in foreign service not to be taken into account while fixing pay on appointment in Government service :-

A Government servant in foreign service, if appointed to officiate in a post in Government service, will draw pay calculated on the pay of the post in Government service on which he holds a lien or would hold a lien had his lien not been suspended and that of the post in which he officiates. His pay in foreign service will not be taken into account in fixing his pay.

65. Recoveries of cost of establishment to be made from those for whose benefit or at whose request posts are created :-

When an addition is made to a regular establishment on the condition that its cost, or a definite portion of its cost, shall be recovered from the persons for whose benefit the additional establishment is created, recoveries shall be made as follows:-

- a) the amount to be recovered shall be the gross sanctioned cost of the service, or of the portion of the service, as the case may be, and shall not vary with the actual expenditure of any month.
- b) In the case of additions made to the establishment the procedure prescribed in rule 4 in Appendix IV should be followed.
- c) Government may reduce the amount of recoveries or may entirely forego them..

Note 1. The term "gross sanctioned cost of the service" used in clause (a) means the average cost of the establishment in the absence of any specific orders to the contrary.

3. The recoveries on account of pension contribution should not be effected in the case of temporary establishments entertained under this rule when the persons have not been transferred from Government service but are outsiders temporarily appointed. Cases in which the temporary service eventually

becomes pensionable

should be met by recovering contributions in arrears under proper authority.

4. The words " its cost" in line 2 of this rule refer to " an addition" in line 1 of this

rule. The underlying intention of the rule is to cover the cost of the additional

establishment sanctioned. Contributions for leave-salary and pension leviable under

clause (b) of this rule should, therefore, be based on the rates of pay, old and/or

revised, as the case may be, on which that establishment is actually sanctioned.

5. (a) (i) In order to work out a fixed amount for purpose of effecting recoveries

under this rule, house rent allowance should be calculated at the maximum rate on

the average cost of the establishment : and

(ii) Compensatory allowance and house rent allowance drawn during the period of

leave should also be included for purposes of recovery under this rule.

(c) The addition to be made to the Pay element of the gross sanctioned cost of the

establishment under this rule on account of dearness allowance should be worked

out on the basis of rates applicable in each case.

CHAPTER 5 SUSPENSION, DISMISSAL AND REMOVAL

66. Pay and allowances cease from the date of dismissal or removal :-

The pay and allowances of Government servant, who is dismissed or removed from

service, cease from the date of such dismissal or removal.

67. Grant of leave not permissible during suspension :-

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

68. Subsistence allowance and compensatory allowance during suspension :-

1. A Government servant under suspension or deemed to have been placed under suspension by an order of the appointing authority shall be entitled to the following payments, namely:-

a. A subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn if he had been on leave on half pay and, in addition dearness allowance based on such leave salary:

Provided that where the period of suspension exceeds six months, the authority

which made or is deemed to have made the order of suspension shall be competent

to vary the amount of subsistence allowance for any period subsequent to the period

of first six months as follows:-

i) It may be increased by a suitable amount, not exceeding fifty per cent of the

subsistence allowance admissible during the period of first six months, if in the

opinion of the said authority, the period of suspension has been prolonged for

reasons, to be recorded in writing, not directly attributable to the Government

servant ;

ii) It may be reduced by a suitable amount, not exceeding fifty per cent of the

subsistence allowance admissible during the period of the first six months, if, in the

opinion of the said 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 admissible under sub-clause (i)

and (ii)

b. Other compensatory allowance, if any, of which the Government servant was in

receipt of suspension to such extent and subject to such conditions as the authority suspending the Government servant may direct. Provided that the Government servant shall not be entitled to the compensatory allowance unless the said authority is satisfied that the Government servant continues to meet the expenditure for which they are granted.

2. When a Government servant is convicted by competent Court and sentenced to imprisonment, the subsistence allowance shall be reduced to a nominal amount of rupee one per month with effect from the date of such conviction and he shall continue to draw the same till the date of his removal or dismissal or re-instatement by the competent authority. If, however,, he was acquitted by the Appellate Court in the meanwhile, in which case, he will draw the subsistence allowance at the normal rate from the date of acquitted by the Appellate Court.

69. Recovery of Government dues from subsistence allowances and furnishing of non-employment certificate while under suspension :-

1. Notwithstanding anything contained in sub-rule (1) of rule 68, the authority suspending the Government servant may withhold the payment of dearness allowance and /or compensatory allowances to the Government servant under suspension and appropriate the same towards the payment of any amount which may be due to Government.

2. The following provisions apply to the recovery of dues from the subsistence allowance proper:-

a) Compulsory deduction :- The following deductions should be enforced from the subsistence allowance:

i) Income tax and Profession Tax,

ii) Licence fee and allied charges i.e. electricity, water, furniture.
iii) Repayment of loans and advances taken from Government at such rates as the Head of the Department deems it right to fix;

b) Optional deductions:- The following deductions shall not be made except with the Government servants written consent:-

i) Premia due on Postal Life Assurance Policies;
ii) Amounts due to Co-operative Stores and Co-operative Credit Societies
iii) Refund of advances taken from General Provident Fund;

c) Other deductions:-The deductions of the following nature shall not be made from the subsistence allowance:-

i) Subscription to General Provident Fund;
ii) Amounts due on Court attachments;
iii) Recovery of loss caused to Government for which a Government servant is responsible.

1) There is no bar to effecting the recovery of overpayments from the subsistence allowance, but the competent authority will exercise discretion to decide whether the recovery should be held wholly in abeyance during the period of suspension or it should be effected at full or reduced rate ordinarily not exceeding one-third of the amount of the subsistence allowance only i.e. excluding dearness allowance and other compensatory allowances.

2) No payment under rule 68 (1) shall be made unless the Government servant furnishes a certificate to the following effect before payment is made every month:-

" I certify that I did not accept any private employment or engage myself in trade or business during the period in question."

If the authority has any reasons to doubt this certificate; it may ask the Police Authorities to verify the certificate and if the Government servant is found to have given a false certificate, that should be construed as an act of

misconduct and made
an additional charge against him.

In case of Gazetted Officer under suspension, they should furnish the certificate themselves to the Treasury Officers/Audit Officer, who should see that the certificate is furnished before the claim for payment is admitted. In case of doubt regarding the certificate, the case should be referred to the Head of Department, who will ask the Police Authorities to verify the same.

5. Icemen occupying rent-free quarters in Police lines or living in quarters the rent of which is paid by Government may be permitted to occupy them during the period of suspension just as they did while on duty.

6. The compensatory local allowance and house rent allowance sanctioned at the discretion of the suspending authority under rule 68(1)(b), can be drawn only if the Government under suspension certificate that he or his family or both resided for the period for which the allowance is claimed at the station where he was on duty at the time of suspension.

7. Government servants other than those referred to in sub-rule (5) occupying rent-free quarters prior to being placed under suspension, may at the discretion of the suspending authority, be allowed to occupy them to such extent and subject to such conditions as the authority suspending the Government servant may direct.

70. Regularization of pay and allowances and the period of absence from duty where dismissal, removal or compulsory retirement is set aside as a result of appeal or review and such Government servant is re-instated. :-

1. When a Government servant who has been dismissed, removed or compulsorily retired is re-instated as a result of appeal or review or would have

been so re-

instated but for his retirement on superannuation while under suspension or not, the

authority competent to order re-instatement shall consider and make a specific

order-

a) regarding the pay and allowances to be paid to the Government servant for the

period of his absence from duty including the period of suspension preceding his

dismissal, removal or compulsory retirement, as the case may be; and

b) Whether or not the said period shall be treated as a period spends on duty.

2. Where the authority competent to order re-instatement is of opinion that the

Government servant who had been dismissed, removed or compulsorily retired has

been fully exonerated, the Government servant shall, subject to the provisions of

sub-rule (6), be paid the full pay and allowances to which he would have been

entitled, had he not been dismissed, removed or compulsorily retired or suspended

prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the

proceedings instituted against the Government servant had been delayed due to

reasons directly attributable to the Government servant, it may, after giving him an

opportunity to make his representation within sixty days from the date on which the

communication in this regard is served on him and after considering the

representation, if any, submitted by him, direct for reasons to be recorded in writing,

that the Government servant shall, subject to the provisions of sub-rule (7), be paid

for the period of such delay, only such amount (not being the whole) of such pay and

allowances as it may determine.

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

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

Provided that payment under this sub-rule to a Government servant (other than Government who is governed by the provisions of the Payment of Wages Act, 1936

(4 of 1936) shall be restricted to a period of three years immediately preceding the date on which orders for reinstatement of such Government servant are passed by the appellate authority or reviewing authority, or immediately preceding the date of

retirement on superannuation of such Government servant, as the case may be.

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

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

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

- a) extraordinary leave in excess of three months in the case of a temporary Government servant; and
- b) leave of any kind in excess of five years in the case of a permanent Government servant.

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

7. The amount determined under the proviso to sub-rule (2) or under sub-rule (4) shall not be less than the subsistence allowance and other allowances admissible under rule 68.

8. Any payment made under this rule to a Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal,

dismissal or compulsory retirement. Where the pay and allowances admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the Government servant.

71. Regularisation of pay and allowances and the period of absence from duty where dismissal, removal or compulsory retirement is set aside by a Court of law and such Government servant is reinstated. :-

1. Where the dismissal, removal or compulsory retirement of a Government servant is set aside by a Court of law and such Government is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the Government servant shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions if any, of the Court.

2. (a) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court solely on the ground of non-compliance with the requirements of clause (2) of article 311 of the Constitution, and where he is not exonerated on merits, the Government servant shall, subject to the provisions of sub-rule (7) of rule 70 be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him, in that connection within

such period which in no case shall exceed sixty days from the date on which the notice has been served, as may be specified in the notice: Provided that any payment under this sub-rule to a Government servant (other than a Government servant who is governed by the provisions of the Payment of Wages Act 1936 (4 of 1936)) shall be restricted to a period of three years immediately preceding the date on which judgement of the Court was passed or the date of retirement on superannuation of such Government servant as the case may be.

b) period intervening the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of judgement of the Court shall be regularized in accordance with the provisions contained in sub-rule(5) of rule-70.

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

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

5. Any payment made under this rule to a Government servant on his re-instatement shall be subject to adjustment of the amount, if any, earned by

him through an employment during the period between the date of dismissal, removal or compulsory retirement and date of reinstatement. Where the pay and allowances admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the Government servant.

72. Re-instatement of a Government servant after suspension and specific order of the competent authority regarding pay and allowances etc. and treatment of period as spent on duty. :-

1. When a Government servant who has been suspended is reinstated or would have so reinstated but for his retirement on superannuation while under suspension, the authority competent to order re-instatement shall consider and make a specific order:-

a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with re-instatement or the date of his retirement on superannuation, as the case may be; and
b) whether or not the said period shall be treated as a period spent on duty.

2. Notwithstanding anything contained in rule 68, where a Government servant under suspension dies before the disciplinary or Court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not suspended, subject to adjustment in respect of subsistence allowance already paid.

3. Where the authority competent to order re-instatement is of the opinion that the

suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended,:

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall be paid of such delay only such amount (not being the whole) of such pay and allowances as it may determine.

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

5. In cases other than those falling under sub-rules (2) and (3) the Government servant shall, subject to the provisions of sub-rules (8) and (9), be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any submitted by him in that connection within such period which in no case shall exceed, as may be specified in the notice.

6. Where suspension is revoked pending finalisation of the disciplinary or court proceedings, any order passed under sub-rule (1) before the conclusion of the proceedings against the Government servant, shall be reviewed on

its own motion

after the conclusion of the proceedings by the authority mentioned in sub-rule (1)

who shall make an order according to the provisions of sub-rule (3) or sub-rule (5),

as the case be.

7. In a case falling under sub-rule (5) the period of suspension shall not be treated

as a period spent on duty, unless the competent authority specifically directs that it

shall be so treated for any specified purpose.

Provided that if the Government servant so desires, such authority may order that

the period of suspension shall be converted into leave of any kind due and admissible

to the Government servant.

Note.- The order of the competent authority under preceding proviso shall be

absolute and no higher sanction shall be necessary for the grant of-

(a) extraordinary leave in excess of three months in the case of temporary

Government servant: and

(b) leave of any kind in excess of five years in the case of permanent Government servant.

8. The payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall

be subject to all other conditions under which such allowances are admissible.

9. The amount determined under the proviso to sub-rule (3) or under sub-rule (5)

shall not be less than the subsistence allowance and other allowances admissible

under rule 68.

73. No extra cost to be incurred by the grant of pay and allowances under rule 70 to 72 without the permission of Government :-

No extra cost may be incurred by the grant of pay and allowances under rules 70,71

except sub-rule (3), and 72 except sub-rule (2) without the

permission of

Government. In cases however, where the cost does not exceed Rs. 2,000 and

where the period during suspension, removal or dismissal from service, does not

exceed two years, the excess expenditure may be admitted on the sanction of the

authority mentioned in rules 70,71 except sub-rule (3) and 72 except sub-rule (2).

Note 1.- It is necessary under this rule to obtain the approval of Government to

the payment of-

(a) any amount exceeding Rs.2000, or

(b) any amount not exceeding Rs.2000, if the period in respect of which it is paid,

exceeds two years.

Note 2 :- Departmental enquiries in disciplinary matters are generally not completed

expeditiously and that at times drag on for a considerably long time. Such enquiries

should be held and completed as quickly as possible and that in any case the period

should not exceed three months from the date a decision has been taken to hold a

departmental enquiry. If for any reasons the enquiry is likely to take longer time, the

Enquiry Officer, unless he is himself the Head of Department should submit a report

to the Head of his Department giving reasons for the delay and the latter should

obtain the sanction of Government for allowing the Enquiry Officer an extension of

time to complete his enquiry if he is satisfied that there is a case for such extension.

In case the Enquiry Officer is himself the Head of Department, he should report the

reasons for delay, if any, to Government and obtain an extension of time for

completing enquiry.

Note 3. - It is necessary to obtain the approval of Government to the payment of

pay and allowances in cases where reinstatement is ordered by

setting aside the order of dismissal/removal on the ground that it was passed by an authority subordinate to the appointing authority or was so passed without giving reasonable opportunity to show cause in respect of such order. In all such cases a report explaining why the proper procedure was not observed should invariably be sent to Government to enable it to decide whether the loss caused to Government should be recovered from the official(s) concerned in proportion to his/her/their responsibility.

Instruction:- This rule is not applicable to those cases in which the period of absence from duty, either by way of suspension or by way of the period spent out of service, is treated as leave due and admissible.

74. Adjustment of subsistence allowance against final payment

:-

The amount of subsistence allowance, if any, already drawn is to be deducted from the pay and allowances or proportion of them which may be granted under 70, 71, or 72 as the case may be.

75. Filling in vacant posts substantively due to reduction, removal or dismissal, after one year. :-

Posts vacated by Government servants, removed or dismissed from service, may be filled substantively only after the expiry of the period of one year from the date of such reduction, removal, or dismissal, as the case may be, subject to the condition that the arrangements thus made will be reversed if such Government servants are re-instated on appeal.

76. Grant of pay and allowances on reinstatement does not

cancel officiating arrangements. :-

The grant of pay and allowances or a proportion of them under rules 70, 71 o 72

does not cancel any acting arrangements which may have been in force during the

period of a Government servants suspension, removal, dismissal or reduction.

Note:- Cases where Governments are re-instated when the order of dismissal/removal is set aside for the reason that it was passed by an authority not

competent to pass such an order or was so passed without giving a reasonable

opportunity to show cause in respect of such order, will be covered by this rule.

CHAPTER 6 REPEAL AND SAVING

77. Repeal and Saving :-

The corresponding rules in the Bombay Civil Service Rules-1959, as in force in the

State of Maharashtra immediately before the commencement of these rules are

hereby repealed in so far as they provide for any of the matters contained in these

rules:

Provided that anything done or any action taken under the rules so repealed shall be

deemed to have been done or taken under the corresponding provisions of these

rules.

APPENDIX 1

APPENDIX-I

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Authorities to whom powers under Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981 have been delegated by Government.

Serial	Number	Nature of power	Authority to	Scope
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(See rule 40)

Standard terms and conditions of transfer of Government servants to foreign service.

Note:- Wherever the "Government servant" occurs in these terms, the name of the Government servant should be mentioned while applying these terms.

The following are the standard terms and conditions of transfer of Government servants to foreign service, including statutory Corporations, autonomous bodies. No

departure from the prescribed terms and conditions shall be permissible.

1. Period of Deputation :-

The foreign service shall commence from the date the Government servant hands over charge of the post and will expire on the date the he resumes charge of his post

under Government. The Government servant shall be on deputation for a period of(State the period) years in the first instance provided that :-

i) Government/competent authority reserves the right to recall him any time before expiry of the deputation , if his services are required by Government in the interest of public service;

ii) If his services are not required by the foreign employer, it shall be open to the foreign employer to revert him to the parent department, provided 3 months notice is given to Government /competent authority by the foreign employer before effecting such reversion: And

iii) It is open to him to revert to the department after he gives a notice, of not

less than three months, in writing to Government/competent authority of his intention to do so.

2. Pay-

While on foreign service the Government servant shall have the option either to get

his pay fixed in the deputation post under the operation of normal rules or to draw pay which he would have drawn in the parent department but for his deputation on foreign service in the scale of Rs.prescribed for the post of (scale

and designation of the post plus deputation allowance of not more than 20 per cent of that pay, subject to a maximum of Rs. 250 per month, provided that the sum total

of "basic pay" plus deputation allowance does not exceed the maximum of the scale

of pay of the post held on deputation or where the post on deputation is on a fixed is

on a fixed pay, that fixed pay and provided further it does not, in any case, exceed Rs.3000/- per month.

For the purpose of computing the deputation allowance, the special pay, which is sanctioned in lieu of a separate scale of pay in the parent department, may be taken into account.

In case the Government servant elects the scale of pay of the deputation post and the minimum of that scale is substantially in excess of his basic pay plus deputation allowance at the rate of 20 per cent, then provisions of rule 20 of Maharashtra Civil Services (Pay) Rules, 1981 will be applied and the

initial pay will be fixed at a suitable figure below the minimum of the scale of the deputation post so that the pay so fixed does not exceed the basic pay of the deputationist by the amounts indicated below:-

- a) For employees in receipt of basic 25 per cent of basic pay or basic pay above Rs. 750. Rs. 225 whichever is more.
- b) For employees in receipt of basic 30 per cent of basic pay or basic pay above Rs. 300 and Rs. 100 whichever is more. upto Rs.750/-
- c) For employees in receipt of basic 33.1/3 per cent of basic pay. Pay of Rs. 100/- and above but upto Rs. 300/-.

3. Dearness Allowance:-

The Government servant will be entitled to draw dearness allowance as admissible under the State Government or under the rules of the foreign employer according as

he retains his scale under the State Government or he draws pay in the scale attached to the post in the foreign employer.

4. House Rent Allowance/Compensatory Local Allowance-

The Government servant will be entitled to draw House Rent Allowance/Compensatory Local Allowance as admissible under the State Government rules from time to time but foreign employer may at his discretion allow these allowances under the rules of the foreign employer.

5. Joining time and transfer travelling allowance:-

Pay and travelling allowance during the joining time both on transfer to and reversion from foreign service shall be paid by the foreign employer in accordance with the relevant rules of the State Government.

6. Travelling allowance for journey on duty during the period of deputation:-

Government servant shall be entitled to travelling allowance and daily allowance for

journey undertaken after joining the foreign service according to the relevant rules of

the State Government or under the rules of the foreign employer.

7. Leave :-

Government servant shall continue to be governed by the leave rules applicable to him before such transfer. The procedure laid down in rule 18(2) of Maharashtra Civil

Services (Leave) Rules, 1981 should be followed scrupulously. On being relieved from foreign service he will not be allowed to proceed on leave direct by the foreign

employer, i.e. without first joining Government service and without getting, i.e. without first joining Government service without getting his leave sanctioned by the

competent authority in the parent department in the usual manner.

8. The whole expenditure in respect of any compensatory allowance for the period of

leave taken during or at the end of foreign service shall be borne by the foreign employer.

9. In the case of a female Government servant, the leave salary for the period of maternity leave availed of by her while in or at the end of foreign service shall be borne by the foreign employer.

(Whenever a female Government servant, is to be deputed to foreign service, a specific term to this effect should be included.).

10. Leave salary on account of disability leave:-

The foreign employer shall be liable to pay leave salary in respect of any disability leave that may be granted on account of disability manifests itself after the termination of foreign service .

The leave salary charge of such leave shall be recovered from the foreign employer.

11. Leave salary and pension contribution:-

- (a) The leave salary and pension contribution shall be paid by the foreign

employer in accordance with the rates prescribed in Appendix IV.

(a) The foreign employer shall pay leave and pension contributions annually within 15 days from the end of each financial year or at the end of the foreign service, if the deputation on foreign service expires before the end of a financial year at the following rates:-

i) Leave Salary Contribution Rs. . per month

ii) Pension Contribution Rs.per month

The amounts of contributions should be credited under the following Head of Accounts:-

i) Leave salary contribution *(Relevant Budget Head to be entered)

*(Here enter Receipt Head corresponding to the Service Head of Account to which the pay of the officer is debited, where there is no corresponding Receipt Head to the

Major Head, then put "065, Other Administrative Services- C-Other Services- (t) Other receipts () Leave salary contribution ")

ii) Pension contribution- " 066-Contributions and recoveries towards pension and other Retirement Benefits- A Subscriptions and Contributions (I) Officers on Foreign Service."

The rates mentioned above shall be treated as provisional pending confirmation by the Audit and will be subject to adjustment retrospectively.

c) If contributions for leave salary or pension which are due in respect of the Government servant in foreign service are not paid within the aforesaid period, the foreign employer shall pay to Government, unless specifically remitted by Government, interest on the unpaid contributions at the rates of two paise per day per Rs. 100 upon the amount due from the date of expiry of the period aforesaid upto the date on which the contributions are finally paid. The interest shall be paid by the Government servant or the foreign employer according as the contribution is

paid by the former or the latter.

d) The leave salary and pension contributions should be paid separately as they are credited to different Head of Accounts should be set off against these contributions.

12) Leave travel concession:-

The Government servant shall be entitled to the leave travel concession according to

the relevant rules of the State Government on the subject. The expenditure in this respect shall be borne by the foreign employer.

13) Encashment of leave:-

The Government servant shall be entitled to the benefit of encashment of earned leave as admissible under rule 73 of the Maharashtra Civil Services(Leave) Rules, 1981 . The expenditure in this respect shall be borne by the foreign employer.

14) Medical concessions:-

The Government servant shall be entitled to medical facilities not inferior to those admissible under the Maharashtra Civil Services (Medical Attendance) Rules, 1961 and the cost of that account shall be borne by the foreign employer.

15) General Provident Fund subscription –

The Government servant shall continue his subscription to the General Provident Fund of which he is a member in accordance with the prescribed rules.

16) Departmental enquiry: -

If a departmental enquiry is to be instituted against the Government servant, he shall be reverted to his parent department. The subsistence allowance shall be paid by Government, but it will be recovered from the foreign employer.

17) Bonus/Ex-gratia award: -

(a) the Government servant drawing pay not exceeding Rs. 1600 per month who is on temporary transfer to Public Undertaking, which are legally required to pay bonus

under the Payment of Bonus Act, 1965, shall be allowed to accept bonus declared by

such Undertaking.

b) Government servant who are on temporary transfer to Public Undertaking which declare bonus or ex-gratia award (even though the payment of bonus may not be a

legal obligation in their cases) may be allowed to accept the ex-gratia award declared by such Undertakings.

Note: 1. The term: appearing in (a) above shall have the meaning as "salary or wage" as defined in section 2(21) of the Payment of Bonus Act 1965 and shall include pay, special pay, if any, and dearness allowance. As deputation allowance has been classified as "special pay," it should also be taken into account. City compensatory allowance, house rent allowance, etc, should not be taken into account for the purpose.

Note:2. Government servants on deputation drawing pay as amplified in Notre-1 above, not exceeding Rs1,600 p.m. only will be allowed to accept such ex-gratia awards.

Note:3. Where the pay of the Government servant exceeds Rs.750 p.m. the ex-gratia award or bonus, as the case may be, shall be calculated as if the pay was Rs.750 p.m. The maximum amount of ex-gratia award of bonus payable to Government servant on deputation to such Undertakings should be limited to 20 per cent of the pay not exceeding Rs. 750 p.m. as in the case of legally payable bonus.

18) Proforma promotion:-

If the Government servant, while on deputation, becomes due for promotion in the parent department, he should not ordinarily be continued on deputation. If, however,

he is continued on deputation by the competent authority, he will be allowed the pay

of the promotion post under the next below rule will not be admissible beyond six months.

19) Permanent absorption:-

If subsequently the Government servant desires to get absorbed in the services of the Public Sector Undertakings, Autonomous Body or a Local Authority, he shall be deemed to have retired from Government service on the date of his absorption.

APPENDIX 3

APPNDIX III

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(See rule 40)

Guide lines for transfer of Government servant to foreign service.

The following are the guidelines which should be observed by the authority competent to transfer a Government servant to foreign service, and by the foreign employer.

1) Period of deputation:- The maximum period for which the Government servant will be permitted to be on deputation in foreign service is four years. Extension beyond this period will be with specific approval of the Chief Minister. No deputation

allowance will be allowed for such extension , if agreed to by the Chief Minister. On his reversion to the parent department, he will not again be permitted to on deputation within a period of four years.

2) If a person (with permission from the competent authority) proceeds on

deputation from one Corporation /Foreign Body to another without reverting to his parent department, the transfer to second Corporation/foreign body would be a fresh

tenure of deputation for the purpose of reckoning the period of deputation and shall be subject to a maximum of three years in all cases except for those posts where a longer period of tenure is prescribed.

3) Proforma promotions:- If during the deputation period the Government servant becomes due for Proforma promotion in the parent department or is appointed to a post carrying higher scale, he shall not be allowed to draw deputation allowance in addition to the grade pay of the promotion post, unless in respect of posts coming within the purview of the Establishment Board, the Board takes a conscious decision,

after taking into account the claims of other officers similarly situated that he alone be continued in foreign service and in respect of posts not concerned by the Establishment Board, the Administrative Department takes such a decision in consultation with the General Administration Department, in which case the question

of grant of deputation allowance will be considered with due regard to the duties and

responsibilities he is required to discharge/shoulder in foreign service, even after, his

promotion in the parent department, by the concerned Administrative Department of

the Mantralaya in consultation with General Administration Department and Finance

Department.

4) When a Government servant already on deputation is to be promoted to another

post by the borrowing authority, the borrowing authority should obtain the concurrence of the lending authority prior to the promotion so that the latter might decide as to how the pay in the higher post is to be regulated.

5) Leave:- The foreign employer, will maintain a leave account of the Government servant concerned. An extract of the leave account may be supplied to him by the Audit Officer in the case of Gazetted Officers, and by the Head of the Office in case of

Non-Gazetted Government servants. The foreign employer will determine the leave

admissible to the Government servant concerned and sanction it under intimation to

the Audit Officer in the case of Gazetted Officers and Head of the Office in the case of

Non-Gazetted Government servants, as the case may be. The foreign employer will

then make payment of the leave salary to the officer concerned. Thereafter, he may

claim half yearly reimbursement of leave salary so paid, from the Audit Officer/Head

of the Office, as the case may be. For this purpose, he may send his claims duly supported with details of the officials on foreign service, nature and period of leave sanctioned and enjoyed, rate of leave salary and amount of leave sanctioned and enjoyed, rate of leave salary and amount of leave salary paid to the Audit Officer in

the case of Gazetted Officers and to the Head of the parent Department in the case of Gazetted Officers and to the Head of the parent Department in the case of Non-gazetted Government servants. The half-yearly reimbursement suggested may be in

respect of the period from 1st April to 30th September and 1st October to 31st March. The Audit Officer or the Head of the Department should verify the claims preferred by the foreign employer and arrange to reimburse the amount through

Bank Draft within a month of the receipt of the claim.

6) Leave salary and pension contribution :-

The foreign employer shall follow the following instructions to ensure prompt payment and due crediting of the contributions:-

- i) One demand draft if the total amount due on account of the pension and leave salary contributions should be drawn;
- ii) The draft should be made payable to the Accountant General, Maharashtra I/II Mumbai/Nagpur;
- iii) The draft should be crossed.
- iv) The draft should be sent under a covering letters wherein the following details should be indicated:-
 - a) Name of the person in whose respect contributions are paid;
 - b) Period of which the contributions pertain;
 - c) Split up of the amount- Rs.
 - i) Leave Salary Contribution ..
 - ii) Pension Contribution..

Total Rs. ..

v) It is not necessary to send separate drafts if there are more than one Government servant on deputation to one and the same foreign authority. The purpose can be served by issuing only one demand draft. However, the details of the amount sent should be given in a covering letter as stated in clause (iv) above.

7) It shall be incumbent upon the foreign employer to consult the parent department

if it is proposed to absorb the Government servant under the Public Sector Undertaking, Autonomous Body or a Local Authority. Neither the Government servant nor the foreign employer shall have any right of property in the contributions

paid towards pension, leave salary, etc. to Government and no claims for refund will

be entertained.

8) The pensionary benefits, as provided in the relevant rules of the State Government on the subject will be admissible to only permanent Government servants who while on deputation are absorbed in the public interest in service of a Public Sector Undertaking, Autonomous Body of a Local Authority.

APPENDIX 4

APPENDIX IV

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(See rules 44, 45, 48, 59 and 65)

Rules regulating the recovery of leave and pension contribution in the case of Government servants in foreign service.

1. Contribution on account of pension and leave should be calculated according to the rates laid down in rule 6.

Note :- The liability of a borrowing organisation/Government to pay contributions to the lending Government will cease when a Government servant I is permanently transferred to the former.

2. (a) The term "active foreign service" used in rule 6 includes the period

of joining time, which may be allowed to a Government servant both on the occasion of his proceeding to and reverting from foreign service and contributions are accordingly leviable in respect of such periods.

Note:1- The recovery of salary contribution in respect of joining time taken under

sub- rule (2) of rule 10 of Chapter III while proceeding to foreign service,

should be based on the pay that the Government servant would draw on the assumption of office in foreign service.

Note:2-The leave-salary contribution for the period of joining time taken by a Government servant in continuation of leave under sub-rule (2) of rule 10 of Chapter III before reversion from foreign service should be calculated on the pay he was getting immediately before he proceeded on leave.

(b) "Length of Service" means the continuous service of the Government servant concerned.

Note:- In the case of judicial officers who are allowed in addition to their service

counting for superannuation pension, an additional period of service as admissible under the rules should be added to their length of service for determining the rate of pension contribution.

3. Pension contributions should be recovered from the foreign employer on behalf of temporary Government servants transferred to foreign service, as in the case of permanent Government servants at the rates laid down in rule 6.

4. For the purpose of rule 65 (b) of Chapter IV, the following procedure should be followed:-

a) As regards contribution for pension in the case of members of Class I and II services, the amount to be recovered as contribution should be the average of the rates prescribed in the *second, *third and fourth columns of the table in rule 6. In the case of members of Class III and Class IV services a fraction of the total maximum monthly pay of all the sanctioned posts equal to the average of the percentage laid down in columns 5* and 6* respectively of the table under rule 6(1) should be levied as contribution.

b) As regards contributions for leave-salary, recoveries should be made at the rate of 11 per cent on the average cost of the time scales of pay of all the posts concerned.

5. A Government servant who is a subscriber to the Contributory Provident Fund and who is transferred to Foreign Service shall pay monthly subscriptions calculated on the rate of pay drawn in foreign service. The foreign employer or the Government servant himself according to the arrangements made rule 44 of Chapter IV shall pay, in addition for the period of active foreign service, at such time as Government may prescribe in each case, a contribution determined by the formula $X + XY$ where X equals the amounts which would have been credited monthly to the subscribers account in the Provident Fund had he not proceeded on foreign service, the rate of pay drawn by him, in foreign service, being regarded as his "emoluments" for this purpose and Y equals the fraction which the amount recoverable as leave-salary contribution bears to pay drawn in foreign service.

*6. (1) Rates of monthly contribution for pensionary benefits payable during active foreign service in respect of -

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Years of Service	Members of class-I services.	Members of class-II services.	Members of class-III services.	Class-IV Government services.
	Per cent of the	Per cent of	Per cent of	Per cent of the

	Per cent of the maximum Monthly Pay of the post in the officiating /substantive grade as the case may be, held by the officer at the time of the proceeding on foreign service	Per cent of the maximum Monthly Pay of the post in the officiating /substantive grade as the case may be, held by the officer at the time of the proceeding on foreign service	Per cent of the maximum Monthly Pay of the post in the officiating /substantive grade as the case may be, held by the officer at the time of the proceeding on foreign service	Per cent of the maximum Monthly Pay of the post in the officiating /substantive grade as the case may be, held by the officer at the time of the proceeding on foreign service
1	2	3	4	5
0-1 Year	7%	6%	5%	4%
1-2 Years	7%	6%	6%	4%
2-3 Years	8%	7%	6%	5%
3-4 Years	8%	7%	7%	5%
4-5 Years	9%	8%	7%	5%
5-6 Years	10%	8%	7%	6%
6-7 Years	10%	9%	8%	6%
7-8 Years	11%	9%	8%	6%
8-9 Years	11%	10%	9%	7%
9-10 Years	12%	10%	9%	7%
10-11 Years	12%	11%	10%	7%
11-12 Years	13%	11%	10%	8%
12-13 Years	14%	12%	10%	8%
13-14 Years	14%	12%	11%	8%
14-15 Years	15%	13%	11%	9%
15-16 Years	15%	13%	12%	9%
16-17 Years	16%	14%	12%	9%
17-18 Years	16%	14%	13%	10%
18-19 Years	17%	15%	13%	10%
19-20 Years	17%	15%	13%	10%
20-21 Years	18%	16%	14%	11%
21-22 Years	19%	16%	14%	11%
22-23 Years	19%	17%	15%	11%
23-24 Years	20%	17%	15%	12%
24-25 Years	20%	17%	16%	12%
25-26 Years	21%	18%	16%	12%

26-27 Years	21%	18%	16%	13%
27-28 Years	22%	19%	17%	13%
28-29 Years	23%	19%	17%	13%
29-3- Years	23%	20%	18%	13%
Over 30 Years	23%	20%	18%	14%

Note:- A portion of dearness allowance has been treated as " Dearness Pay" for purpose of retirement in the terms of Government Resolution, Finance Department,

No.PEN-1079/CR-917/SER-4, dated the 19th September 1979. The dearness pay appropriate to the maximum in respect of the post held by a Government servant at

the time of proceeding on foreign service or to which he may receive proforma promotion while on foreign service shall be taken into account while calculating the pension contribution.

2. Rates of monthly contribution for leave-salary payable during active foreign service will be 11 percent of pay drawn in foreign service.

By order and in the name of the Governor of Maharashtra.

V.PRABHAKAR,

Special Secretary to Government.