Chapter III

A- Definition of Law in various schools of Jurisprudence

I. Natural Law

Natural law means the law which is unwritten and consists of the principles of ought as revealed by the nature of man or reason or derived from God etc. It is known to be the higher law. The term morality, justice, ethic, right reason, good conduct, equality, liberty, freedom, social justice, democracy etc. are included under the natural law. Italian jurist Del Vecchio observes 1 that—"Natural law is criterion which permits us to evaluate positive law and to measure its intrinsic justice". Black stone remarked 2 —"This law of nature being coeval with mankind, dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times, no human laws are of any validity, it contrary to this, and such of them as are valid derive all their force and all their authority, mediately or immediately from this orginal.

Ancient Age

(Greece)

(i) Heractlitus 3 (530-470 B.C.) Pointed out that natural law philosophy is based on the rhythm of events. This was termed as desting order and reason of the world. Nature is not just substance but a relation of order of things.

(ii) Socrates 4 (470-399 B.C.) said that—like natural physical law, there is a natural moral law. Man possesses insight and this insight" reveals to him the goodness and badness of things and makes him know the absolute and eternal moral rules the absolute and eternal moral rules. This human insight is the basis to judge the law.

(iii) Plato 5 (427-347 BC) observed that justice is harmony of mans inner life, and harmony is the quality of justice and it is achieved by reason and wisdom over desire.

(iv) Aristotle 6 (384-322 B.C.). To him the law is reason unaffected by desires and embodied the basic principles of justice and morality which were of universal validity and independent of time and place.

Rome
(i) **Stoics** ¹ – Observed the entire universe is governed by "reason". Man's reason is a part of the universal reason. Therefore, where he lives according to reason, be lives according to nature or lives naturally.
(ii) **Geno** (350-260 B.C.) To him man as a part of cosmic nature was rational creature.

**Dark Age**
(i) **St. Augustine**, ² Expressed that the union with divine is the end of law. To attain this end the physical instincts of the body should be suppressed. If human laws are contrary to the law of God, they are to be disregarded.

**Medieval Period**
(i) **Thomas Acquinas**³ (1225 – 1274): He defined law as "an ordinance of reason for the common good made by him who has the case of the community and promulgated". He divided law into four categories – (1) Law of God. (2) Natural Law, which is revealed thought the reason of man, (3) Law of Scriptures or Divine Law and (4) Human Law. Natural law is a part of divine law. This part is applied by human beings to govern their affairs and relations. This human law or positive law therefore must remain within the limits of that of which it is a part. It means that positive law must conform the law of the scriptures. Church is the authoritative interpreter of the law in scriptures.

**Renaissance**
(i) **Grotius**⁴ (1583-1645): His view is based on Social Contract. He says that political Society rests on a social contract. It is the duty of sovergin to safeguard the citizen because the former was given power only for that purpose.

The sovergin is bound by natural law. The law of the nature is discoverable by man's reason.

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¹ Dr. Dhyani, S.N.: Fundamental of Jurisprudence 1992 Central Law Agency Allahabad
³ Tripathi: V.N.M. Jurisprudence 1993 P.82: C.L.A. Allahabad
⁴ Tripathi: V.N.M. Jurisprudence 1993 P.82: C.L.A. Allahabad
(ii) **Hobbes** *(1588-1673)*: To him law of the nature can be discovered by reason which says what a man should do and what he should not do. Man has natural desire for security and order. This can be achieved only by establishing superior authority which must command obedience.

(iii) **Lock** *(1632-1704)*: To him the purpose of government and law is to uphold and protect the natural right (freedom, equality, liberty etc.) of the subjects. So long as the government fulfills this purpose, the laws given by it are valid and binding but when it ceases to do that its laws have no validity and the Government may be overthrown.

(iv) **Rousseau** *(1712 – 1778)* He observed that by the social contract, man united for the preservation of their rights of freedom and equality. For this they surrendered their rights not to a single individual sovereign but to a community to which Rousseau given the name of general will. It the Government and laws do not conform to the general will, they are to be overthrown. Thus his natural law theory stands for the freedom and equality of men.

**Modern Period**

(i) **Kant** *(1724-1804)* To law of reason is a moral imperative, it is command directing the human will to do what is morally good for all at all times and places irrespective of ends consideration on self desire.

(ii) **Stammler**: All positive law is an attempt at just law and that is just law or justice is harmony of wills or purposes within the framework of social life.

(iii) **Kohler**: Defines law as the standard of conduct which is consequence of the inner impulse that urges towards a reasonable form of life, emanates from the whole, and is forced upon the individual.

Natural law in classical or modern era because a theory of natural right of men and states which dominated the British, the French and American revolutions in seventeenth and eighteenth centuries. Natural law powerfully supported the theory of natural rights of men and states whose cult was freedom liberty and equality of both individual and states.

As already stated that Grotius, Hobbes, lock, Rousseou Kant etc were the pioneers of these modern thoughts.

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1 Tripathi: V.N.M. Jurisprudence 1993 P.62: C.L.A. Allahabad
2 Tripathi: V.N.M. Jurisprudence 1993 P.62: C.L.A. Allahabad
3 Tripathi: V.N.M. Jurisprudence 1993 P.62: C.L.A. Allahabad
4 Dr. Dhyani, S.N. : Fundamental of Jurisprudence 1992 CLA Allahabad
Now the natural law has become the substantive law which social organisation must contain. In England Chief Justice Coke vigorously asserted the supremacy of common law over the Acts of Parliament. Reasonableness and the principle of justice, equity and good conscience are examples of natural law which are applied by the law courts and the administrative tribunals. The declaration of independence refers to mains inalienable right of life, liberty and pursuit of happiness. In U.S.A. "due process" is example of natural law. Power to impose taxes is restricted to public purposes. In India, justice equity and good conscience are applied by law courts. Just fair & reasonableness are well developed by our supreme court in the way of natural law. Principle of natural justice is incorporated in Article 311(2). Fundamental rights are protected from H.C. & S.C. in the case of violation of Principle of natural justice & against arbitraryness Article 14, 16, 21 emphasis for fairness in actim which are the part of natural justice.

[2] ANALYTICAL SCHOOL

Analytical School, though foreshaded by thomos Hobbs, it is chiefly associated with Jermy Benthan and John Austin. It has been extensively developed in the cowntent by Hans Kelsen and in U.S.A. by John Chipman, gray oliver Wendell, Houses etc. This school is against the natural law.

(i) Jermy Bewham ¹ (1978-1832)

As to the definition of law he observed that a law may be defined as an assemblage of sings, declarative of volition, conceived or adopted by the sovereign in a state, concerning the conduct to be observed in a certain case by a certain person or class of persons who in the case in question are supported to be his power.

He made a Sharp distinction between the law as it is and the law that ought to be. He established the principles of utility, the hedonistic calcutus of pleasure and pain to measure every law like other measurable things.

Friedman\(^1\) Criticised the legal philosophy of Barlham on two grounds – firstly he even estimated the power of legislatures and underestimated, the need of individual discretion and flexibility in the application of law, secondly he failed to develop a balance between the individual and community interest. As to it his contribution, it may be said that he was the founder of analytical school of Jurisprudence upon which the latter thinkers built their theories: He was the originator of command theory of sovereign.

(ii) **Hobbs defined Law**\(^2\) - As the commands of him or them that have coercive power.

(iii) **John Austin**\(^3\) (1970-1859)

John Austin Stood his English School of jurisprudence on the foundation leg by Benthan in the way of positivism. His main work is “The province of jurisprudence determined.

Austin Defined Law as a rule laid down for the guidance of an intelligent being by an intelligent being having the power over him”.

He determines and characterises the notion of law, i.e. law properly so called which is distinct from morals and other law that are described as laws improperly so called. His model of law is positive law which he distinguishes from positive morality or other kinds of law the latter lacking force, sanction and coercion of the state. Positive law rather other hands he describes as the aggregate of rules set by men as political superior to men as political interior. Austin Says that “A Law is a rule of conduct imposed and enforced by the sovereign”\(^4\)

(iv) **Hart**\(^5\) describes Justin’s definition of law as triology of command, sanction and sovereign. His theory has been criticized that his command theory produces a gun man situation: law is obeyed due to motive, indolence, fear and reason also. The term sovereign has not been defined. Is and ought i.e. law & morality can not be separated to tally: There must exist minimum content of natural law in the enacted law.\(^6\)

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1. W. Friedmann: Legal Theory, 5th Edn P.275-277, Quoted by Tondon M.P. in Jurisprudence P-52,
6. Hart: Separation of Law & Morals H.L.R. P. 593 Quoted by Dr. Dhyami In Fundamental of Jurisprudent at P. 112 End 1992 (L.A. Allahabad.)
As to contribution he is the founded of analytical school. His theory of command could not be ignored. He is the pioneer of the modern positivist approach to law.

(v) HERBERT LIONEL ADOLPHUS HART¹ (1907)

H L A Hart criticizes the Austin’s theory of law backed by threats with habitual obedience. He defined law and says that "Law is a system of Rules". The two types of rules, the union of which is the key to the science of jurisprudence which he calls the primary and secondary rules. He distinguish between primary rules of duty imposing and secondary rule of power confining. He says that Union of these two rules is most powerful for analysis. He observed that as law is a union of primary and secondary rules the law is born. These rules being normative in character set a standard of behavior that obliges subjects for acceptance and observance of rules beyond the threat that may enforce it. He seems to be moralist and positivist both. According to him minimum contents of natural law is shared by both law and morality.

[3] HISTORICAL SCHOOL

Historical jurisprudence, viewed law as a legacy of the past, a product of each individual community or people of nation impeding any reflecting its peculiar traits, unique customs, special habits and other peculiarities which are deeply rooted in its heritage and culture. Accordingly, historical jurists regard law as a biological growth, an evolution any phenomena and not as an arbitrary fanciful and artificial creation.

(i) Montesquieu (1689 – 1755)

Sir Henry Maine observed, that Montesquieu was the first jurist who followed the historical method. He made researches into the institutions and laws of various societies and come to the conclusion that “Laws are the creation of climate, local situations, accident or imposture”. Though he did not lay any principles as to relation between the law and society, yet his suggestion that the law should answer the needs of the time and place was a step in the direction of new thinking. His famous work is the spirit of law” approved in 1948.

(1) Dias – “Jurisprudence P: 351-352
(ii)  **Burke** (1729-1797): He stressed the importance of tradition and gradual growth of law against reckless shifting of political order as advocated by French revolutionaries.

(iii) **Hugo** (1583-1645)

The view of Hugo is that law like language and manners of people forms itself and develops as situated to the circumstances. The essence of law is its acceptance, regulation and observance by the people.

(iv) **F.K. Von Savigny** (1779-1861): He is the founder of Historical school. To him law is a product of time, the germs of which like the germs of state, exists in the nature of men as being made for society and which develops from this germ in various forms according to the environsing influences which play upon it.

He observed that the law is prehistoric. In all societies it is found already established like their language manners, and political organization. Law languages customs and government have no existence but one force and power in people. According to savigny, Law is a rule of human action and conduct sanctioned by national usage. It is always based on popular support and approval. He held that all early laws was customary and the function of legislation is merely to supplement and redefine customs. Customary law is a law as an expression of the general consciousness of right and not by virtue of sanction of legislature.

To him law like language, grows with the growth and strengthens with the strength of people and finally dies away as the nation loses its nationality. Law is henceforth more artificial and complex, since it has a twofold life as a part of the aggregate existence of the community which it does not cease to be and secondly as a district branch of knowledge in the hands of jurists. According to him the nature of any particular system of law was reflection of the spirit of the people who evolved it. This was later characterized as volksgeist by putcha, a disciple of savigny.

Sangnys thesis has been criticized on many grounds national consciousness alone con not make law for so also every custom has not the force of law.

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1 Tripathi, V.N.M. Jurisprudence 1993 P.19 C.L.A. Allahabad
2 Mahajan, V.D. Jurisprudence and legal theory V Edn. P-560-61 Eastern Book Co. Lalbagh Lucknow
Volksgeist is not only the source of law similarly customs not always based on popular consciousness. As to contribution we may said that he interpreted jurisprudence and law in terms of peoples will volksgeist and this sowed the seeds of modern anthropological and sociological law in relation to society comparative is another development which has emerged as a result of saving's work.

(v) **Putcha** (1798-1856): To him the idea of law came due to conflict of interest between the individual will and general will. That automatically formed the state which delimits the sphere of the individual and develops into a tangible and workable system. The contribution of putcha is that he gave two fold aspect of human will and origin of state.

(vi) **SIR HENRY MAINE** (1822-1888)

Sir Henery Maine was the legal member of viceroy's executive council in India. He is mainly associated to Historical school of jurisprudence. His main works are "Ancient Law" village community "Early History of Institution" and dissertation on early law and customs. His evolution of law is based on the evolution of society, may be the Hindu, Romans, Anglo Saxons celtic, Hebrew or German communities.

**Development of Law:**

Maine made a comparative study of law of the various legal system and traced the course of their evolution, though he gave no definition of Law. As per Maine the law developed through the following stages—

(1) At first the law was made by the commands of the rules believed to be acting under the divine inspiration as the inspiration by Themistess in the Homeric poems.

(2) In the second stage the command crystallise in to customary law.

(3) In the third stage the knowledge and administration of customs goes into the hands of a minority usually of a religious of a religious nature, due to the weakening of the power of original law makers.

(4) Then under fourth stage, comes the era of codes. Now law is promulgated in the form of a code, as solon's Attick code, or the Twelke Tables in Rome.

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(1) Mahajan J. Jurisprudence and Legal theory V edn P 571 Eastern Book Co. Lai Bag Lukhnaw
Maine further states that the societies which do not progress beyond the fourth stage which clasaes the era of spontaneous legal development are static societies. The societies which go on developing their law by new methods are called progressive. Progressive societies develop their laws by three methods — (1) Legal fiction (2) equity & (3) legislation. Legal fiction change the law according to the changing needs of the society without making any change in the letter of law. These are innumerable examples of it in English and Roman Law. Equity consists of those principles which are considered to be invested with a higher sacredness than these of positive law. It is used to modify the last which is most direct and systematic method of law making.

As to contributions of Maine, we find in him a very balanced view of history. Savigny explained the relation between community and the law but maine went further and pointed out the link between development of both and purged out many of the exaggerations which savigny had made. Maine studied the legal system of various communities and by their analysis laid down a comprehensive development of law. He reorganised legislation as a very potent source of law. He used the study of legal history mostly to understand the post and not to determine the future course and standards, and in this field he made valuable contribution to legal theory. Maine's theory preaches a belief in progress and it contained a sociological approach.

[4] PHILOSOPHICAL SCHOOL

The philosophical school is concerns itself chiefly with the relation of law to certain ideals which the law is meant to achieve. It investigates the purpose of law and the measure and manner in which the purpose is fulfilled. Philosophical jurists regard law neither as the arbitrary commands of a ruler nor the creation of historical necessity. To them law is product of human reason and its purpose is to elevate and enable human personality.

(i) Hugo Grotius ¹ (1583-1645) : His work — the law of war and peace : he defined natural law as "the dictate of right reason which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral absence or moral necessity."

The view of graciousness that the agreement of mankind concerning certain rules of conduct is an indication that those rules originated in right reason.

(ii) **Immanuel Kant** (1724-1804)

To him law is the aggregate of the conditions under which the arbitrary will of one individual may be combined with that of another under a general inclusive law of freedom.

Kant's categorical Imperative says “Act in such a way that the maxim of your action could be made the maxim of a general action. This imperative is the basis of kant's moral as well as legal philosophy.

To kant compulsion is essential to law and a right is characterised by the power to compel. He distinguishes between legal duties and legal rights as also between natural rights and acquired rights. He recognized the natural right of freedom and equality of individual.

(iii) **Hegel** (1776-1831) — He says that there can be no dualism of any kind as any phase of reality is based on reason. He observed — “what is reasonable is real and what is real is reasonable. As to state and law his view is that both are the product of evolution.

(iv) **Kohler** (1849-1919) : He defined law as “the standard of conduct which in consequence of the inner impulse that urges man towards a reasonable form of life, emanates from the whole and is forced upon the individual.

In this book “Philosophy of law” kohler postulates the promotion and vitalizing of culture on the end achieved through the instrumentality of law. By culture he means the totality of achievements of humanity.

(v) **Stammler** (1856-1938) According to stammler, law is volition. It is not concerned with the perception of the external physical world. It relates means and purposed to each other.

He further says law is just if it conforms to the social ideal of bringing about a harmony between the purposed of individual and society. The social Ideal is a community of men willing freely.

1 Mahajan V.D. Jurisprudence Legal theory v Edn. P. 592 Eastern Book Co. Lal Bagh, Lukhnow
Sociological school strives to study law in terms of immediate needs and requirements of individuals and other varying social groups. In its view law is wholly concerned with its effects or results on society rather treating law as a will of God or command of sovereign or universal reason or volksgist of people. In the functional sense how the law works or what are its effect and social consequences is actual are the key points that underline the basis of sociological jurisprudence.

(i) **HERBERT SPENCER:** (1820-1903)

In his famous work "Principles of Sociology" Spences traced this theory of the origin of law. To him law arises from four sources inherited usages with quasi-religion sanctions, injunctions of deceased leaders, the will of the predominant man and collective opinion of the community. For spencer evolution was the key point of the understanding of human progress.

(ii) **DUGUIT (1859-1928)-**

All human activities and organization should be directed to the end of ensuring the harmonious working of man with man pursuit calls it the "Principle of social solidarity" To Duguit the essence of law is to reconcile resolve and comprise the interest of the individuals in the interest protecting and promoting the larger social good. Law according to him consists of duties without corresponding rights. Thus the soul of the law is duty. Duguit further says that the law is a spontaneous product of individual consciousness, inspired at the same time by social necessity and the sentiments of justice. This and this can be the norms of law. That being so legislation can only be conceived of as a means of expression of the rules of law. The legislator does not create it, he defines it only.

(iii) **Rudolf Von Ihering:** (1818-1892)

"The spirit of law" is the main work of Ihering, but he is very well known for his principal Wor Der Zweck in Reett (1877-83) translated or "Law as means to an End"

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(1) Dias "Jurisprudence" P. 587 (1996)
He says that the law is coericon organised in Act from by the state. It is a process to achieve a proper balance between social and individual interests. It is through two impulses viz coercion and reward that society compels individuals to subordinate selfish individual interest to social purposes and general interests. Thus his insistence on the need to reconcile competing individuals and social interest made him “the father of modern sociological jurisprudence that inspired jurists like Roscoe Pound and others.

(iv) EUGEN EHRLICH (1862-1922):

Ehrlich expounded the organic concept of living law by avoiding savign’s mystical nation of volksgeist for which he stipulated the nation of facts of law and of living law.

His living law therefore exists outside and beyond the four walls of positive law, in otherwords in society itself. He says at present as well as at any other time, the center of gravity of legal development lies not in legislation not in juristic science, nor in judicial decisions but in society itself: Further he says their in order to study the living law one must turn to marriage contracts, leases, contracts of purchase, wills, the octral order of succession, partnership articles and by laws of corporations. To him codes may be technically in force in the sense that a court may apply their provisions if they are called in questions, but frequently a community ignores the codes and lives according to the rules created by consent. Hence to understand the legal life of a community the jurists must supplement his study of code or decisions of courts by an analysis of facts: To attempt to implosions the law of a people within the sections of code is about as reasonable as to attempt to confine a stream within a pond. The water that is put in the poud is no longer a living stream but a stagnant pool but little water can be put in the poud. He suggests to study living law. To him the real law consists not of propositions but of legal institutions created by the life of groups within society, hence required study of functional institutions that create law.

1 Friedmann “Legal Theory” P.248 (1967)
2 Allen CK “Law in Making” P 28 (1964)
3 Paton, “Jurisprudence” P 28-29 1971
(v) **HOMES OLIVER WINDELL (1841-1935)**

His famous work is the *common Law*. To Holmer, *Life of law* has not been experience. To Holmen *Law* is the expression of the dominant force of the community as enunciated by the judges. Likewise he considers law to protect and promote the collective group interests vis-à-vis individual interests.

(vi) **CARDOZO: BENJAMIN NATHAN (1870-1938)**

He was the judge of U.S. Supreme Court (1932-38)

To him law is nothing but what is expounded in concrete situations in the form of judgment by court in consonance with custom, history, traditions and needs of people. He remarked that logic, history, custom, utility and the accepted standards of right conduct are forces which singly or in combination shape the process of law.

(vii) **ROSCOE POUND (1870-1964)**:

In twentieth century dean pound is regarded as the father of sociological jurisprudence in U.S.A. for his scholarly writings and works. Some of his celebrated works are "Sprit of the commonlaw" 1921. An Introduction to the philosophy of law "1922 "Interpretations of legal history" 1923, Law and morals 1926, Contemporary Justice theory" 1940, "Social control through law" 1942 "The task of law" 1944 etc.

Pound looks at law as a pragmatist from the point of view of its working, ends, consequences, fruits, and effects on society. His attitude is functional and he measures law only in terms of social ends for which law is designed to serve.

Pound has formulated also a new concept of law popularly known as social Engineering when he conceives law as a administration as a part of much wider process of social ordering, functioning through courts and administrative agencies with the aid of legal precepts serving as partial guides.

If law is viewed as social engineering, the end is conceived to be the satisfaction of all demands and securing of all interest with a minimum of conflict so that the means of satisfaction have the widest possible destruction. Just as engineers minimise friction, and

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1. Holmes, "The common Law" P 1-2 (1881)
waste when dealing with machinery, similarly jurists ought to enable to resolves, conflicts in society in the intersections of harmony, reform and progress. This methodology is described by provide as social Engineering which is actually the operation of law rather than abstract contents. Since the society is always changing, the law should be adopted and readapted to the needs of individuals and society. He therefore stresses the need of paramount co-ordination and co-operation between the legislators, administrators, judges and justs to work in unison towards the realization and effectual implementation of law for security, social harmony and social justice.¹

The word engineering has been criticized in the pound’s theory because it suggests a mechanical application of the principles to social needs. But it seems that pound has used this words as an example for comparing and indicating the problems which the law has to face the objective which it has to fulfill and the method which it will have to adopt for the purpose. Another criticism is that the word engineering ignores an important part of law which develops and evokes in the society according to the social needs.

But his contribution is great his legal philosophy is free from dogmas. He emphasis engineering but does not forget the task of maintaining a balance. His approach is experiment. He points out the responsibilities of lawyer, Judge and justis and gives a comprehensive picture of the scope and field of the subject.

[6] THE PURE THEORY OF LAW

(i) Hans Kelsen (1881-1973)

The pure theory of law is associated with the name of Hans Kelsen who was a professor in Vienna, Austria University. He expended his pure theory of law is the twentieth century which evoked world wide interest. His main works are – (1) The pure theory of law 1934 (2) General theory of law and State (1945) (3) Principles of international law 1952 (4) What is justice (1957).

¹ Dias – Jurisprudence P. 431, Dr. Phyan S.N. Fundamentals of Jurisprudence 1913 C.L.A. Allahabad P.222
As to law Hans Kelsen says -

Law is a normative science*

But law norms are distinctive feature. They may be distinguished from science norms on the ground that norms of science are norms of being or "is " (sein) while law norms are ought (Sollen) norms. Law does not attempt to describe what actually occur but only prescribes certain rules. It says if one breaks the law, then he ought to be punished. These legal "ought" norms differ from "Morality" norms in this respect that the former are backed by physical compulsion which the latter back, but kelsen does not admit the command theory of Austin as it introduces a psychological element into the definition of law which kelsen avoids. Kelsen says that law consists of mass of heterogeneous rules and the function of the theory of law is to organize them into a single ordered pattern. A theory of law shall be uniform, applicable to all times in all places and must be free from ethics politics, sociology, history etc. it must be pure.

The science of law to Kelsen is the knowledge of normative relations. He builds on Kant's theory of knowledge and extends this theoretical knowledge to law also. He does not want to include in his theory "what the law ought to be and speaks of his theory of law as a structure analysis, as exact as possible, of the positive law, an analysis free from all ethical or political judgments of value. In this way "Pure theory" on the one hand, avoids any discussion of ethics or natural law, and on the other hand it rejects against the modern sociological approaches, which go to widen the boundaries of jurisprudence to a very large extent. Kelsen attempts to establish universal principles in his legal theory, and therefore he may be said to be in favour of general jurisprudence.

To Kelsen every legal act relates to a norm which gives legal validity to A. To him the "Grundnorm" i.e. the starting point in a legal system. From this base a legal system broaders down in gradation, becoming more and more detailed and specific as it progresses. Kelsen calls this process "gradual concretisation of Grundnorm or basic norm-thus focusing the law to specific situations. This is a dynamic process. To him, in every legal system there is always a Grundnorm although its terms are different in different legal system. For example in Britain the Grundnorm is "Crown in Parliament" and in USA it is the constitution. The
grundnorm can be recognised by the minimum effectiveness which is processes.

It has been criticized against the Kelsen's theory that his grundnorm is vague and confusing and secondly the purity of norms cannot be maintained.

As to contribution, Kelsen has made an original, striking and greatly valuable contribution to jurisprudence. He has considerably influenced the modern legal thought. His views regarding, right personality & norms have received great support from various quarters.

[7] **AMERICAN REALISTS SCHOOL:**

The school concentrates on a scientific observation of law in its making and working. This movement is called realist, as it studies law in its actual working and rejects the traditional definition of law that it is a body of rules and principles which are enforced by the courts. The realists emphasis on the decisions given by law courts.

(i) **KARL LIEWELLYN (1893-1962):**

His philosophy of law is based on the realistce institutional view and he says that jurisprudence must expand its ken beyond the rules of law proper to consider the techniques the ideology and the unspoken ideals. The theory that rules decides cases seems for a century to have fooled, not only library ridden reculuses but judges also. He therefore suggested that focal point of legal research should be shifted from the study of rules to the observance of the real behaviour of law officials, particularly judges. More attention therefore has to be given to judicial tradition on which court decisions rest. ¹

(ii) **JEROME N. FRANK (1889-1957)**

"The law and Modern Mind" composed by Frank was published first in 1930 which presents Franks jurisprudential thought on realism.

To Frank Law "Consists of decisions". To most people legal norms direct the judgment when as to Frank, not the legal norms but judgment itself is the law. The individual decision then is the law par excellence. Frank observed ² that a judges decisions are the outcome of his entire life history. The frank his fancily, vocations, schools, religion all these

1 (1) Stone, Julius "Province and Functions of Law" PP 415-416 (1946)
2 (1) Frank – "Law and Modern Mind" ch. XII
factors are influential and all are buried or unknown to everyone except the judge himself. As a matter of fact judge is unaware of his prejudices. It is the personal like, dislike, intuition, temperament, experiences and personal characteristic which are all important and accepted as "hunching" and mechanistic law, illusory precedents and sundry myths are left together rest. Frank wants us to study law is action. The court room, not the library should be our laboratory.

(iii) **JUSTICE – HOLMES (1841-1935)** –

He puts emphasis on the fact that the life of law was experience as well as logic. He stressed the imperial and pragmatic aspect of law. For him legal theory was to be studied primarily as first step towards a deliberate reconsideration of the worth rules developed historically.

(iv) **GRAY (1839-1915)**

Gray drew a distinction between law and source of law. The former is what the judges decide. Everything else, including statute are only source of law until interpreted by a court.

Accordingly even a judicial decision is law only for the parties in the instant dispute and therefore because a source of law since everything will depend on the interpretation that is put in a later decision.

**SCANDINATIAN REALISTS**

The American Realists were practicing lawyers or law teachers who sought to approximate legal theory to legal practice. Their main theme revolves around the social facts. To them there are no such things as goodness or badness in the world. The words represent simply emotional attitudes of approval and disapproval respectively towards certain facts. Law is not the means of securing justice, It is not found on justice but on

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1 Holmes, "The Path of the Law" in collected legal papers at P.173 an essay published in 1897.
2 Gray defined the law as follows – "The law of the state or of any organized body of men is composed of the rules which the courts, that is the judicial organs of that body lay down for the statute "that the courts put life into the deed words of the statute. P.125 Other source of law include expert opinion, customs and public policy.
4 Dias “Jurisprudence” P. 461 (London 1976)
social needs and pressures. Law at any time and any place in any society is guided and determined by social welfare which is the guiding motif for legal activities. The law is nothing but a act of Social facts. The rule of law are in no sense that will of the state in the sense of commands but are independent imperatives issued from time to time by various constitution agencies and their sole effect is that they operate on the mind of Judge and lead to certain applications of law which are the facts of the legal system. The nations in the legal system must be interpreted as conceptions of social reality the behavior of man is society and nothing else. The nation or the legal norm is directive which stands in relation to corresponding social facts and are valid if the courts apply them in future and are followed in the majority of cases by people who feel bound to do so.

[9] COMPARATIVE SCHOOL

We find no definition of law in comparative school. However the concept of comparative jurisprudence is an expression of belief that the main purpose of the comparative method of study is to add the historian or analytical jurists in tracing out the origin and development of the concepts common to all systems of law. Comparative jurisprudence selects various topics and explains fully their method of treatment in two or more systems of law to draw a common conclusion to be adopted in the legal system. It is concerned with space as historical method is with time. It collects, examines the notorious, doctrines, rules and institutions which are found in every developed legal system, takes notes in which they agree or differ and seeks theory to construct a common system of law.

[10] Some other definitions of law :-

(i) To Black stone :-

"Law in its most general and comprehensive sence signifies a rule of action and is applied indiscriminately of all kinds of action whether animate or inanimate, rational or irrational. Thus we say the laws of motion, of gravitation, of optics or mechanics, as well as
laws of nature and of nations. The term "law" in this sense is applied to observe uniformities of action.

(ii) According to Holland -¹

"A law in proper sense of the term, is a general rule of action, taking cognizance only of external acts enforced by a determinate authority, which authority is human and among human authorities, is that which is paramount is a political society.

(iii) As per Salmond -²

"Law is the body of principles, recognized and applied by the state in the administration of justice. In other words, the law consists of the rules recognized and acted on by courts of justice."

According to salmond, all laws however made, is recognized and administered by the courts and no rules are recognized and administered by the courts which are not rules of law.

(iv) Ancient Indian Concept—

Dharma contained the sanction of law. It applied to all alike, whether he king or poor citizen: Accordingly—

"Law is the king of the king, for more powerful and rigid than they: nothing can be mightier than law, by whose aid, as by that of highest monarch, even the weak may prevail over the strong"³

(v) Dr. S. Radha Krishnan (Former President of India) observed-

"Even Kings are subordinate to Dharma, to the Rule of Law"

On observations and analysis of the definitions of law given by the various schools of jurisprudence, it is found that those definitions are not similar and lacking systematic uniformity. However common to all is that the law exists in a state whether in the form of written or unwritten code. There is close relationship between state, law, and subjects. The paramount object of the law is the protection, welfare and prosperity of the society. As

2 Salmond: "Jurisprudence" P.41
regards origin development, sources of law legal & constitutional institutions, their inter relationship, concepts of laws are the subjects of comprehensive study. In the various definitions of law I found the term Rule(s) which are also within the meaning of law: my present work is mostly concerned with the civil service Rules: Accordingly the central civil service Rules must contain the object (which is one of the essential ingredients of a law) else defective.

From the definitions of law it is clear that the law mainly consists two parts (or of coin) – firstly its original form or the principles or enactment and secondly the execution or implementation of the law. The law becomes useful & operative only when it is well executed, otherwise they may be found confined in the law books. None of the the jurisprudential schools (except sociological school) have pointed out as to how the law would be executed. It is only the sociological school which observes the functional or working aspect of law but as to the method or principle of function, of law and its accuracy, this school is also silent.

B. Definition And Meaning of Rules in the Indian Constitution

Constitution of India does not define the rule, though we find the definition in General Clauses Act. Accordingly Rule means a rule made in exercise of a power conferred by enactment, and shall include regulation made as a rule under any enactment. For the purpose of Part III of the constitution – Article 13(3) (a) provides that “Law” includes any ordinance order bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of Law. A rule is of general application in the same way as a statute, differing only in the nature of the authority by which it is created. Thus rules made under an Act are to be of the same effect as it contained in the Act and are to be judicially noticed, must be treated for all purposes of constructing or obligation or otherwise, exactly as if they were in the Act. If there is a conflict between on the these rules and a section of the Act, it must be dealt with in the same spirit as a conflict between two sections of the Act should be dealt with. If reconciliation is impossible, the subordinate provision must give way, and probably the rule would be treated as subordinate to the section. In other words when a

1 Section 3(51) General Clauses Act (X of 1897)
2 Wicks Vs D.P.P. (1947) 1 All E.R. 205(HL)
rule, regulation or notification made under statutory authority is validly made under the Act i.e. is intra vires the regulation making authority, it should be regarded as part and parcel of the statute itself and should be regarded as though it were contained in the Act itself.

Similarly a bye-law must not be repugnant to the statute or the general law. Bye-laws and rules made under a rule making power conferred by a statute do not stand on the same footing as such rules are part and parcel of the statute itself. A Regulation means a regulation made by the Central Govt. under the Govt. of India Acts. A regulation made under section 266(3) of the Govt. of India Act 1935 would continue after the commencement of the constitution by virtue of this clause. Broadly speaking there is little difference between a rule and a regulation excepting that where a rule making power is vested in a non-governmental body, e.g. a statutory corporation such as University, the subordinate legislation is usually called a regulation. Sometimes the power to make rules as well as regulation is vested in the same authority, e.g. the Central Govt. by SS 29-30 of the mines Act, 1923, and if made in compliance with the formality prescribed by the Act, and if not in consistent with the Act both acquires the same status of “having effect” as if enacted within Act [S.31(4)]. In such a case the apparent distinction between the two powers is that while the rules deal with major problems arising under the Act, the regulation are to provide for minor matters. It has also been held that regulation, made in exercise of a statutory power, amounts to a rule within the meaning of section 25 of the General clauses Act.

As to the validity of a rule, there is a constitutional ground which the court may use the touchstone of reasonableness of a rule or regulation, just as it may use the same test to determine the validity of the parent Act itself which conferred the rule making power. If a bye-law, rule, regulation or order operates as a restriction upon a fundamental right guaranteed by Article 19, it must, in order to be valid be reasonable and in such cases, the rule etc becomes subject to the additional ground of attack as having imposed an unreasonable restriction on the fundamental right. If the rule so framed is ultra vires the statute, either substantively or procedurally, then it would not have the force of law and could
not be enforced in the court and would be noting more than an administrative instruction or direction interdepartmentally. Therefore the rules must be reasonable and intravires the parent Act. The distinction between a statutory rule and non statutory rule is that while a rule issued in exercise of a statutory power (if intravires) must be treated for all purpose as if they were enacted in that statute itself, and must be construed in the same manner as a statutory provision and must be given the same effect.

A rule which is issued by the Government without the authority of any statute or otherwise that in exercise of the power conferred by Article 309 of the India constitution is to be treated as mere administrative direction or instruction so that no person can have a legal right of remedy – either for its enforcement or non enforcement.

A distinction if also made between the statutory rules and the rules made under Article 309 of the constitution, which are not made in exercise of powers conferred by a statute made by the legislature but by the constitution itself. The provision to Article 309 confers the same status as that of legislature itself upon the President or the Governor, while making such rules. Hence, there is no bar to rule under Article 309 from being given retrospective operation without any legislative sanction to that effect, provided of course no independent constitutional provision such as fundamental right is violated thereby.

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1 Regina Vs St. A.H.E. School AIR 1971 SC-120 (Para 11-14)
2 Ibid.
3 State of U.P. Vs Baburam AIR 1961 SC 751 (Para 23)
4 State of Assam Vs Ajit AIR 1965 SC 1196 (Para 11-12)
5 Ibid.
6 Vadera Vs Union of India AIR 1969 SC 118 (125)
7 Govt. of India Vs Balkrishna AIR 1975 SC 1498 (Para 6)
C. CIVIL SERVICE RULES UNDER THE INDIAN CONSTITUTION AND ITS PRESENT POSITION

Para XIV of the Constitution of India provides for services under the union and the states. Chapter I of this part relates to services while Chapter II to public service commissions. The provisions for recruitment and conditions of service of persons serving the union or a state have been provided in Article 309\(^1\) of the constitution of India, while tenure of office to Article 310,\(^2\) and dismissal, removal or reduction in rank of such persons

1. 309: Recruitment and conditions of service of persons serving the union or a state: subject to the provision of this constitution Acts of the appropriate legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the union or of any state. Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the union, and for the Governor of a state or such person as he may direct in the case of services and posts in connection with the affairs of the state, to make rules regulating the recruitment and conditions of service of persons appointed to such services and posts, until provisions in that behalf is made by or under an Act of the appropriate legislature under this article and any rules so made shall have effect subject to the provision of any such Act.

1. (1) 310: Tenure of Office of persons serving the union or a state: (i) Except as expressly provided by this constitution, every person who is a member of a defence service or of a civil service of the union or of an All India Service or holds any post connected with defence or any civil post under the union holds office during the pleasure of the President, and every person who is a member of a civil service of a state or holds any civil posts under a state holds office during the pleasure of the Governor of the state.

(2) Notwithstanding that a person holding a civil post under the union or a state holds office during the pleasure of the President or as the case may be of the Governor of the state, any contract under which a person, not being a member of a defence service or of an All India Service or of a civil service of the union or of a state is appointed under the constitution to hold such a post may if the President or the Governor as the case may be deems it necessary in order to secure the services of a person, having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is for reasons not connected with any misconduct on his part required to vacate that post.
The term recruitment is a comprehensive term and includes any method provided for inducting a person in public service. Appointment, selection, promotion, deputation are all well known methods of recruitment. Even appointment by transfer is not unknown also.

1. **311: Dismissal, removal or reduction in rank of persons employed in Civil Capacities under the union or state:** (1) No person who is a member of a civil service of the union or an all India service or a civil service of a state, or holds a civil post under the union or a state shall be dismissed or removed by an authority subordinate to that by which he was appointed. (2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the changes against him and given a reasonable opportunity of being heard in respect of those changes.

   Provided that where it is proposed after such enquiry, to impose upon him any such penalty may be imposed on the basis of the evidence adduced during such enquiry and it shall not be necessary to given such person any opportunity of making representation on the penalty proposed.

   Provided further that this clause shall not apply-

   (a) Where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal change or

   (b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such enquiry.

   (c) Where the President or the Governor as the case may be is satisfied that in the interest of the security of the state it is not expedient to hold such enquiry.

   (3) If in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold enquiry as is referred to in clause (2) the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

2. (1) Narayan Vs State of Karnataka (1994) sSup. (1) SCC 44.
There is a general provision for the legislature to enact laws regulating the recruitment and conditions of service of the union or the state but no such enactment is available by any of the appropriate legislative either of the center or of the state. Similarly there is no detail rule in the constitution itself regulating the recruitment or conditions of service of the union or of the state except the direction embodied to the provision to the Article 309 of the constitution given to the President and the Governor of a state. The power is left to the respective legislature [ Entry 70 of List I and 41 of List II] The power of appointment belonging to the executive, will thus be subject to legislative control. The power conferred by Article 309 is subject to the opening words of the Article which govern not only the power of the legislature but also the rule making power conferred by the proviso. Hence, if any rule contravenes any of the provisions of the constitution e.g. Article 14, 15, 16, 19, 299, 234, 310(1), 311(1) or 311(2), the rule shall be void. On the other hand the constitution itself provides the mode of appointment and conditions of service of certain officers in connection with the affairs of the Union and all the state e.g., the Attorney General (Art. 76). Similarly there are other provisions in the constitution which empower other authorities to make rules relating to the conditions of service of certain classes of public servants, e.g. Article 98 and 187 relating to the staff of each House of Parliament and of a state legislature. 

Art. 146 (2) relating to officers of Supreme Court; Article 148(5), persons serving us the Indian Audit and Accounts Department and Article 299(2) officers of High Court. Hence Article 309 shall have no application to these classes of Govt. Servants. But Article 235 does not confer upon a High Court the power to make rules relating to conditions of service of judicial officers attached to the District and subordinate courts, which power belongs to the state legislature and Governor. But the application of those rules to judicial officer is a matter exclusively for the High Court. In regard to making appointments to clerical posts in the subordinate courts, the Chief justice of the High Court cannot depart from the

1 State of U.P. Vs Baburam AIR 1961 SC 751 (761)
2 Padmanabhan Vs DPI (1980) U.J. SC 833 (Para 14)
3 Padmanabhan Vs DPI (1980) U.J. SC 833 (Para 14)
4 Yadao Vs State of Haryana AIR 1981 SC 561 (Para 46)
5 Padmanabhan Vs DPI (1980) U.J. SC 833 (Para 14)
6 Nadaf Vs State AIR 1967 Mys. 77(78) State of W.B. Nripu Bagchi AIR 1966 SC 474 (450)
7 Motilal Vs Union of India AIR 1965 SC Punjab 444 (448-49)
8 Motiram Vs N.E.F. Ry. AIR 1964 SC 600(610) State of Mysore Vs Padmanabhacharya AIR 1966 SC 602 (605)
9 Motilal Vs Union of India AIR 1965 Punjab 494 (448-49)
10 Acctt. General Vs Doriaswamy AIR 1981 SC 783 (Para 6)
11 C.f. P.K. Bose Vs Chief Justice (1955) 2 SCR 1331
12 Yadao Vs State of Haryana AIR 1981 SC 561 (Para 46)
13 Yadao Vs State of Haryana AIR 1981 SC 561 (Para 48)
constitutional and statutory provision on the subject. Thus, (i) he cannot disregard the authority vested in the Public Service Commission to make selections for such appointments, (ii) he cannot bypass the District Judge who has the power to make such appointments. If the Chief justice takes upon himself the power of both the authorities mentioned above to make selections for as well as appointments in the establishment of the subordinate courts, such appointments shall be void.

The proviso to Article 309 of the constitution is a transitional provision empowering the executive to make rules having the force of law, relating to the above matters until the appropriate legislature legislate on the subject. Further, until the powers conferred by the present article and exercised, the existing rules will continue to be in force, under Article 313 in so far as they are not inconsistent with the provisions of the constitution. But the mere fact that a pre-constitution rule has been kept in force by a notification issued under this proviso would not enlarge the scope of such rule so as to being within its fold persons to whom the rule otherwise did not apply. In view of section 21 of the General clauses Act, it is competent for the President or a Governor to amend or vary the rules made by him, so long as the appropriate legislature does not exercise its power under Article 309.

The proviso to Article 309 merely enables the President or the Governor to make rules to regulate the recruitment and conditions of service of persons mentioned therein and is not co-extensive with the power of the legislature under Item 70 of List I or 41 of List II. It does not confer any power to validate an order which was invalid when it was made, e.g. to make a rule a declare that persons who were invalidly retired on a particular date shall be deemed to have been validly retires. Such a rule is ultra vires the proviso to Article

1 Puttaswamy Vs Chief Justice AIR 1991 SC 295
2 Puttaswami Vs Chief Justice AIR 1991 SC 295
3 313 Transitional Provision: Until other provision is made in this behalf under the constitution all the laws in force immediately before the commencement of this constitution, all the laws in force immediately before the commencement of this constitution and applicable to any public service or any post which continues to exist after the commencement of this constitution as an all India service or as service or post under the Union or a state shall continue in force so far as consistent with the provisions of this constitution.
4 Ranji Vs State of Bihar AIR 1987 SC 1894 (Para 6)
5 S21 Power to issue to include power to add to amend, vary or rescind order, rules or bye-laws: Where by any Central Act or Regulation a power to issue notification orders, rules or bye-laws is conferred then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any) to add to amend, vary or rescind any notifications, orders, rules, or bye-laws so Issued [General Clauses Act 1897]
6 Iyengar Vs State of Mysore: AIR 1961 Mys. 37 (41)
309 and is accordingly invalid 1 though the legislature acting the proviso could have exercised such power of validation. In the case of Union territories the rule making power belongs to the President 2 until Parliament chooses to legislate. In state reorganized under the states reorganization Act 1956, the power of the Governor to make rules has been controlled by section 115(7) of that Act so that no rule made by the State Govt. would be valid and effective unless the prior approval of the Central Govt. has been obtained. 3 The rules made under Article 309 have a statutory force, 4 can be amended only by a rule or notification duly made under Article 309 5 and is binding on the Govt. 6

The rule making function is a legislative function not executive or quasi-judicial 7 and as such no hearing is necessary for making or changing rules made under Article 309. 8 A rule made in exercise of the power under proviso to Article 309 constitutes law within the meaning of Article 235. 9 For the same reason, such rule may be struck down only on such grounds as may be invalidate a legislative measure, 10 e.g. violation of Article 14, 16 of the constitution, and not because the court considers it to be unreasonable or because the court considers it to be unreasonable 11 or because of improper motive. 12 The mandate of Article 14 includes non-arbitrariness. 13 The rule making power conferred by Article 309 of the constitution cannot be fettered by any contract. 14 Hence, the employee cannot rely on anything in his contract of employment which is inconsistent with the rules of service in force 15 because the rules made under Article 309 have the same force as an Act passed by the appropriate legislature. 16 The test to determine constitutionally of any provision of such rules is whether the legislature is competent to enact such a provision. 17 It cannot be struck down merely because the court considered them unreasonable. 18

1 (1) State of Madras Vs Padmanabhaiahrya AIR 1968 SC 602 (605)
2 (2) Gobalousamy Vs Pondicheri AIR 1968 Madras 298
5 (5) Nagrajan Vs State of Mysore AIR 1966 SC 1942
6 (6) Bhatnagar Vs Union of India (199)1 SCC 544 (Para 13)
7 (1) Yadav Vs State of Haryana AIR 1981 SC 561 (Para 46-47)
8 (2) Kumar Vs Union of India AIR 1982 SC 1084 (Para 36)
9 (3) Yadav Vs State of Haryana AIR 1981 561 Para 48-47
11 (5) Bansai Vs Union of India AIR 1993 SC 978 (Para 21)
13 (7) Cf Sushama Vs State of Rajasthan AIR 1985 SC 1367
14 Union of India Vs Arun AIR 1988 SC 737 (Para 17-19)  
15 Ibid
16 Dinesh Vs State of Assam, AIR 1978 SC 17(21)
17 Murugesan Vs State of T.N. (1993) 2 SCC 340
18 Bansal Vs Union of India (1992) Supp. (2) SCC 318
So long as rules under Article 309 are not framed qualifications may be laid down by executive order. Even after rules are framed under Article 309, there is noting to debar the Govt. to fill up gaps by administrative instructions [issued under Article 162] on matter in respect of which the rules are silent though the rules cannot be amended or superseded by administrative instruction nor can they be super imposed by anything inconsistent with the rules. O.M.s or Executive orders made under Article 73 have for their operation an equal efficacy as an Act of Parliament or the Rules made by the President under Article 309. But statutory rules cannot be altered by administrative instructions. Once the union and the state Govt frame rules their action in respect of matters covered by rules should be regulated by the rules. The rules framed under Article 309 are solemn rules having binding effect. Government should refrain from acting in a manner not contemplated by their own rules.

The present position of the civil service Rules are that neither the parliament nor any of the state legislatures have enacted any laws regulating the recruitment or conditions if service of the persons serving in the union or state on civil posts as per the directions of Article 309 of the constitution so far. The recruitment and conditions of service of such persons are being regulated by the rules framed by the president in the case of union and by the Governors of the states in the case of state Civil services at present.

1 Ramesh Vs State of Bihar AIR 1978 SC 327 (Para 5)
2 C.I.T. Vs Raman & Co. AIR 1968 SC 49
4 Sachdev Vs Union of India AIR 1981 SC 411 (Para 19)
5 Indra Vs Union of India (1992) Supp. (3) SCC 217
6 Balasubramaniam Vs State of T.N. (1991)2 SCC 708
7 Bhatnagar Vs Union of India (1991) 1 SCC 544 (Para 13)
D. CENTRAL CIVIL SERVICES RULES
[C.C.S. (C.C.A.) RULES]
THE CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL
AND APPEAL) RULES, 1965

In exercise of the powers conferred by proviso to Article 307 and clause (5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor-General in relation to persons serving to the Indian Audit and Accounts Department the President hereby makes the following rules, namely—

PART – I
GENERAL

1. Short title and commencement (1) These Rules may be called the Central Civil Services Classification, Control and Appeal) Rules, 1965

(2) They shall come into force on the 1st December, 1965.

2. Interpretation. – In the rules unless the context otherwise requires—

(a) "Appointing Authority in relation to a government servant means—

(i) service of which the government servant is for the time being a member or to the grade of the service in which the Government Servant is, for the time being, included, or

(ii) the authority empowered to make appointment to the post which the Government Servant for the time being holds, or

(iii) the authority which appointed the Government Servant to such service, grade or post, as the case may be, or

(iv) where the Government Servant having been 3 permanent member of any other service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that service or to any grade in that Service or to that post, whichever authority is the highest authority.

(a) "Cadre authority", in relation to a service, has the same meaning as in the rules regulating that service,

(b) "Central Civil services and Central Civil Post included a civilian service of civilian post as the case may be of the corresponding class in the Defence Services.

(c) "Commission" means the Union Public Service Commission;

(d) "Defence Services" means service under the Government of India in the Ministry of Defence, paid out of the Defence Services Estimates, and not subject to the Army Act, 1950 (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force
Act, 1950 (45 of 1950):

(e) "Department of Government of India" means any establishment or organization declared by the President by a Notification in the Official Gazette to be a department of the Government of India.

(f) "Disciplinary authority" means the authority competent under these rules to impose on a Government Servant any of the penalties specified in rule 11;

(g) "Government Servant" means a person who -

1. is a member of a service or holds a civil post under the Union and includes any such person on foreign service or whose services are temporarily placed at the disposal of a State Government or a local or other authority;

2. is a member of a service or holds a civil post under a State Government and whose services are temporarily placed at the disposal of the Central Government,

3. is in the service of a local or other authority and whose services are temporarily placed at the disposal of the Central Government.

(h) "Head of the department" for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the Head of the Department under the Fundamental and Supplementary Rules or the Civil service regulations as the case may be.

(i) "Head of the office" for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the Head of the Office under the General Financial Rules.

(j) "Schedule" means the Schedule to these rules;

(k) "Secretary" means the secretary to the Government of India in any Ministry or Department, and includes -

(i) a Special Secretary or an Additional Secretary.

(ii) A joint Secretary placed in independent charge of a ministry of Department.

(iii) In relation to the Cabinet Secretariat, the Secretary to the Cabinet,

(iv) in relation to the President's Secretariat, the Secretary to the president, or as the case may be, the Military Secretary to the President,

(v) in relation to the Prime Minister's Secretariat, the Secretary to the Prime Minister, and

(vi) in relation to the Planning Commision, the Secretary or the Additional Secretary to the planning Commision.

(vii) "Service" means a civil service of the Union.

3. Application - (1) These rules shall apply to every Government Servant including
every civilian Government Servant in the Defence Services, but shall not apply to -

(a) any railway servant, as defined in Rule 102 of volume 1 of the Indian Railway Establishment Code.
(b) Any member of the All India Services.
(c) Any person in casual employment,
(d) Any person subject to discharge from service on less than one month's notice.
(e) Any person for whom special provision is made, in respect of matters covered by these rules, by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the President before or after the commencement of these rules, in regard to matters covered by such special provisions.

(2) Notwithstanding anything contained in sub-rule (1) or the Indian Railway Establishment Code, these rules shall apply to every Government Servant from the operation of all or any of these rules.

(3) Notwithstanding anything contained in sub-rule (1), or the Indian Railway Establishment Code, these rules shall apply to every Government Servant temporarily transferred to a service or post coming within Exception (a) or (e) in sub-rule (1), to whom, but for such transfer, these rules would apply.

(3-A) Notwithstanding anything contained in these rules, where any Civilian Government Servant in the Defence Services is temporarily made subject to the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), or the Air Force Act, 1950 (45 of 1950), these rules shall continue to apply to such civilian Government Servant in the Defence Services and, for the purpose of discipline, he shall be dealt with under these rules unless the appropriate authority, for reasons to be recorded in writing, is of the opinion that sterner action is called for and directs that he be dealt with under the Act he is subject to.

(4) If any doubt arises,

(a) Whether these rules or any of them apply to any person, or
(b) Whether any person to whom these rules apply belongs to a particular service,
the matter shall be referred to the President who shall decide the same.
PART II
CLASSIFICATION

4. **Classification of Services.** - (1) The Civil Services of the Union shall be classified as follows:
   
   (i) Central Civil Services, Group A;
   (ii) Central Civil Services, Group B;
   (iii) Central Civil Services, Group C;
   (iv) Central Civil Services, Group D;
   
   (1) If a service consists of more than one grade, different grades of such service may be included in different groups.

5. **Constitution of Central Civil Services.** – The Central Civil Services, Group A, Group B, Group C and Group D shall consist of the services and grades of services specified in the Schedule.

6. **Classification of Posts** – Civil posts under the Union other than those ordinarily held by persons to whom these rules do not apply shall by a general or special order of the President, be classified as follows:
   
   (i) Central Civil Posts, Group A;
   (ii) Central Civil Posts, Group B;
   (iii) Central Civil Posts, Group C;
   (iv) Central Civil Posts, Group D;

6.A **References to Central Civil Services and Central Civil Posts.** – All references to Central Civil Services/ Central Civil posts, Class I, Class II, Class III and Class IV in all Rules, Orders, Schedules, Notifications, Regulations, Instructions in force, immediately before the commencement of these rules shall be construed as references to Central Civil Services/ Central Civil Posts, Group A, Group B, Group C and Group D respectively, and any references to Class or Classes therein in this context shall be construed as reference to Group or Groups as the case may be.

7. **General Central Service** – Central Civil posts of any class not included in any other Central Civil Service shall be deemed to be included in the General Central Service of the Corresponding Group and a Government Servant appointed to such post shall be deemed to be a member of that service unless he is already a member of any other Central Civil Service of the same class.
8. **Appointments to Group A Services and Posts**. – All appointment to Central Civil Services, Group A and Central Civil Posts, Group A, shall be made by the President. Provided that the President may be a general or a special order and subject to such conditions as he may specify in such order, delegate to any other authority the power to make such appointments.

**PART IV**

**SUSPENSION**

9. **Suspension**. – (1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President by general or special order, may place a Government Servant under suspension -

   (a) where a disciplinary proceeding against him is contemplated or is pending; or

   (aa) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

   (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

Provided that, except in case of an order of suspension made by the Comptroller and Auditor-General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant-General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority such authority shall, forthwith, report to the appointing authority the circumstances in which the order was made.

(2) A Government Servant shall be deemed to have been placed under suspension by an order of appointing authority -

   (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

   (b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

**Explanation** - The period of forty-eight hours referred to in clause (b) of this sub-rule
Explanation - The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government Servant shall be deemed to have been placed under suspension by the Appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Government Servant is suspended or is deemed to have been suspended (Whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government Servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may, at any time, be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.
1. **Penalties** – The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government Servant, namely -

**Minor Penalties** –

(i) Censure,

(ii) Withholding of his promotion;

(iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;

(iv) Reduction to a lower stage in the time scale of the pay for a period not exceeding 3 years without cumulative effect and not adversely affecting his pension;

(v) Withholding of increments of pay;

**Major Penalties** –

(vi) Save as otherwise provided for in clause (iii-a) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the period, with further directions as to whether or not the Government Servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

(vii) Reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government Servant to the time scale of pay, grade, post or service from which he was reduced, with or without further directions, regarding conditions of restoration to the grade or post or service from which the Government Servant was reduced and his seniority and pay on such restoration to that grade, post or service;

(viii) Compulsory retirement;

(ix) Removal from service which shall not be a disqualification for future employment under the Government;

(x) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government;

Provided that, in every case, in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed;

Provided further that in any exceptional case and for special reasons recorded in
writing, any other penalty may be impose.

Explanation - The following shall not amount to a penalty within the meaning of this rule, namely.

(i) withholding of increments of pay of a Government Servant for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;

(ii) stoppage of a Government Servant at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;

(iii) non-promotion of a Government Servant, whether in a substantive or officiating capacity, after consideration of his case, to a service, grade or post for promotion to which he is eligible;

(iv) reversion of a Government Servant officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post or on any administrative ground unconnected with his conduct.

(v) Reversion of a Government Servant, appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;

(vi) Replacement of the services of a Government servant, whose service had been borrowed from a State Government or any authority under the control of a State Government, at the disposal of the State Government or the authority from which the services of such Government Servant had been borrowed.

(vii) Compulsory retirement of a Government servant in accordance with the provisions relating to his superannuating or retirement;

(viii) Termination of the services –

(a) of a Government Servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation, or

(b) of a temporary Government Servant in accordance with the provisions of sub-rule (1) or Rule 5 or the Central Civil Services (Temporary Service) Rules, 1965, or

(c) of a Government Servant, employment under an agreement, in accordance
with the terms, of such agreement.

2 Disciplinary Authorities - (1) The President may impose any of the penalties specified in Rule 11 on any Government Servant.

3. Without prejudice to the provisions of sub-rule (1) subject to the provisions of sub-rule (4), any of the penalties specified in Rule 11 may be imposed on -

(a) a member of a Central Civil Service other than the General Central Services, by the appointing authority or the authority specified in the schedule in this behalf or by any other authority empowered in this behalf by a general or special order of the President;

(b) a person appointed to a Central Civil Post included in the General Central Services, by the authority specified in this behalf by a general or special order of the President or where no such order has been made, by the appointing authority or the authority specified in the Schedule in this behalf.

(4) Subject to the provisions of sub-rule (4) the power to impose any of the penalties specified in Rule 11 may also be exercised, in the case of a member of a Central Civil Service, Group C (other than the Central/Secretariat Clerical Service) or a Central Civil Service, Group D-

(a) if he is serving in a Ministry or Department of the Government of India by the Secretary to the Government of India, in that Ministry of Department, or

(b) if he is serving in any other office, by the head of that office, except where the head of the office is lower in rank than the authority competent to impose the penalty under sub-rule (2).

(5) Notwithstanding anything contained in this rule, -

(a) except where the penalty specified in clause (v) or clause (vi) of Rule 11 is imposed by the Comptroller and Auditor-General on a member of the Indian Audit and Accounts Service, no penalty specified in clauses (v) to (ix) of that Rule shall be imposed by any authority subordinate to the appointing authority.

(b) Where a Government Servant who is a member of a service other than the General Central Service or who has been substantively appointed to any civil post in the General Central Service, is temporarily appointed to any other service or post, the authority competent to impose on such Government Servant any of the penalties specified in clauses (v) to (ix) of Rule 11 Shall not impose any such penalties unless it has consulted such authority, not being an authority subordinate to it, as would have been competent under sub-rule (2) to impose on the Government Servant any of the said penalties had he not been appointed to
such other service or post;

(c) In respect of a probationer undergoing training in Lal Bahadur Shastri National Academy of Administration, the Director of the said Academy shall be the authority competent to impose on such probationer any of the penalties specified in clauses (i) to (iii) of Rule 11 after observing the procedure laid down in Rule 16.

Explanation 1- For the purpose of clause (c) 'probationer' means a person appointed to a Central Civil Service on probation.

Explanation 2- Where a Government Servant belonging to a service or holding a Central Civil post of any class, is promoted, whether on probation or temporarily to the Service or Central Civil Post of the next higher class, he shall be deemed for the purpose of this rule to belong to the service of, or hold the Central Civil Post of such higher class.

13. Authority to institute proceedings. – (1) The president or any other authority empowered by him by general or special order, may:

(a) institute disciplinary proceedings against any Government Servant.

(b) Direct a disciplinary authority to institute disciplinary proceedings against any Government Servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in Rule 11.

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 may institute disciplinary proceeding against any Government Servant for the imposition of any of the penalties specified in clause (v) to (ix) of Rule 11 notwithstanding that such disciplinary authority is not competent under these rules to impose any of the latter penalties.

PART VI
PROCEDURE FOR IMPOSING PENALTIES

14. Procedure for imposing major penalties. – (1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided by the Public Servants (Inquiries) Act, 1850 (37 of 1850) where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth
thereof.

Explanation - Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;

(ii) a statement of the imputations of misconduct or misbehavior

(a) a statement of all relevant facts including any admission or confession made by the Government Servant;

(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge the statement of the imputations of misconduct or misbehavior and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.

(5)(a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or if it considers if necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

(b) If no written statement of defence is submitted by the Government Servant the disciplinary authority may, itself, inquire into the articles of charge, or may, if it considers it necessary to do so, appoint under sub-rule (2) an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding any inquiry into such charge, it may, by an order, appoint a Government Servant or a legal practitioner, to be known as the "Presenting Officer" to present
on its behalf the case in support of the articles of charge.

(6) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority -

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;

(ii) a copy of the written statement of defence, if any, submitted by the Government Servant.

(iii) A copy of the statement of witness, if any, referred to in sub-rule (3)

(iv) Evidence proving the delivery of the documents referred to in sub-rule (3) to the Government Servant, and

(v) A copy of the order appointing the "President Officer".

(7) The Government Servant shall appear in person the inquiring authority on such day and at such time within ten working days from the date of [receipt by the inquiring authority] of the articles of charge and the statement of the imputations of misconduct or misbehavior, as the inquiring authority may by notice in writing, specify, in this behalf, or within such further time not exceeding ten days, as the inquiring authority may allow.

(8) (a) The Government Servant may take the assistance of any other Government Servant posted in any office either at his headquarters or the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits:

Provided that the Government Servant may take the assistance or any other Government Servant posted at any other station, if the inquiry authority having regard to the circumstances of the case and for reasons to be recorded in writing so permits.

Note- The Government Servant shall not take the assistance of any other Government Servant who has two pending disciplinary cases on hand in which he has to give assistance.

(b) The Government Servant may also take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the President from time to time by general or special order in this behalf.

(9) If the Government Servant who has not admitted any of the articles of charge in his
written statement of defence or has not submitted any written statement of defence, appears
before the inquiring authority, such authority shall ask him whether he is guilty or has any
defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority
shall record the plea, sign the record and obtain the signature of the Government Servant
thereon.

(10) The inquiring authority shall return a finding of guilty in respect of those articles of
charge to which the Government Servant pleads guilty.

(11) The inquiring authority shall, if the Government Servant fails to appear within the
specified time or refuses or omits to plead, require the Presenting Officer to produce the
evidence by which he proposed to prove the articles of charge, and shall, adjourn the case
to a later date not exceeding thirty days, after recording an order that the Government
Servant may for the purpose of preparing his defence -

(i) inspect within five days of the order or within such further time not exceeding five
days as the inquiring authority may allow, the documents specified in the list
referred to in sub-rule (3);

(ii) submit a list of witnesses to be examined on his behalf.

Note:- If the Government Servant applies orally or in writing for the supply of copies
of the statements of witnesses mentioned in the list referred to in sub-rule (3), the
inquiring authority shall furnish him with such copies as early as possible and in any
case not later than three days before the commencement of the examination of the
witnesses on behalf of the disciplinary authority.

(iii) Give a notice within ten days of the order or within such further time not exceeding
ten days as the inquiring authority may allow for the discovery or production of any documents
which are, in the possession of Government but not mentioned in the list referred to in sub-
rule (3).

Note:- The Government Servant shall indicate the relevance of the documents required by
him to be discovered or produced by the Government.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production
of documents, forward the same or copies thereof to the authority in whose custody or
possession the documents are kept, with a requisition for the production of the documents
by such date as may be specified in such requisition:

Provided that the inquiring authority may, for reasons to be recorded by it in writing,
refuse to requisition such of the documents as are, in its opinion not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf the disciplinary authority. The witnesses shall be examined by or on behalf of the presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(15) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and reexamine any witness and in such case the Government Servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Government Servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary, in the interests of justice.

Note: New evidence shall not be permitted or called for or any witness not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(16) When the case for the disciplinary authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is
made orally, it shall be recorded, and the Government Servant shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer, if any appointed.

(17) The evidence on behalf of the Government Servant shall then be produced. The Government Servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government Servant shall then be examined and shall be liable to cross examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.

(19) The inquiry authority may, after the completion of the production of evidence, hear the Presiding Officer, if any, appointed, and the Government Servant or permit them to file written briefs of their respective case, if they do desire.

(20) If the Government Servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose of does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex parte.

(21) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 (but not competent to impose any of the penalties specified in clauses (v) to (ix) of Rule 11) has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it is of the opinion that the penalties specified in clauses (v) to (ix) of Rule 11 should be imposed on the Government Servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the
witnesses is necessary in the interests of justice, recall the witness and examine and cross-examine and re-examine the "Witness" and may impose on the Government Servant such penalty as it may deem fit in accordance with these rules.

(22) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding, any act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiry authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may recall, examine, cross examine and re-examine any such witnesses as hereinbefore provided.

(23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain—
(a) the articles of charge and the statement of the imputations of misconduct or misbehavior;
(b) the defence of the Government Servant in respect of each article of charge;
(c) an assessment of the evidence in respect of each article of charge;
(d) the findings on each article of charge and reasons therefore.

Explanation—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge;

Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include—
(a) the report prepared by it under clause (i);
(b) the written statement of defence, if any, submitted by the Government Servant;
(c) the oral and documentary evidence produced in the course of the inquiry;
(d) written briefs, if any, filed by the President Officer or the Government Servant or both during the course of the inquiry and
(e) the orders, if any made by the disciplinary authority and the inquiring authority in regard to the inquiry.

15. **Action on the inquiry report.**—(1) The disciplinary authority, if it is not itself the
inquiring authority may, for reasons to be recorded by it in writing remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.

(1-A) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, to held by the disciplinary authority or where the disciplinary authority is not the inquiring authority a copy of the report of the enquiring authority to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within fifteen days, irrespective of whether the report is favorable or not to the Government.

(1-B) The disciplinary authority shall consider the representation, if any submitted by the Government servant before proceeding further in the manner specified in sub-rules (2) to (4)).

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge if the evidence on record is sufficient for the purpose.

(3) If the disciplinary authority having regard to its findings on all or any of the articles of the opinion that any of the penalties specified in clauses (i) to (iv) or Rule 11 should be imposed on the Government Servant, it shall, notwithstanding anything contained in Rule 16, make an order imposing such penalty:

Provided that in every case where it is necessary to consult the commission the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice shall be taken into consideration before making any order imposing any penalty on the Government Servant [G.I, M.H.A., (Dept. of Personnel and A.R.) Noti. No. 11012/2/77-Ests A, dated 16th August, 1978].

(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses (v) to (ix) or Rule 11 should be imposed on the Government Servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government Servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case where it is necessary to consult the commission, the
record of the inquiry shall be forwarded by the disciplinary authority to the commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government Servant.

16. **Procedure for imposing minor penalties.** – (1) Subject to the provisions of sub-rule (3) or Rule 15, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (iv) of Rule 11 shall be made except after:

(a) Informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) Holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 14, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) Taking the representation, if any, submitted by the Government Servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) Recording a finding on each imputation of misconduct or misbehavior, and

(e) Consulting the Commission where such consultation is necessary;

(1-A) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government Servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government Servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of Rule 14, before making any order imposing on the Government Servant any such penalty.

(2) **The record of the proceedings in such cases shall include** -

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehavior delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;
(vi) the findings on each imputation of misconduct or misbehavior, and
(vii) the orders on the case together with the reasons therefore.

17. **Communication of Orders** – Orders made by the disciplinary authority shall be communicated to the Government Servant who shall also be supplied with a copy of its findings on each article of charge, or where the disciplinary authority is not the inquiring authority; a statement of the findings of the disciplinary authority together with brief reasons for its disagreement if any, with the finding of the inquiring authority and also a copy of the advice, if any given by the Commission, and where the disciplinary authority has not accepted the advice of the commission, a brief statement of the reasons of such non-acceptance.

18. **Common Proceedings** (1) Where two or more Government Servant are concerned in any case, the president or any other authority competent to impose the penalty of dismissal from service on all such Government Servant may make an order directing that disciplinary action against all of them, may be taken in a common proceeding.

Note:– It the authorities competent to impose the penalty of dismissal on such Government Servants are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

(2) subject to the provisions of sub-rule (4) of Rule 12, any such order shall specify, -
(i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;
(ii) the penalties specified in Rule 11 which such disciplinary authority shall be competent to impose;
(iii) whether the procedure laid down in Rule 14 and Rule 15 or Rule 16 shall be followed in the proceeding.

19. **Special Procedure in certain cases** – Notwithstanding anything contained in Rule 14 to Rule 18 -
(i) where any penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction on a criminal charge, or
(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
(iii) where the President is satisfied that in the interest of the security of the State, it
is not expedient to hold any inquiry in the manner provided in these rules.
the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit;

Provided that the Government Servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i):

Provided further that the Commission shall be consulted where such consultation is necessary, before any orders are made in any case under this rule.

20. **Provisions regarding officers lent to State Government etc.**-

(1) Where the services of a Government Servant are lent by one department to another department or to a State Government or an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority") the borrowing authority shall have the powers of the appointing authority for the purpose of placing such Government Servant under suspension and of the disciplinary authority for the purpose of conducting a disciplinary proceedings against him.

Provided that the borrowing authority shall forthwith inform the authority which lent the services of the Government Servant (hereinafter in this rule referred to as "the lending authority" of the circumstances leading to the order of suspension of such Government Servant or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the Government Servant:

(i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 11 should be imposed on the Government Servant, it may, after consultation with the lending authority, make such orders on the case as it deems necessary;

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority the services of the Government Servant shall be replaced at the disposal of the lending authority.

(ii) If the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) or Rule 11 should be imposed on the Government Servant, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the disciplinary authority pass such orders thereon as it may
deem necessary or, if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass orders on the case as it may deem necessary.

Provided that before passing any such order the disciplinary authority shall comply with the provisions of sub-rules (3) and (4) or Rule 15.

Explanation - The disciplinary authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority or after holding such further inquiry as it may deem necessary, as far as may be, in accordance with Rule 14.

21. Provisions regarding officers borrowed from State Government etc. -

1) Where an order of suspension is made or disciplinary proceeding is conducted against a Government Servant whose services have been borrowed by one department from another department or from a State Government or an authority subordinate there to or a local or other authority, the authority lending his services (hereinafter in this Rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of the suspension of the Government Servant or of the commencement of the disciplinary proceeding, as the case may be.

2) In the light of the findings in the disciplinary proceeding conducted against the Government Servant if the disciplinary authority is of opinion that any of the penalties specified in clauses (i) to (iv) of Rule 11 should be imposed on him, it may, subject to the provisions of sub-rule (3) of Rule 15 and except in regard to a Government Servant in the Intelligence Bureau up to the rank of Assistant Central Intelligence Officer, after consultation with the lending authority, pass such orders on the case as it may deem necessary:

   (i) provided that in the event of a difference of opinion between the borrowing authority and the lending authority the services of the Government Servant shall be replaced at the disposal of the lending authority;

   (ii) if the disciplinary authority is of the opinion that any of the penalties specified in clauses (v) to (ix) or Rule 11 should be imposed on the Government Servant it shall replace the service of such Government Servant at the disposal of the lending authority and transmit to it the proceedings of inquiry for such action as it may deem necessary.
22. **Orders against which no appeal lies.** — Notwithstanding anything contained in this Part, no appeal shall lie against:

(i) any order made by the President;

(ii) any order of an interlocutory nature or of the nature of a [step-in-aid of] the final disposal of a disciplinary proceeding, other than an order of suspension;

(iii) any order passed by an inquiring authority in the course of an inquiry under Rule 14.

23. **Orders against which appeal lies.** — Subject to the provisions of Rule 22, a Government Servant may prefer an appeal against all or any of the following orders, namely:

(i) An order of suspension made or deemed to have been made under Rule 10;

(ii) An order imposing any of the penalties specified in Rule 11 whether made by the disciplinary authority or by any appellate or revising authority.

(iii) An order enhancing any penalty, imposed under Rule 11;

(iv) An order which —

(a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or

(b) interprets to his disadvantage the provisions of any such rule or agreement;

(v) an order —

(a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;

(b) Reverting him while officiating in a higher service, grade or post, to a lower service, grade, or post, otherwise than as a penalty;

(c) Reducing or withholding the pension or denying the maximum pension admissible to him under the rules;

(d) Determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;

(e) Determining his pay and allowances —

(i) for the period of suspensions, or

(ii) for the period from the date of his dismissal, removal, or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his reinstatement or restoration to his service, grade or post or
(iii) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation – In this rule –

(i) the expression 'Government Servant' includes a person who has ceased to be in Government Service;

(ii) the expression 'pension' includes additional pension, gratuity and any other retirement benefit.

24. **Appellate Authorities** – (1). A Government Servant, including a person who has ceased to be in Government Service, may prefer an appeal against all or any of the orders specified in Rule 23 to the authority specified in this behalf either in the Schedule or by a general or special order of the President or, where no such authority is specified –

(i) Where such Government Servant is or was a member of a Central Service, Group A or Group B or holder of a Central Civil Post, Group A or Group B.–

(a) to the appointing authority, where the order appealed against is made by an authority subordinate to it; or

(b) to the President where such order is made by any other authority;

(ii) Where such Government Servant is or was a member of a Central Civil Service, Group C or Group D or holder of a Central Civil Post, Group C or Group D, to the authority to which the authority making the order appealed against a immediately subordinate.

(2) **Notwithstanding anything contained in sub-rule (1)** –

(i) an appeal against order in a common proceeding held under Rule 18 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate;

   Provided that where such authority is authority is subordinate to the president in respect of a Government Servant for whom president is the appellate authority in terms of sub-clause (b) of clause (i) the appeal shall be to the President.

(ii) where the person who made the order appealed against becomes, by virtue of
his subsequent appointment of otherwise the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

(3) A Government Servant may prefer an appeal against an order imposing any of the penalties specified in Rule 11 to the President, where not such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the President, on such Government Servant in respect of his activities connected with his work as an office bearer of an association, federation or union, participating in the Joint Consultation and Compulsory Arbitration Scheme.

25. Period of limitation of appeals – No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the Appellate Authority may entertain the appeal after the expiry of said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

26. Form and contents of appeal. – (1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relied, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall, on receipt of a copy of the appeal, forward the same with its comments thereon together

27. Consideration of appeal – (1) In the case of an appeal against an order of suspension, the Appellate Authority shall consider whether in the light of the provisions of Rule 10 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in
Rule 11 or enhancing any penalty imposed under the said rules, the Appellate Authority shall consider:

(a) Whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) Whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

And pass orders—

(i) Confirming, enhancing, reducing, or setting aside the penalty; or

(ii) Remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case;

Provided that—

(i) The Commission shall be consulted in all cases where such consultation is necessary;

(ii) If such enhanced penalty which the Appellate Authority proposed to impose is one of the penalties specified in clauses (v) to (ix) of Rule 11 and an inquiry under Rule 14 has not already been held in the case, the Appellate Authority shall, subject to the provisions of Rule 19, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 14 and thereafter, on a consideration of the proceedings of such inquiry [***] make such orders as it may deem fit;

(iii) If the enhanced penalty which the appellate authority proposes impose is one of the penalties specified in clauses (v) to (ix) of Rule 11 and enquiry under Rule 14 has been held in the case, the appellate authority shall make such orders as it may deem fit after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty.

(iv) No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of Rule 16, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in Rule 23 the Appellate Authority
shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

28. Implementation of orders in appeal. – The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority.

PART VIII
REVISION AND REVIEW

29. "Revision" – (1) Notwithstanding anything contained in these rules:

(i) The President; or

(ii) The Comptroller and Auditor-General in the case of a Government servant serving in the Indian Audit and Accounts Department, or

(iii) The member (Personnel), Postal Services Board in the case of a Government Servant serving in or under the Postal Services Board and Adviser, Human Resource Development, Department of Tele-Communications Board in the case of Government Servant serving in or under the Telecommunications Board, or

(iv) The head of a department directly under the Central Government in the case of a Government Servant serving in a department or office (not being the Secretariat or the Posts and Telegraphs Board), under the control of such head of a department; or

(v) The Appellate Authority within six months of the date of the order proposed to be revised, or

(vi) Any other authority specified in this behalf by the President by a general or special order, and within such time as may be prescribed in such general or special order,

may at any time, either on his or its own motion otherwise, call for the records of any inquiry and revised any order made under these rules or under the rules repealed by Rule 34 from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the commission where such consultation is necessary; and may –

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance, or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
(d) pass such other order as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any [revision] authority unless the Government Servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 11 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under Rule 14 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 14 subject to the provision of Rule 19, and except after consultation with the commission where such consultation is necessary;

Provided further that no power [revision] shall be exercised by the Comptroller and Auditor-General, Member (Personnel), Postal Services Board, Adviser, (Human Resource Development) Department of Telecommunications or the Head of Department, as the case may be, unless –

(i) The authority which made the order in appeal, or

(ii) The authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for [revision] shall be commenced until after-

(i) The expiry of the period of limitation for an appeal, or

(ii) The disposal of the appeal, where any such appeal has been preferred.

(3) An application for [revision] shall be dealt within the same manner as if were an appeal under these Rules

29A. Review – The President may, at any time either on his own motion or otherwise, revise any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought to his notice.

Provided that no order imposing or enhancing any shall be made by the President unless the Government Servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in Rule 11 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an enquiry under Rule 14 has not already been held in the case no such penalty shall be imposed except after
inquiring in the manner laid down in Rule 14, subject to the provisions of Rule 19 and except after consultation with the commission where such consultation is necessary.

PART IX
MISCELLANEOUS

30. **Service of orders, notices etc.** – Every order, notice and other process made or issued under these rules shall be served in person on the Government Servant concerned or communicated to him by registered post.

31. **Power to relax time-limit and to condone delay** – Save as otherwise expressly provided in these rules, the competent authority under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

32. **Supply of copy of Commission’s advice** – Whenever the commission is consulted as provided in these rules, a copy of the advice by the Commission and where such advice has not been accepted, also a brief in statement of the reasons for such non-acceptance, shall be furnished to the Government Servant concerned along with a copy of the order passed in the case, by the authority making the order.

33. **Transitory Provisions** – On and from the commencement of these rules, and until the publication of the Schedules under these rules, the Schedules to the Central Civil Services (Classification, Control and Appeal) Rules, 1952, as amended from time to time, shall be deemed to be the Schedules relating to the respective categories of Government Servants to whom they are, immediately before the Commencement of these rules applicable and such Schedules shall be deemed to be the Schedules referred to in the corresponding rules of these Rules.

34. **Repeal and Saving** – (1) Subject to the provisions of Rule 33, the Central Civil Services (Classification, Control and Appeal) Rules 1957, and the Civilians in Defence Services (Classification, Control and Appeal) Rules 1952 and any notifications or orders issued there under insofar as they are inconsistent with these rules are hereby repealed; Provided that –

(a) such repeal shall not affect the previous operation of the said rules, or any notification or order made, or anything done or any notification or order made, or anything done or any action taken, there under;

(b) any proceedings under the said rules pending at the commencement of
these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules, as if such proceedings, were proceedings under these rules.

(2) Nothing in these rules shall be construed as depriving any person to whom these rules apply, of any right of appeal which had accrued to him under the rules, notification or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be made, in accordance with these rules as if such orders were made and the appeals were preferred under these rules.

(4) As from the commencement of these rules any appeal or application for review against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules;

provided that nothing in these rules shall be construed as reducing any period of limitation for any appeal or review provided by any rule in force before the commencement of these rules.

35. Removal of doubts. - If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the President or such other authority shall decide the same.

THE SCHEDULE
[See rules 5, 9(2), 12(2) & 24]

PART 1
CENTRAL CIVIL SERVICES, GROUP ‘A’

1. Archaeological Service, Group "A"
2. Botanical Survey of India, Group ‘A’
3. Central Engineering Service, Group ‘A’
4. Central Electrical Engineering Service, Group ‘A’
5. Central Health Service, Group ‘A’
6. Central Revenue Chemical Service, Group 'A'
7. Central Secretarial Service –
   (a) Selection Grade.
   (b) Grade 1
8. General Central Service, Group ‘A’
9. Geological Survey of India, Group ‘A’
10. Indian Audit and Accounts Service
10. A Indian Civil Accounts Service.

11. Indian Defence Accounts Service.

12. Indian Foreign Service, Group 'A'.

13. Indian Meteorological Service, Group 'A'.

14. Indian Postal Service, Group 'A'.

15. Indian Posts and Telegraphs Traffic Service, Group 'A'.

16. Indian Revenue Service –
   (a) Customs Branch (Indian Customs Service, Group 'A').
   (b) Central Excise Branch (Central Excise Service, Group 'A').
   (c) Income tax Branch (Income Tax Service, Group 'A').

17. Indian Salt Service, Group 'A'.

18. Mercantile Marine Training Ship Service, Group 'A'.


20. Overseas Communications Service, Group 'A'.

21. Survey of India, Group 'A'.

22. Indian Telecommunication Service, Group 'A'.

23. Zoological Survey of India, Group 'A'.

24. Indian Frontier Administrative Service –
   (a) Grade I
   (b) Grade II

25. Central Legal Service (Grade I, II, III, and IV).

26. Railway Inspectorate Service, Group 'A'.

27. Indian Foreign Service Branch (B) (erstwhile) –
   (a) General Cadre, Grade I.
   (b) General Cadre, Grade II

28. Delhi and Andaman And Nicobar Islands Civil Service, Grade I.

29. Delhi and Andaman and Nicobar Islands Police Service, Grade II.

30. Indian Inspection Service, Group 'A'.

31. Indian supply Service, Group 'A'.

32. Central Information Service –
   (a) Selection Grade.
   (b) Senior Administrative Grade.
   (c) Junior Administrative Grade.
   (d) Grade I.
   (e) Grade II.

33. Indian Statistical Service.
34. Indian Economic Service.
35. Telegraph Traffic Service, Group 'A'.
36. Central Water Engineering Service, Group 'A'.
37. Central Power Engineering Service, Group 'A'.
38. Company Law Board Service.
39. Labour Officers of the Central Pool, Group 'A'.
40. Central Engineering Service (Roads), Group 'A'.
41. Indian Posts & Telegraphs Accounts and Finance Services Group 'A'.
42. Indian Broadcasting (Engineers) Service, Group 'A'.
43. Central Trade Service Group 'A'.
44. Armed Forces Headquarters Civil Services (Group 'A').
45. Central Secretariat Official Language Service (Group 'A').
1 Short title, commencement and application. – (1) These rules may be called the Central Civil Services (Conduct) Rules, 1964.

2. They shall come into force at once.

3 Save as otherwise provided in these rules and subject to the provisions of the Indian Foreign Service (Conduct and Discipline) Rules, 1961, these rules shall apply to every person appointed to a civil service or post (including a civilian in Defence Service) in connection with the affairs of the Union.

Provided that nothing in these rules shall apply to any Government servant who is –

(a) (i) a railway servant as defined in Section 3 of the Indian Railway Act, 1890 (9 of 1890)

(i) a person holding a post in the Railway Board and is subject to the Railway Services (Conduct) Rules,

(ii) holding any post under the administrative control of the Railway Board or of the Financial Commissioner of Railways.

(b) a member of an All India Service;

(c) a holder of any post in respect of which the president has, by a general or special order, directed that these rules shall not apply:

Provided further that Rules 4, 6, 7, 12 14, sub rule (3) of Rule 15, Rule 16, sub rules (1), (2) and (3) of Rule 18, Rules 19, 20 and 21 shall not apply to any Government servant who draws a pay which does not exceed Rs. 500 per mensem and holds a non-gazetted post in any of the following establishment owned or managed by the Government, namely –

(i) ports, docks, wharves or jetties,

(ii) defence installations except training establishment;

(iii) Public works establishments, in so far as they relate to work charged staff;

(iv) Irrigation and electric power establishments.

(v) Mines as defined in clause (i) of section 2 of the Mines Act, 1952 (35 of 1952);

(vi) Factories as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1984); and

(vii) Field units of the Central Tractor Organization employing workmen governed by labour laws.

Provided further that these rules shall apply to any person temporarily transferred to a service of post specified in clause (a) of the first proviso to whom for such transfer these
rules would have otherwise applied

Explanation. - For the purposes of the second proviso, the expression 'establishment' shall not included any railway establishment or any office mainly concerned with administrative, managerial, supervisory, security or welfare functions.

2 Definitions, - (1) In these rules, unless the context otherwise requires, -
(a) "The Government" means the Central Government;
(b) "Government servant" means any person appointed by Government to any civil service or post in connection with the affairs of the union and includes a civilian in a defence service.
Explanation – A Government servant whose services are placed at the disposal of a company, corporation, organization or a local authority by the Government shall, for the purpose of these rules, be deemed to be a Government servant serving under the Government notwithstanding that his salary is drawn from sources other than the Consolidated Fund of India
(c) “Members of family” in relation to a Government servant includes, -
(i) the wife or husband, as the case may be, of the Government servant, whether residing with the Government servant or not but does not include a wife or husband, as case may be, separated from the Government servant by a decree or order of a competent Court,
(ii) Son or daughter or step-son or step-daughter of the Government servant and wholly dependent on him, but does not include a child or step child who is no longer in any way dependent on the Government servant or of whose custody the Government servant has been deprived by or under any law,
(iii) Any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependdent on the Government servant.

4 General – (1) Every Government servant shall at all times –
(i) maintain absolute integrity;
(ii) maintain devotion to duty, and
(iii) do nothing which is unbecoming of a Government servant.
(2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government Servant for the time being under his control and authority;
(i) No Government servant shall, in the performance of his official duties, or in the
exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior.

(ii) The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediate thereafter.

(iii) A Government servant who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

Explanation 1. – A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause (ii) of sub-rule (1).

Explanation II. – Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of power and responsibilities.

A. **Promptness and Courtesy** – No Government servant shall,

(a) after Rule 3, the following rules shall act in a courteous manner,

(b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.

B. **Observance of Government’s policies** – Every Government servant shall, at all times

(i) act in accordance with the Government’s policies regarding age of marriage, preservation of environment, protection of wildlife and cultural heritage;

(ii) observe the Government’s policies regarding prevention of crime against women.

C. **Prohibition of sexual harassment of working women** – (1) No Government servant shall indulge in any act of sexual harassment of any women at her work place.

Explanation – For the purpose of this rule, “Sexual harassment” includes such unwelcome sexually determined behaviours, whether directly or otherwise, as –

(a) Physical contact and advances;

(b) Demand or request for sexual favours;

(c) Sexually coloured remarks.

(d) Showing any pornography; or

(e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature".
4 Employment of near relatives of Government servants in companies or Firms.- (1) No Government servant shall use his position or influence directly or indirectly to secure employment for any member of his family in any [Company or firm].

(2) (i) No Class 1 officer shall, except with the previous sanction of the Government, permit his son, daughter or other dependent, to accept employment in any [company or firm] with which he has official dealings or in any other [company or firm] having official dealings with the Government.

Provided that where the acceptance of the employment cannot await prior permission of the Government or is otherwise considered urgent, the matter shall be reported to the Government and the employment may be accepted provisionally subject to the permission of the Government.

(ii) A Government servant shall, as soon as he becomes aware of the acceptance by a member of his family of an employment in any [company or firm], intimate such acceptance to the prescribed authority and shall also intimate whether he has or has had official dealing with that [company or firm].

Provided that no such intimation shall be necessary in the cases of a Class I officer if he has already obtained the sanction of or sent a report to the Government under clause (i).

(3) No Government servant shall in the discharge of his official duties deal with any matter or give or sanction any contract of any [company or firm] or any other person if any member of his family is employed in that [company or firm] or under that person or if he or any member of his family is interested in such matter or contract in any other manner and the Government servant shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

5. Taking part in politics and elections —

(1) No Government servant shall be a member of, or he otherwise associated with, any political party or any organization which takes part in politics nor shall be take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government servant to endeavour to prevent any member of his family from taking part in, subscribing in aid of, or assisting in any other manner any movement or activity which is, or tends directly to be, subversive of the Government as by law established and where a Government servant is unable to prevent a member of his family from taking part in, or subscribing in aid of or assisting in any other manner, any such movement or activity, he shall make a report to the effect to the Government.
(3) If any question arises whether a party is a political party or whether any organization takes part in politics or whether any movement or activity falls within the scope of sub-rule (2) the decision of the Government thereon shall be final.

(4) No Government servant shall canvass or otherwise interfere with, or use his influence in connection with or take part in, an election to any legislature or local authority:

Provided that –

(i) a Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted:

Explanation – The display by a Government servant on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

6. Joining of associations by Government Servants – No Government servant shall join, or continue to be a member of an association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India, or public order or morality.

7. Demonstration and strikes. – No Government servant shall, –

(i) engage himself or participate in any demonstration which is prejudicial to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or which involves contempt of Court, defamation or incitement to an offence, or

(ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other Government servant.

8. Connection with press or other media -

(1) No Government servant shall, except with the previous sanction of the Government, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication or electronic media.

(2) Nothing in sub-rule (1) shall apply in case a Government servant in the bonafide discharge of his official duties publishes book or participates in a public media.

(3) A Government servant publishing a book or participating in a public media shall at all time make it clear that the views expressed by him are his own and not that of Government.
9. **Criticism of Government** — No Government servant shall, in any radio broadcast, telecast through any electronic media or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion:

(i) Which has the defect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government:

Provided that in the case of any Government servant included in any category of Government servants specified in the second proviso to subrule (3) of Rule 1, nothing contained in this clause shall apply to bona fide expression of views by him as an office-bearer of a trade union or association of Government servants for the purpose of safeguarding the conditions of service of such Government servant or for securing an improvement thereof.

(iii) which is capable of embarrassing the relations between Central Government and the Government of any State, or

(iv) which is capable of embarrassing the relations between the Central Government and the Government of any foreign State.

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government servant in his official capacity or in the due performance of the duties assigned to him.

10. **Evidence before Committee or any other authority** —

(1) Save as provided in sub-rule (3), no Government servant shall, except with previous sanction of the Government, give evidence in connection with any enquiry conducted by any person committee or authority.

(2) Where any sanction has been accorded under sub-rule (1) no Government servant giving such evidence shall criticize the policy or any action of the Central Government or of a State Government.

(3) Nothing in this rule shall apply to —

(a) evidence given at an enquiry before an authority appointed by the Government parliament or a State Legislature; or

(b) evidence given in any judicial enquiry; or

(c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government.

11. **Unauthorised communication of information** — No Government servant shall, except in accordance with any general or special order of the Government or in the
performance in good faith of the duties assigned to him communicate, directly or indirectly, any official document or any part thereof or information to any Government servant or any other person to whom he is not authorized to communicate such document or information.

Explanation – Quotation by a Government servant (in his representation to the Head of Office, or Head of Department or President) of or from any letter, circular or office memorandum or from the notices or any file, to which he is not authorized to have access, or which he is not authorized to keep in his personal custody or for personal purpose, shall amount to unauthorized communication of information within the meaning of this rule.

12. **Subscriptions** – No Government servant shall, except with the previous sanction of the Government or of the prescribed authority, ask for or accept contributions to or otherwise associate himself with the raising of any funds or other collection in cash or in kind in pursuance of any object whatsoever.

13. **Gifts** -

(1) Save as provided in these rules, no Government servant shall accept, or permit any member of his family or (any other person acting on his behalf) to accept, any gift.

Explanation – The expression "gift" shall include free transport, boarding, lodging or other service or any other pecuniary advantage provided by any person other than a near relative or personal friends having no official dealings with the Government servant.

Note 1. A casual meal, lift or other social hospitality shall not be deemed to be a gift.

Note 2. A Government servant shall avoid accepting lavish hospitality or frequent hospitality from any individual, industrial or commercial firms, organizations, etc., having officials dealings with him.

(2) On Occasions, such as weddings, anniversaries, funerals or religious functions, when the making of gift is in conformity with the prevailing religious or social practice, a Government servant may accept gifts from his near relatives or from his personal friends having no official dealings with him but shall make a report to the Government, if the value of such gift exceeds -

(i) rupees five thousand in the case of a Government servant holding any Group "A" post.

(ii) Rupees three thousand in the case of a Government servant holding any Group "B" post;

(iii) Rupees one thousand in the case of a Government servant holding any Group "C" post; and

(iv) Rupees five hundred in the case of a Government servant holding any Group "D" post.
IN any other case a Government servant shall not accept any gift without the sanction of the Government if the value exceeds -

(i) rupees one thousand in the case of Government servants holding any Group “A” or Group “B” post; and

(ii) rupees two hundred and fifty in the case of Government servants holding any Group “C” or Group “D” post;

Notwithstanding anything contained in sub-rules (2) and (3), a Government servant being a member of the Indian delegation or otherwise may receive and retain gifts from foreign dignitaries if the market value of gifts received on one occasion does not exceed rupees one thousand. In all other cases, the acceptance and retention of such gifts shall be regulated by the instructions issued by the Government in this regard from time to time.

A Government servant shall not accept any foreign firm which is either contracting with the Government of India or is one with which the Government servant had, has or is likely to have official dealings. Acceptance of gifts by a Government servant from any other firm shall be subject to the provisos of sub-rule (4).

Dewry - No Government servant shall –

(i) give or take or abet the giving or taking of dowry; or

(ii) demand directly or indirectly, from the parent or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation – For the purposes of this rule, “dowry” has the same meaning as in the Dowry Prohibition Act, 1961 (28 of 1961).


Definition of “Dowry” – In this Act, “Dowry” means any property or valuable security given or agreed to be given either directly or indirectly -

(a) by one party to a marriage to the other party of the marriage; or

(b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahar in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I. – Deleted.

Explanation II - The expression “Valuable security” has the same meaning as in Section 30 of the Indian Penal Code (45 of 1860).

Extract from the Indian Penal Code (45 of 1860)

3. “Valuable Security” – the words “Valuable Security” denote a document which
is, or purports to be, a document whereby any legal right is created, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability or has not a certain legal right.

14. **Public demonstrations in honour of Government Servants**

   No Government servant shall, except with the previous sanction of the Government receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour or any other Government servant.

   Provided that nothing in this rule shall apply to –

   (i) a farewell entertainment of a substantially private and informal character held in honour of a Government servant or any other Government servant on the occasion of his retirement or transfer or any person who has recently quitted the service of any Government, or

   (ii) the acceptance of simple and inexpensive entertainments arranged by public bodies or institutions.

Note- Exercise of pressure or influence of any sort on any Government servant to induce him to subscribe towards any farewell entertainment even if it is of a substantially private or informal character and the collection of subscriptions form Class III or class IV employees under any circumstances for the entertainment of any Government servant not belonging to Class III or Class IV, is forbidden.

15. **Private trade or employment**

   (1) Subject to the provisions of subrule (2), no Government servant shall, except with the previous sanction of the Government -

   (a) engage directly or indirectly in any trade or business, or

   (b) negotiate for, or undertake, any other employment, or

   (c) hold an elective office, or canvass for a candidate or candidates for an elective office in any body, whether incorporated or not, or

   (d) canvass in support to any business of insurance agency, commission agency, etc, owned or managed by any member of his family, or

   (e) take part except in the discharge of his official duties, in the registration, promotion or management of any bank or other company registered or required to be registered under the Companies Act 1956 (1 of 1956) or any other law for the time being in force, or of any co-operative society for commercial purposes.

   (f) Participate in or associate himself in any manner in the making of -

   (i) a sponsored media (radio or television) programme; or

   (ii) a media programme commissioned by Government media but produced by ak
private agency; or

(III) a privately produced media programme including video magazine;

Provided that no previous permission shall be necessary in case where the Government servant participates in a programme produced or commissioned by Government media in his official capacity.]

(2) A Government Servant may, without the previous sanction of the Government -

(a) Undertake honorary work of a social or charitable nature, or

(b) Undertake occasional work of a literary, artistic or scientific character, or

(c) Participate in sports activities as an amateur, or

(d) Take part in the registration, promotion or management (not involving the holding of an elective office) of a literary, scientific or charitable society or of a club or similar organization, the aims or objects of which relate to promotion of sports, cultural or objects of which relate to promotion of sports, cultural or recreational activities, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force, or

(e) Take part in the registration, promotion or management (not involving the holding of elective office) of a co-operative society substantially for the benefit of Government servants, registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law for the time being in force;

Provided that

(i) he shall discontinue taking part in such activities, if so directed by the Government; and

(ii) in a case falling under clause (d) or clause (e) of this sub-rule, his official duties shall not suffer thereby and he shall, within a period of one month of his taking part in such activity, report to the Government giving details of the nature of his participation.

(2) Every Government servant shall report to the Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(3) Unless otherwise provided by general or special orders of the Government no Government servant may accept any fee for any work done by him for any private or public body or any private person without the sanction of the prescribed authority.

Explanation – The term “fee” used here shall have the meaning assigned to it in Fundamental Rule 9 (6-A).
15A. Sub-letting and vacation of Government accommodation.

(1) Save as otherwise provided in any other law for the time being in force, no Government servant shall sub-let lease or otherwise allow occupation by any other person of Government accommodation, which has been allotted to him.

(2) A Government servant shall, after the cancellation of his allotment of Government accommodation vacate the same within the time-limit prescribed by the allotting authority.

16. Investment, lending and borrowing:

(1) No Government servant shall speculate in any stock, share or other investment:

Provided that nothing in this sub-rule shall apply to occasional investments made through stock brokers or other persons duly authorized and licensed or who have obtained a certificate of registration under the relevant law.

Explanation: - Frequent purchase or sale or both, of shared, securities, or other investments shall be deemed to be speculation within the meaning of this sub-rule.

(2) No Government servant shall make, or permit any member of his family or any person acting on his behalf to make, any investment which is likely to embarrass or influence him in the discharge of his official duties. For this purpose, any purchase of shares out of the quotas reserved for Directors of Companies or their friends and associates shall be deemed to be an investment which is likely to embarrass the Government servant.

(3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the Government thereon shall be final.

(4) (i) No Government servant shall, save in the ordinary course of business with a bank or a public limited company, either himself or through any member of his family or any other person acting on his behalf -

(a) Lend or borrow or deposit money, as a principal or an agent, to, or from, or with any person or firm or private limited company within the local limits of this authority or with whom he is likely to have official dealings or otherwise place himself under any pecuniary obligation to such person or firm or private limited company; or

(b) Lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid;

Provided that a Government servant may, give to, or accept from, a relative or a personal friends a purely temporary loan of a small amount free of interest, or operate a
credit account with a bona fide tradesman or make an advance of pay to his private employee.

Provided further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Government servant with the previous sanction of the Government.

(ii) When a Government servant is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4) he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority.

17. **Insolvency and habitual indebtedness** -

A Government servant shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Government servant against whom any legal proceedings is instituted for the recovery of any debt due from him or for adjudging him as an insolvent, shall forthwith report the full facts of the legal proceedings to the Government.

Note :- The burden of proving that the insolvency or indebtedness was the result of circumstances which, with the exercise of ordinary diligence, the Government servant could not have foreseen, or over which he had no control, and had not proceeded from extravagant or dissipated habits, shall be upon the Government servant.

18. **Movable, immovable and valuable property** -

(1) (i) Every Government servant shall on his first appointment to any service or post [ ] submit a return of his assets and liabilities, in such form as may be prescribed by the Government, giving the full particulars regarding:

(a) the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.

(b) Shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him.

(c) Other movable property inherited by him or similarly owned, acquired or held by him; and

(d) Debts and other liabilities incurred by him directly or indirectly.

Note 1. Sub-rule (1) shall not ordinarily apply to class IV servants but the Government may direct that it shall apply to any such Government servant or class of such Government servants.
Note 2. In all returns, the values of items of movable property worth less than [Rs. 2,000] may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books, etc. need not be included in such return.

Note 3. Where a Government servant already belonging to a service or holding a post is appointed to any other civil service or post, he shall not be required to submit a fresh return under this clause.

(ii) Every Government servant belonging to any service or holding any post included in Group A or Group B shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.

(2) No Government servant shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family.

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.

(3) Whether a Government servant enters into a transaction in respect of movable property either in his own name or in the name of the member of his family he shall, within one month from the date of such transaction report the same to the prescribed authority, if the value of such property exceeds [Rs. 15000] in the case of a Government servant holding any Class I or Class II post or [Rs. 10,000] in the case of a Government servant holding any Class III or Class IV post.

[Provide that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transactions is with a person having official dealings with him.]

(4) The Government or the prescribed authority may, at any time, by general or special order, require a Government servant to furnish, within a period specified in the order, a full and complete statement of such movable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall if so required by the Government or by the prescribed authority, include the details of the means by which, or the source from which, such property was acquired.

(5) The Government may exempt any category of Government servants belonging to Class III or Class IV from any of the provisions of this rule except sub-rule (4). No such exemption shall, however, be made without the concurrence of the Cabinet Secretariat.
Explanation 1. For the purposes of this rule,

1. The expression "movable property" includes:
   (a) jewellery insurance policies the annual premia of which exceeds [Rs. 2000] or one sixth of the total annual emoluments received from Government whichever is less, shares, securities and debentures.
   (b) All loans whether secured or not, advanced or taken by the Government servant.
   (c) Motor cars, motor cycles, horses or any other means of conveyance; and
   (d) Refrigerators, radios [radiograms and television sets]

2. "prescribed authority" means, -
   a(i) the Government in the case of a Government servant holding any Class I post, except, where any lower authority is specifically specified by the Government for any purpose;
   (ii) Head of Department in the case of a Government servant holding any Class II post.
   (iii) Head of Office, in the case of a Government servant holding any Class III or Class IV post;
   b in respect of a Government servant on foreign service on deputation to any other Ministry or any other Government, the parent department on the cadre of which such Government servant is borne or the Ministry to which he is administratively subordinate as member of that cadre.

Explanation II – For purpose of this rule ‘lease’ means except where it is obtained from, or granted to, a person having official dealings with the Government servant a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.

18.A. Restrictions in relation to acquisition and disposal of immovable property outside India and transactions with foreigners etc. – Notwithstanding anything contained in sub-rule (2) of Rule 18, no Government servant shall except with the previous sanction of the prescribed authority:

   (a) acquire, by purchase, mortgage, lease, gift or otherwise either in his own name or in the name of any member of his family, any immovable property situated outside India.
   (b) Dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family;
   (c) Enter into any transaction with any foreigner, foreign Government, foreign organization
(i) for the acquisition by purchase mortgage lease gift or otherwise either in his own name or in the name of any member of his family of any immovable property;

(ii) for the disposal of: by sale, mortgage, gift or otherwise, or the grant of any lease in respect of any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.

Explanation - In this rule 'prescribed authority' has the same meaning as in Rule 18.

19. Vindication of acts and character of Government servant -

(1) No Government servant shall, except with the previous sanction of the Government have recourse to any court or to the press for the vindication of any official act which has been the subject-matter of adverse criticism or an attack of a defamatory character.

[Provide that if no such sanction is received by the Government servant within a period of three months from the date of receipt of his request by the Government, he shall be free to assume that the permission as sought for his been grant to him].

(2) Nothing in this rules shall be deemed to prohibit a Government servant from vindicating his private character or any act done by him in his private capacity and where any acting for vindicating his private character or any act done by him in private capacity is taken, the Government servant shall submit a report to the prescribed authority regarding such action.

If Government decide to grant such sanction, no question of reimbursement of any expenses to the Government servant will arise, but advances may be granted as laid down in sub-paragraph C (ii) of paragraph 2 of Ministry of Home affairs O.M.

(7) The appropriate authority for taking a decision in each case will be the administrative Ministry of the Government of India concerned who will consult the Finance and Law Ministries, where necessary. The Comptroller and Auditor General of India will exercise the powers of an administrative ministry in respect of the Indian Audit and Accounts department. [M.H.A., O.M. No. F25/32/54-Estt. (A), dated 8th January, 1959].

Time-limit beyond which permission may be assumed to have been granted by the competent authority. – See item 2 under Rule 8.

20. Canvassing of non-official or other outside influence. – No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government.

21. Restriction regarding Marriage -

(1) No Government servant shall enter into, or contract a marriage with a person having
a spouse living; and

(2) No Government servant having a spouse living shall enter into, or contract, a marriage with any person;

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2) if it is satisfied that—

(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage, and

(b) there are other grounds for so doing.

(3) A Government servant who has married a person other than of Indian Nationality shall forthwith intimate the fact to the Government.

22. Consumption of intoxicating drinks and drugs. A Government servant shall—

(a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;

(b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;

(bb) refrain from consuming any intoxicating drink or drug in a public place;

(c) not appear in a public place in a state of intoxication;

(d) not use any intoxicating drink or drug to excess.

Explanation, -For the purpose of this rule ‘public place’ means any place or premises (including a conveyance) to which the public have, or are permitted to have access, whether on payment or otherwise.

23. Interpretation. - If any question arises relating to the interpretation of these rules, it shall be referred to the Government whose decision thereon shall be final.

24. Delegation of Powers. - The Government may, by general or special order, direct that any power exercisable by it or any head of department under these rules (except the powers unde Rule 23 and this rule) shall subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be specified in the order.

25. Repeal and Saving – Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to the Government servants to
whom these rules apply, are hereby repealed -

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules -

Provided further that such repeal shall not affect the previous operation of the rules so repealed and contravention of any of the said rules shall be punishable as if it were a contravention of these rules.
CENTRAL CIVIL SERVICES (TEMPORARY SERVICES) RULES, 1965
(A) RULES WITH INSTRUCTIONS

In exercise of the powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution, and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, the President is pleased to make, in supersession of the Central Civil Services [Temporary Service] Rules, 1949, the following rules to regulate the conditions of service of temporary Government Servants, namely:

1. Short title, commencement and application – (1) These rules may be called The Central Services (Temporary Service) Rules, 1965.
(2) They shall come into force at once.
(3) Subject to the provisions of sub.... (4) there rules shall apply to all persons:
   (i) Who hold a civil post including all civilians paid from the Defense Services Estimates under the Government of India and who are under the rule-making control of the President but who do not hold a lien or a suspended lien on any post under the Government.
   (ii) Who are employed temporarily in work-charged establishments and who have opted for pensionary benefits.

2. Nothing in these rules shall apply to:
   (a) Railway servants,
   (b) Government Servants not in whole time employment;
   (c) Government Servant engaged on contract;
   (d) Government Servants paid out of contingencies;
   (e) Persons employed in extra-temporary establishment or in work-charged establishments (other than the persons employed temporarily and who have opted for pensionary benefits);
   (f) Non-departmental telegraphic and telegraphmen employed in the Posts and Telegraphs Department.
   (g) Such other categories of employees as may be specified by the Central Government by notification published in the Official Gazette.

2. Definitions.– In these rules, unless the context otherwise requires,–
   (a) “Appointing authority” means, in relation to a specified post, the authority declared as such under the Central Civil Services (C.C. & A.) Rules, 1963;
   (b) Omitted.
3 Termination of temporary Service – (1)(a) The services of temporary Government Servant shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant;

(b) the period of such notice shall be one month ;

Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be, for the period by which such notice falls short of one month.

Note: The following procedure shall be adopted by the appointing authority while serving notice on such Government Servant under clause (a) –

(i) The notice shall be delivered or tendered to the Government Servant in person.

(ii) Where personal service is not practicable, the notice shall be served on such Government Servant by registered post acknowledgement due at the address of the Government Servant available with the Appointing Authority.

(iii) If the notice sent by registered post is returned unserved it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such Government Servant on the date it was published in the Official Gazette.

(2)(a) Where a notice is given by the appointing authority terminating the services of a temporary Government Servant, or where the Service of any such Government Servant is terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowances, the Central Government or any other authority specified by the Central Government in this behalf may, of its own motion or otherwise, re-open the case, and after calling for the records of the case and after making such enquiry it deems fit –
(i) confirm the action taken by the appointing authority.
(ii) withdraw the notice
(iii) reinstate the Government Servant in service, or
(iv) make such other order in the case as it may consider proper.

Providing that except in special circumstances, which should be recorded in writing.

no case shall be reopened under this sub-rule after the expiry of three months:

(i) from the date of notice, in a case where notice is given,
(ii) from the date of termination of service, in a case where no notice is given.

(b) Where a Government Servant is reinstated in service under sub-rule

(2) the order of reinstatement shall specify:

(i) the amount of proportion of pay and allowances, if any, to be paid to the Government Servant for the period of his absence between the date of termination of his services and the date of his reinstatement; and

(ii) whether the said period shall be treated as a period spent on duty for any specified purpose or purposes.

6. Termination of temporary service on account of physical unfitness - Notwithstanding anything contained in Rule 5, the services of a temporary Government Servant [***] may be terminated at any time without notice on his being declared physically unfit for continuance in service by an authority who would have been competent to declare him as permanently incapacitated for service had his appointment been permanent.


8. Deleted,


10. Terminal gratuity payable to temporary Government Servants - (1) Subject to the provisions of sub-rule (1-B) a temporary Government Servant who retires on superannuating or is discharged from service or is declared invalid for further service shall be eligible for gratuity at the rate of -

(a) one-half of a month's pay for each completed year of his service, if he had completed not less than five years continuous service at the time of retirement, invalidment.

(b) One month's Pay for each completed year of his service subject to a maximum of fifteen months pay of fifteen thousand rupees, whichever is less, if he had completed not less than ten years continuous service at the time of retirement, discharge of invalidment:
Provided that the amount of terminal gratuity payable under this sub-rule shall not be less than the amount which the Government Servant would have got as a matching Government contribution to the provident fund if he were a member of a Contributory Provident Fund Scheme from the date of his continuous temporary service, subject to the condition that the matching contribution shall not exceed 81/3 percent of his pay.

(1-A) In the case of a temporary Government Servant who is compulsorily retired from service as a disciplinary measure, the provisions of sub-rule (1) shall apply subject to the modification that the rate of gratuity payable in his case shall not be less than two thirds of, but in no case exceeding, the rate specified in clause (a) or as the case may be, clause (b), clause (b), of sub-rule (1).

(1-B) In the case of a temporary Government Servant who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Government Servant by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought voluntary retirement by giving three month's notice in writing on completion of 20 years service, provision of sub-rule (1) shall not apply and in accordance with the provisions of Central Civil Services (Pension) Rules, 1972--

(i) such a Government servant shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be and retirement gratuity, and

(c) Period of extraordinary leave, if any, availed of by the Government Servant concerned shall be taken into account for computing the completed service on the same basis as it is taken into account for the purpose of calculation of pension and retirement gratuity/death gratuity under Rule 21 of the Central retirement gratuity/death gratuity under Rule 21 of the Central Civil Services (Pension) Rules 1972, as amended from time to time, and

(d) An increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days of earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn, shall form part of the pay for purposes of calculating terminal/death gratuity.


(a) in sub-rule (1) -

(i) The words "subject to the condition of service rendered by the Government Servant concerned being held by the authority competent to appoint him to be satisfactory" are omitted.
(ii) The first and second provisos are omitted.

(iii) The word "also" occurring in third proviso is omitted.

(b) sub-rule (I-B) is substituted

(c) proviso of sub-rule (2) is substituted.

(d) provisos with Explanation are inserted

(e) sub-rule (6) is substituted.


(B) FORMS

Notice of termination of service issued under Rule 5(1) of Central Civil Services (Temporary Service) Rules, 1965, where the appointing authority is the President. – In pursuance of sub-rule (i) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, the President hereby gives notice to Shri/Smt./Kumari ................ (name) that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on or, as the case may be, tendered to him/her.

Station ............

Date ............

By order and in the name of the President

(Signature of the authority empowered to authenticate documents in the name of the president)

ACKNOWLEDGEMENT

I hereby acknowledge the receipt on this day of the notice of termination from service.
1. Short title and commencement – (1) These rules may be called the Central Civil Services (Leave) Rules, 1972.
   (2) They shall come into force on the 1st day of June, 1972.

2. Extent of application. – Save as otherwise provided in these rules, these rules shall apply to Government servants appointed to the civil services and posts in connection with the affairs of the Union, but shall not apply to –
   (a) Railway servants;
   (b) Personal in casual or daily-rates or part-time employment,
   (c) Persons paid from contingencies,
   (d) Workmen employed in industrial establishments;
   (e) Persons employed in work-charged establishment;
   (f) Members of the All India Services;
   (g) Persons locally recruited for service in Diplomatic, Consular or other Indian establishment in foreign countries;
   (h) Person employed on contract except when the contract provides otherwise.
   (i) Persons in respect of whom special provisions have been made by or under the provisions of the Constitution or any other law for the time being in force;
   (j) Persons governed for purpose or leave by the Fundamental Rules or the Civil Service Regulations;
   (k) Persons serving under a Central Government Department, on deputation from a State Government or any other source, for a limited duration.

3. Definition – These rules, unless the context otherwise requires, -
   (a) Definition means an administrator of a Union Territory.
   (b) "Audit Officer" means the Accounts and Audit Officer, whatever his official designation, in whose circle the office of the Government servant is situated;
   (c) "Authority competent to grant leave" means the authority specified in column (3) of the First Schedule to these rules, competent to grant the kind of leave specified in the corresponding entries in column (2) of the said Schedule;
   (d) "Completed years of service" or one year's continuous service" means continuous service of specified duration under the Central Government and includes the period spent on duty as well as on leave extraordinary leave;
(e) "Date of retirement" or "date of his retirement" in relation to a Government servant, means the afternoon of the last day of the month in which the Government servant attains the age prescribed for retirement under the terms and conditions Governing his services.

(f) "Department of the Central Government" means a Ministry or a Department of the Central Government as notified from time to Parliamentary Affairs, the President’s Secretariat, the Vice-President’s Secretariat, the Cabinet Secretariat and the Prime Minister’s Secretariat;

(g) "Foreign service" means service in which a Government Servant received his pay with the sanction of Government from any source other than the Consolidated Fund of India or the Consolidated Fund of any State [or the Consolidated Fund of a Union Territory];

(h) "Form" means a Form appended to the Second Schedule to these rules;

(i) "Government servant in quasi-permanent employ" – means-

(A) an officer who having been declared by the Union Public Service Commission to be eligible for appointment to the Ministerial Services of the Government of India, has been appointed to a temporary or officiating vacancy on the understanding given to him in writing before he took up the appointment, that the vacancy is expected to become permanent, but is not confirmed after completion of three year’s continuous service,

(B) an officer who may be declared as quasi-permanent under the Central Civil Services (Temporary Services) Rules, 1965.

(j) "Government servant in permanent employ" means an officer who holds substantively or provisionally substantively a permanent post or who holds a lien on a permanent post or who would have held a lien on permanent post had the lien not been suspended.

(k) "Head of Mission" means Ambassador, Charged Affairs, Minister, Consul-General, High Commissioner or any other authority declared as such by the Central Government in the country in which the Government Servant undergoes a course of study or training;

(l) "Military Officer" means an officer of the Armed Forces who is – Force, or

(i) a Commissioned Officer of the Army; the Navy or the Air Force, or

(ii) (a) a junior commissioned Officer (including an honorary commissioned officer), or an other rank’ of the Army or

(b) a Branch List Officer or rating of the Navy, or

(c) an airman including a Master Warrant Officer of the Air Force,

(m) "Vacation Department" means a department or part of a department, to which regular vacations are allowed, during which Government servants serving in the department are permitted to be absent from duty.
(2) Words and expressions used herein and not defined but defined in the Fundamental Rules and Supplementary Rules shall have the meanings respectively assigned to them in the Fundamental Rules and Supplementary Rules.

4 Government servants on temporary transfer or on foreign service. — (1) Government servants to whom these rules apply shall continue to be governed by these rules while on temporary transfer to the Indian Railway or to a State Government or while on foreign service within India.

(2) In the case of Government servants on foreign service outside India (including service with UN agencies within or outside India) or on temporary transfer to the Armed Forces of the Union, these rules shall apply only to the extent provided in the terms and conditions of foreign service or temporary transfer, as the case may be.

5. Transfer from services or posts governed by other leave rules — Unless it be otherwise provided in these rules, a permanent Government servant to whom these rules do not apply —

(a) when transferred temporarily to a service or post to which these rules apply, shall remain subject to the leave rules which were applicable to him before such transfer, and provided that where a military officer not in permanent civil employ has elected to draw civil rates of pay, his leave shall be regulated as per the provisions under these rules:

Provided further that in the event of his release/discharge from the Armed Forces, he shall carry forward the annual leave due to him with effect from the date of such release/discharge.

(b) when appointed substantively to a permanent post to which these rules apply, shall become subject to these rules from the date of such appointment, in which case the leave at this credit under the rules previously applicable to him shall be carried forward subject to the maximum limits of accumulation as laid forward subject to the maximum limits of accumulation as laid down in Rule 26. The leave so carried forward shall first be exhausted before the leave earned under these rules is availed of. The leave salary in respect of the leave carried forwarded shall be borne by the [Department or the Government from which the Government servant proceeds on leave].

[Provided that in the case of military officer half pay leave equal to the number of days of furlough shall also be carried forward in addition to the earned leave equal to the numbers of days of annual leave on the date he is so appointed, it would be permissible to grant him under the leave rules of the Armed Forces].

6. Transfer to industrial establishment — If a Government Servant governed by these rules is appointed in an industrial establishment wherein his leave terms are governed by
the Factories Act, 1948 (63 or 1948), the authority competent to grant leave shall suo motu
issue an order granting cash equivalent of leave salary in respect of earned leave at his
credit subject to a maximum of [240] days and also in respect of all the half pay leave at his
credit. The cash so granted shall be a sum equal to the leave salary as admissible on that
leave salary at the rates in force on the date the Government Servant ceases to be governed
by the provisions of the Central Civil Service (Leave) Rules, 1972. From the leave salary
paid for the period of half pay leave, if any, for which the cash is payable, deductions shall
be made equal to the pension, which he would have got had he retired from service on that
date and person equivalent of other retirement benefits and ad hoc relief / graded relief on
pension. If the leave salary for the half pay leave component falls short of the deemed
deduction and other pensionary benefits, cash equivalent of half pay leave shall not be
granted:

Provided that the earned leave and the half pay leave so granted does not exceed
the period between the date on which he is appointed in an industrial establishment and
the date on which he would have retired in the normal course after attaining the age
prescribed for retirement under the terms and conditions governing his service:

Provided further that in the event of his return to a post or service to which the Central
Civil Services (Leave) Rules, 1972, apply the benefit of compensation against the terminal
leave under rule 39 will be modified as under—

(a) **On superannuation**—Encashment of unutilized earned leave on the date will be
subject to the condition that the number of days of earned leave for which encashment has
already been allowed under this rule and the number of days of earned leave to be encashed
on superannuation does not exceed [240] days. Cash equivalent of half-pay leave already
made under this rule shall be recovered.

(b) **On premature retirement**: Cash equivalent of unutilized earned leave and half-
pay leave applied for by way of terminal leave under Rule 39 would be subject to the
encashment had already been allowed under this rule and the number of days of earned
leave applied for as terminal leave do not exceed [240] days. Deduction of pension and
pension equivalent of other retirement benefits shall be made from the cash equivalent in
lieu of half-pay leave component of terminal leave:

Provided that the earned leave and the half-pay leave so granted together with the earned
leave and the half-pay leave for which cash equivalent of leave salary was granted to him
on the earlier occasion does not exceed the period between the date from which he is to
retire prematurely and the date on which he would have retired in the normal course after
attaining the age prescribed for retirement under the terms and conditions governing his
service.
CHAPTER II
GENERAL CONDITIONS

7. **Right to leave** — (1) Leave cannot be claimed as of right.

(2) When the exigencies of public service so require, leave of any kind may be refused or revoked by the authority competent to grant it, but it shall not be open to that authority to alter the kind of leave due and applied for except at the written request of the Government servant.

8. **Regulation of claim to leave** — A Government servant’s claim to leave is regulated by the rules in-force at the time the leave is applied for and granted.

9. **Effect of dismissal, or resignation on leave at credit** — (1) Except as provided in Rule 39 and this rule, any claim to leave to the credit of a Government Servant, who is dismissed or removed or who resigns from Government service, ceases from the date of such dismissal or removal or resignation.

(2) Where a Government servant applies for another post under the Government of India but outside his parent office or department and if such application is forwarded through proper channel and the applicant is required to resign his post before taking up the new one, such resignation shall not result in the lapse of the leave to his credit.

(3) A Government Servant, who is dismissed or removed from service and is reinstated on appeal or revision, shall be entitled to count for leave his service prior to dismissal or removal, as the case may be.

(4) A Government Servant, who having retired on compensation or invalid pension or gratuity is re-employed and allowed to count his past service for pension, shall be entitled to count his former service towards leave.

10. **Commutation of one kind of leave into another** — (1) At the request of a Government servant, the authority which granted him leave may commute it retrospectively into leave of a different kind which was due and admissible to him at the time the leave was granted, but the Government servant cannot claim such commutation as matter of right.

[Provided that no such request shall be considered unless received by such authority, or any other authority designated in this behalf, within a period of 30 days of the concerned Government servant joining his duty on the expiry of the relevant spell of leave availed of by him].

(2) The commutation of one kind of leave into another shall be subject to adjustment of leave salary on the basis of leave finally granted to the Government servant, that is to say any amount paid to him in excess shall be recovered or any arrears due to him shall be paid.
Note – Extraordinary leave granted on medical certificate or otherwise may be commuted retrospectively into leave not due subject to the provisions of Rule 31.

11 Combination of different kinds of leave. – Except as otherwise provided in these rules, any kind of leave under these rules may be granted in combination with or in continuation of any other kind of leave.

Explanation – Casual leave which is not recognized as leave under these rules shall not be combined with any other kind of leave admissible under these rules.

12. Maximum amount of continuous leave – Unless the President, in view of the exceptional circumstances of the case otherwise determines, no Government servant shall be granted leave of any kind for a continuous period exceeding five years.

13. Acceptance of service or employment while on leave – (1) A Government servant (other than a Government servant who has been permitted a limited amount of private practice or who has been permitted to undertake casual literary work or service as an examiner or similar employment) while on leave including leave preparatory to retirement shall not take up any service or employment elsewhere, including the setting up of a private professional practice as accountant, consultant or legal or medical practitioner, without obtaining the previous sanction of –

(a) the President if the proposed service or employment lies elsewhere than in India; or

(b) the authority empowered to appoint him, if the proposed service or employment lies in India.

(2) (a) No Government servant whole on leave, other than leave preparatory to retirement, shall ordinarily be permitted to take up any other service or employment.

(b) If grant to such permission is considered desirable in any exceptional case, the Government servant may have his service transferred temporarily from his parent office to the office in which he is permitted to take up service or employment or may be required to resign his appointment before taking up any other service or employment.

(c) A Government servant while on leave preparatory to retirement shall not be permitted to take up private employment. He may, however, be permitted to take up employment with a Public Sector Undertaking or a body referred to in clause (a) or sub-rule (2) of Rule 38 and in that event also leave salary payable for leave preparatory to retirement shall be the same as admissible under Rule 40.

(3) (a) In case a Government servant who has proceeded on leave preparatory to retirement is required, before the date or retirement for employment during such leave in any post under the Central Government in or outside India and is agreeable to return to duty, the unexpired portion of the leave from the date of rejoicing shall be cancelled.

(b) The above so cancelled under clause (a) shall be allowed to be cashed in the
manner provided in sub-rule (3) of Rule 39.

[(c) [***]

[(d) [***]

[(4) [***]

CHAPTER III
GRANT OF AND RETURN FROM LEAVE

14. Application for leave — Any application for leave or for extension of leave shall be made in Form 1 to the authority competent to grant leave.

15. Leave account — Except as provided in the Note below, a leave account shall be maintained in Form 2 for each Government servant be the Audit officer in the case of Gazetted Government servant and by the Head of Office or an officer authorize by him in the case of non-gazetted Government servants.

Note — In the case Gazetted Government servant whose pay and allowance are drawn and disbursed by the Head of Office, the leave account shall be maintained by that Head of Office.

16. Verification of title to leave — (1) No leave shall be granted to a Government servant until a report regarding its admissibility has been obtained from the authority maintaining the leave account.

Note — The order sanctioning leave shall indicate the balance of earned leave/half-pay leave at the credit of the Government servant.

(2) (a) Where there is reason to believe that the obtaining of admissibility report will be unduly delayed, the authority competent to grant leave may calculated, on the basis of available information, the amount of leave admissible to the Government servant and issue provisional sanction of leave for period not exceeding sixty days.

(b) The grand of leave under this sub-rule shall be subject to verification by the authority maintaining the leave account and a modified sanction for the period of leave may be issued, where necessary.

(b) In the case of Gazetted Government servants, the Audit Officer may at the request of the authority competent to grant leave, issue a provisional leave salary slip for a period not exceeding sixty days.

Note — [ In the case of leave preparatory to retirement of where case payment in lieu of leave at credit is granted under Rule 39], an undertaking for recovery of the leave salary, if any paid in excess, shall be taken from the Government servant.

17. Leave not to be granted in certain circumstances — Leave shall not be granted to a Government servant whom a competent punishing authority has decided to dismiss, remove
Grant of leave no medical certificate to Gazetted and non gazetted Government servants – (1) An application for leave on medical certificate made by –

(i) a Gazetted Government servant, shall be accompanied by a medical certificate in Form 3 given by an Authorised medical Attendant;

(ii) a non-gazetted Government servant, shall be accompanied by medical certificate in Form 4 given by an Authorised Medical Attendant or a Registered Medical Practitioner;

defining as clearly as possible the nature and probable duration of illness.

Note – In the case of non-gazetted Government servant, a certificate given by a registered Ayurvedic, Unani or Homoepathic medical practitioner or by a registered Dentist in the case of dental ailments or by an honorary medical officer may also be accepted provided such certificate is accepted for the same purpose in respect of its own employees by the Government of the State in which the Central Government servant fails ill or to which he proceeds for treatment.

(2) A Medical Officer shall not recommended the grant of leave in any case in which there appears to be no reasonable prospect that the Government servant concerned will ever be fit to resume his duties and in such case, the opinion that the Government servant is permanently unfit for Government service shall be recorded in the medical certificate.

(3) The authority competent to grant leave may, at its discretion, secure a second medical opinion by requesting a Government Medical Officer not below the rank of a Civil Surgeon or Staff Surgeon, to have the applicant medically examined on the earliest possible date.

(4) It shall be the duty of the Government Medical Officer referred to in sub-rule (3) to express an opinion both as regards the facts of the illness and as regards the necessity for the amount of leave recommended and for that purpose may either require the applicant to appear before himself before a medical officer nominated by himself.

(5) The grant of medical certificate under this rule does not in itself confer upon the Government servant concerned any right to leave; the medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

(6) The authority competent to grant leave may, in its discretion, waive the production of a medical certificate in case of an application for leave for a period not exceeding three days at a time. Such leave shall not, however, be treated as leave on medical certificate and shall be debited against leave other than leave on medical grounds.

20. Leave to a Government servant who is unlikely to be fit to return to duty – (1) (a)
When a medical authority has reported that there is no reasonable prospect that the
Government servant will ever be fit to return to duty leave shall not necessarily be refuse to
such Government servant.

(1) If the medical authority is unable to say with certainty that the Government servant
will never again be fit for service, leave not exceeding twelve months in all may be granted
and such leave shall not be extended without further reference to medical authority;

(2) If a Government servant is declared by a medical authority to be completely and
permanently incapacitated for further service, leave or an extension of leave may be granted
to him after the report of the medical authority has been received, provided the amount of
leave as debited to the leave account together with any period of duty beyond the date of
the report of the medical authority does not exceed six months.

21. Commencement and termination of leave.-Except as provided in Rule 22, leave
ordinarily begins on the day on which the transfer of charge is effected and ends on the day
preceding that on which the charge is resumed.

22. Combination of holidays with leave.-When the day, immediately preceding
the day on which a Government servant's leave (other than leave on medical certificate)
begins or immediately following the day on which his leave expires, is a holiday or one of
series of holidays, the Government servant shall be deemed to have been permitted (except
in cases where for administrative reasons permission for prefixing/suffixing holidays to
leave specifically withheld) to leave his station at the close of the day before, or return to it
on the day following such holiday or series of holidays provided that,

(a) his transfer or assumption of charge does not involve the handing or taking over of
securities or moneys other than a permanent advance;

(b) his early departure does not entail a correspondingly early transfer from another
station of a Government servant to perform his duties; and

(c) the delay in his return does not involve a corresponding delay in the transfer to another
station of the Government servant who was performing his duties during his absence or in
the discharge from Government service of a person temporarily appointed to it.

(ii) in the case of leave on medical certificate

(a) When a Government servant is certified medically unwell to attend office, holiday(s), if any, immediately preceding the day he is certified shall be allowed automatically to be prefixed to leave and the holiday(s) if any, immediately succeeding the day he is so certified (including that day) shall be treated as part of the leave; and

(b) When a Government servant is certified medically fit for joining duty, holiday(s), if any, succeeding the day he is so certified (including that day) shall automatically be allowed to be suffixed to the leave, and holiday(s), if any, preceding the day he is so certified shall be treated as part of the leave).

(2) On condition that the departing Government servant remains responsible for the moneys in his charge, the Head of Department may, in any particular case, waive the application of clause (a) of the proviso to sub-rule (1).

(3) Unless the authority competent to grant leave in any case otherwise directs -

(a) if holidays are prefixed to leave, the leave and any consequent rearrangement of pay, and allowances take effect from the day after the holidays; and

(b) if holidays are suffixed to leave, the leave is treated as having terminated and any consequent rearrangement of pay and allowances takes effect from the day on which the leave would have ended if holidays had not been suffixed.

Note.—A compensatory leave granted in lieu of duty performed by a Government servant on Sunday or a holiday for a full day may be treated as a holiday for the above purpose.

23. Recall to duty before expiry of leave.—(1) [* * *]

(2) [* * *]

(3) [**]

(4) In case a Government servant is recalled to duty before the expiry of his leave, such recall to duty shall be treated as compulsory in all cases an, the Government servant shall be entitled—

(a) if the leave from which he is recalled is in India, to be treated a on duty from the date on which he starts for the station to which he is ordered, and to draw—travelling allowance under rules made in this behalf for the journey; and

(ii) leave salary, until he joins his post, at the same rate at which he would have drawn it but for recall to duty:

(b) if the leave from which he is recalled is out of India, to count the time spent on the voyage to India as duty for purposes of calculating leave, and to receive—

(i) leave salary, during the voyage to India and for the period from the date of landing in India to the date of joining his post, at the same rate at which he would have drawn
but for recall to duty;

(iii) a free passage to India;

(11) refund of his passage from India if he has not comp half the period of his leave by
the date of leaving for, on recall or three months whichever is shorter;

(iv) traveling allowance, under the rules for the time being in force, for travel from the
place of landing in India in to the place of duty.

24 Return from leave.-(I) A Government servant on leave shall return to duty before
the expiry of the period of leave granted to him un he is permitted to do so by the authority
which granted him leave.

(2) Notwithstanding anything contained in sub-rule (1), a Government servant on leave
preparatory to retirement shall be precluded from return to duty, save with the consent of the
authority competent to appoint run the post from which he proceeded on leave preparatory
to retirement.

(3)(a) A Government servant who has taken leave on medical certificate may not
return to duty until he has produced a medical certificate of fitness in Form 5.

(b) If the Government servant is a gazetted officer the certificates under clause (a)
shall be obtained from a Medical Board, except in the following cases :

(i) Cases in which the leave is for not more than three month;

(ii) Cases in which leave is for more than three months or leave for three months or less
is extend beyond three months, and the Medical Board states, at the time of granting the
original certificate or the certificate for extension, that the Government servant need no
appear before another Medical Board for obtaining the certifica1 of fitness.

(c) In cases falling under clause (b), the certificate may be obtained from the chief
medical officer, the district medical officer, a civil surgeon, a staff surgeon or a Medical
Officer of equivalent status including a medical officer 0 the Central Government Health
Scheme or in a case covered by sub-rule (6) of Rule 18, from the Authorised Medical
Attendant or the Medical Superintendent of the hospital concerned.

(d) In he case of a non-gazetted Government servant, the authority under which the
Government servant is employed on return from leave may, in its discretion, accept a
certificate signed by a registered medical practitioner.

(3)(a) A Government servant returning form leave ins not entitled, in the absence of specific
orders to that effect, to resume as a matter course the post which he held before going on
leave.

(b) such Government servant shall report his return to duty to the authority which granted