



ANDAMAN AND NICOBAR ADMINISTRATION

***COMPILATION  
ON  
FREQUENTLY ASKED QUESTIONS  
ON  
SERVICE MATTERS***

Compiled by:-

*Shri K.M.Lohidakshan,  
Assistant Secretary(AR&Trg.)*

Assisted by:-

*Shri R.Prem Kumar,  
Jr. Technical Assistant*

**Under the valuable guidance of:-**

*Shri G.G.Saxena, IAS  
Secretary(AR&Trg.)*

**MESSAGE**

In past, I had asked that Administration may come out with instructions related to Personnel and Establishment matters in simplified manner. It gives me immense pleasure that the Administrative Reforms Wing of A & N Administration has brought out a “Compilation on Frequently Asked Questions”.

It has been the experience that the employees often need clarifications in various establishment matters and expect instructions and clarifications on similar topics to be available at one place. In this direction an attempt to compile instructions in simple manner like FAQs will further demystify the complexity of procedures. I trust the contents of this compilation will certainly help not only the officials in discharging their duties in an efficient manner but also the readers who need readily available clarifications on establishment matters.

I would like to place on record my appreciation to all the officers/officials concerned for the hard work and diligent labour they put in to bring this compilation in user friendly manner.

(Lt Gen(Retd) Bhopinder Singh)  
Lieutenant Governor  
Andaman & Nicobar Islands

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## **MESSAGE**

I am happy to know that the Administrative Reforms Wing of A&N Administration has brought out a compilation on “Frequently Asked Questions” on service matters.

The compilation contains lucid answers on almost all topics relating to Establishment matters. This user friendly document will help officials at all levels to manage their duties more efficiently. This compilation will also be a boon for freshers in disposal of matters that may confront them in day to day functioning.

I compliment Shri G.G.Saxena, IAS, Secretary(AR & Training), Shri K.M. Lohidakshan, Assistant Secretary(AR & Trg.) and Shri R. Prem Kumar, Jr. Technical Assistant for undertaking this task in a highly professional and dedicated manner.

(Vivek Rae)

## PREFACE

Often a number of problems confront with employees, Drawing and Disbursing Officers/Heads of Offices/Heads of Departments regarding applicability of various rules, regulations, orders and instructions in its day to day functions, which require proper guidance. There are plenty of rules and regulations related to establishment matters which further complicate the issues when such instructions are put to appropriate interpretation. I think a reader needs user-friendly compilation when he/she has any query in his/her mind. Best way to give "On the spot solution" seems to be compilation in the form of Frequently Asked Questions.

Efforts have been made by the Administrative Reforms Wing of this Administration to compile some of such frequently asked questions and its remedies in a compiled form. This compilation contains topics: like Leave Travel Concession, Joining Time, Medical facilities, North Eastern Region facilities, Pension, Travelling Allowances, Discipline, Pay and Allowances, Leave. All the topics have been logically arranged and presented in a lucid and simple manner. There are copious illustrations in explaining procedural details. The main trust of this effort is its capacity to answer most of the problems that confronts the employees/Drawing and Disbursing Officers/ Heads of Offices/Heads of Departments in day to day functioning and to guide other functionaries in the discharge of their duties in an easy and unerring manner.

We are sure that the efforts made by the AR Wing of Secretariat will be appreciated in all the subordinate offices of this Administration and will also find this compilation handy for immediate reference in their day to day works.

The views expressed in this booklet are personal opinions of contributors and are in no way official and therefore the Department of Administrative Reforms is not responsible for wrong interpretations. This has been done with a view that the problems which may come up in the day to day functions, if any, may get the solution outright, yet the officials are requested to consult the relevant Main Rule Books on the subject and be fully confident, when a decision is taken in this regard.

I am thankful to Shri K. M. Lohidakshan, Assistant Secretary(AR & Trg.) and Shri R. Prem Kumar, Jr. Technical Assistant for their valuable contributions in bringing out this booklet.

Administrative Reforms Commission has been directing UT Administration to demystify procedure and to provide easy and clear interpretation of rules. This compilation is first attempt towards making complicated rules and regulations to be put in user-friendly manner. Readers will be able to save their time and energy to refer to useful topics in the form of readymade solutions like FAQs on service matters.

(G.G.Saxena)  
Secretary(AR&Trg.)

## ABBREVIATIONS

A.N.	Afternoon
A.C.P.S	Assured Career Progression Scheme
A.M.A	Authorised Medical Attendant
C.L	Casual Leave
C.A.T	Central Administrative Tribunal
C.G.E.I.S	Central Govt. Employees Insurance Scheme
C.G.H.S	Central Govt. Health Scheme
C.C.A	Compensatory (City) Allowance
C.H.	Compensatory Holiday
D.N.I	Date of Next Increment
D.A	Dearness Allowance
DoPT	Department of Personal & Training
D.D.O	Drawing and Disbursing Officer
E.L	Earned Leave
E.O.L	Extra Ordinary Leave
E.P.C	Emergency Passage Concession
F.C	Fitness Certificate
F.I.R	First Information Report
F.N.	Forenoon
F.P.A	Family Planning Allowance
G.F.R	General Financial Rules
G.P.S	General Parcel Scale
G.P.F	General Provident Fund
G.O.I	Govt. of India
H.O.D	Head of Department
H.P.L	Half Pay Leave
H.R.A	House Rent Allowance
J.A.O	Jr. Accounts Officer
J.T	Joining Time
L.D.C	Lower Division Clerk
L.N.D	Leave Not Due
L.T.C	Leave Travel Concession
M.C	Medical Certificate
M.L	Maternity Leave
O.M	Office Memorandum
O.P.D	Out Patient Department
O.S	Office Superintendent
P.S.U	Public Sector Undertaking
R.H	Restricted Holiday
S.C.A	Special Compensatory Allowance
Sp.C.L	Special Casual Leave
S.R	Service Rules

S.T	Scheduled Tribes
T.A	Travelling Allowances
U.D.C	Upper Division Clerk
U.P.S.C	Union Public Service Commission
V.C.P.C	Fifth Central Pay Commission

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## **(1) PAY AND ALLOWANCES**

1. • Non exercising of option at the time of fixation will not constitute anomaly;

I joined as Junior Engineer on 7-2-1981, and got promoted as Assistant Engineer on 30-4-1991. My pay in the post of Assistant Engineer was fixed at Rs 2,060 on 30-4-1991 with DNI on 1-4-1992. My junior who joined as Junior Engineer on a later date in February, 1981 also got promoted to the post of Assistant Engineer on 22-8-1991. As he opted to have his fixation of pay in the promoted post on the date of accrual of increment in the lower post of Junior increment, his pay was fixed at Rs 2,120 on 1-3-1992 with DNI on 1-3-1993. Now my junior is getting his increment one month earlier in March every year whereas I am getting in April. Both were at the same level in the identical pay scale before getting promotion. I have requested my department to remove the pay anomaly and shift my date of my increment from April to March at par with my junior. But they are denying without elaborating the particular rule for such denial. Kindly give your expert advice.

The anomaly is not directly due to provisions of FR 22(I) (a) (1) [FR 22-C]. Hence there is no question of ante-dating of your increment.

[FR 22 (I) (a) (1)]

2. • No stepping up of pay, if the senior in the promoted post was junior in the lower post;

I am a Postal Assistant from 17-11-1981 and was promoted to LSG cadre with effect from 22-1-1994, on Reservation Quota, and my pay in the promoted post was fixed at Rs 1,400 on 22-1-1994, with DNI on 1-1-1995. One of my seniors who was appointed as PA with effect from 7-9-1979 was promoted to LSG on 13-9-1995, and as per her option, her pay was fixed at Rs 1,480 (in pre-revised scale) on 1-3-1996, with DNI on 1-3-1997. Consequent on the revision of scales of pay as per V CPC, she is drawing a basic pay of Rs 5,125 from 1-3-1999 with DNI 1-3-2000; whereas I am drawing only Rs 5,000 from 1-1-1999 with DNI on 1-1-2000. As I am senior to her in the grade of LSG, am I entitled to ante-date of my increment?

Stepping up of pay is admissible only to the senior in the lower grade who is promoted earlier than his junior but draws less pay than his junior in the promoted post. Hence the question of stepping up of pay/ante-dating of increment does not arise in your case.

[GIO below FR 22]

3. • Senior cannot claim stepping up of pay if the junior was drawn more pay in the lower post from time to time;

One of our employee drawing a basic pay of Rs 7,950 in the scale of pay of Rs 5,500-175-9,000 was promoted to higher post in the scale of pay of Rs 8,000-275-13,500 on 15-11-2002. She opted to have her pay in the higher post under FR 22 (I)(a)(1). Accordingly, her pay in the promoted post was fixed at Rs 8,275 on 15-11-2002.

One of her junior who was drawing a basic of Rs 7,775 in the scale of Rs 5,500-175-9,000 was allowed ACP in the scale of Rs 8,000-275-13,500 from 9-8-1999 and his pay in the ACP scale was fixed at Rs 8,000. The junior was also promoted to the higher post in the scale of Rs 8,000-275-13,500 on 15-11-2002. On the date of promotion, i.e. on 15-11-2002, the junior officer who was allowed ACP was drawing a basic pay of Rs 8,825 whereas the Senior Officer was drawing a basic pay of Rs 8,275. Hence the Senior Officer represented that her pay may be stepped up at par with the Junior Officer. Kindly clarify.

One of the conditions for stepping up of pay is that, the junior should not have drawn more pay than the senior from time to time in the lower post vide GIO under FR 22 in "Swamy's Compilation of FR & SR-Part-I-General Rules". In the instant case, since the junior was drawing more pay than the senior in the lower post, the question of stepping up of pay does not arise.

4. • If a senior joins the higher post later than the junior and draws less than the junior, such senior is not entitled to stepping up of pay;

I was issued offer of promotion to the post of Office Superintendent on 1-7-2004, against a vacancy created due to chain promotion of one OS to the post of Establishment and Accounts Officer from 1-9-2004. Before I joined my promotion post, a second list of the same DPC was released on 12-7-2004 and a person junior to me who was offered promotion outside from the present place of posting and joined there on 30-8-2004. I joined my new post of OS on 1-9-2004 and my pay was fixed at Rs 6,900 with DNI 1-9-2005. The pay of junior who joined the new post on 30-8-2004 was fixed at Rs 6,900 with DNI 1-8-2005.

Since both of us were drawing a basic pay of Rs 6,650 in the lower post with the same date of increment, I intend to claim my increment at par with my junior, i.e. on 1-8-2005. Kindly advice.

If a senior joins the higher post later than the junior for whatsoever reasons whereby he draws less pay than the junior in such cases, senior cannot claim stepping up of pay at par with the junior *vide* Para 2 (c) of GIO (27) under FR 22 in "Swamy's Compilation of FR & SR, Part-I-General Rules".

Hence the question of stepping up of pay at par with your junior on 1-8-2005 does not arise.

5. • *The claim of stepping up of pay on par with junior should satisfy all the conditions including that the junior should not have drawn more pay in the lower post from time to time;*

I have applied for stepping of my pay at par with my junior who is drawing salary higher than the applicant in the light of the Hon'ble Supreme Court of India's decision in the matter of SLP No. 13994/1991. A copy of my representation is enclosed herewith for ready reference and marked as Annexure-I. However, the Administrative Officer *vide* his letter, dated 30-6-2003 has informed me that my junior was drawing special pay in the grade of UDC and hence my request for stepping of pay at par with my junior cannot be acceded to. It is understood that my case is clearly covered by the above decision of the Hon'ble Supreme Court and the letter of our

Administrative Officer is not in accordance with the Hon'ble Apex Court's decision. Kindly examine my case.

It is seen from the copy of your representation, dated 17-10-2002 (Annexure-I to your letter), you have mentioned two conditions for stepping up of your pay (vide Para 5). But there is one more condition which you have conveniently omitted to mention, viz., the junior should not have been drawing more pay than the senior in the lower post from time to time. Your junior has been drawing Rs 4,550 (Rs 4,400 + Rs 140) while your pay was only Rs 4,400. Since this condition is not satisfied, the anomaly is NOT due to fixation of pay under FR 22. You are NOT eligible for stepping up of pay.

6. • Officiating spells not on regular basis and special allowance drawn in the lower post shall not count for any purpose in the higher post;

While I was drawing a basic pay of Rs 4,700 in the scale of Rs 4,000-100-6,000 with DNI on 1-2-1999 and a Special Pay at Rs 180, I was promoted to the next higher scale of Rs 4,500-125-7,000, with effect from 10-6-1998 under TBOP Scheme. My pay in the higher scale has been fixed at Rs 5,000 taking into account of the Special Pay. As I also officiated in the higher post of APM from 15-12-1997 to 28-3-1998 and drawing a basic pay of Rs 5,000 earlier, my date of increment has also been advanced to 1-2-1999.

The fixation so made has now been objected stating that according to amended FR 22, the past officiating service should not be taken into account for advancing the date of increment and also since the nomenclature of Special Pay has been changed as Special Allowance with effect from 1-1-1996, it should also not to be taken into account for fixation of pay in the higher post. Kindly enlighten me the correct position.

The objections raised about fixation of your pay are correct as per the rules.

[ FR 22 ]

7. • An official is entitled to draw pay and allowances attached to the higher post only from the date he assumes the duties of that post;

Mr. 'A' UDC was on Earned Leave from 28-8-2002 to 29-8-2002 with suffix on 30-8-2002, 31-8-2002 and 1-9-2002 being holidays. During the course of leave, he was promoted to the post of Assistant from 29-8-2002. He resumed duty on 2-9-2002. He represented that his annual increment in the post of Assistant be sanctioned from 1-8-2003 as if holidays are suffixed to leave since Rule 22 (C) (b) of CCS(Leave) Rules stipulates "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 been ended if holidays had not been suffixed".

However, he has been informed by the office that the holidays suffixed to leave would not be termed as duty on promotion and therefore his increment cannot be granted from 1-8-2003. Please clarify.

As per FR 17(1) of "Swamy's Compilation of FR & SR-Part I-General Rules", an officer shall begin to draw the pay and allowances attached to the post from the date he assumes the duties of that post.

Hence the contention of your office is correct.

8. • Fixation of pay in the higher post when one reached the maximum in the lower post;

A senior Geologist of our office in the scale of 10,000-325-15,200 has been promoted as Director in the scale of 10,650-325-15,850 on 1-4-2005. His normal date of increment is 1-6-2005. The officer has opted to take new pay after getting one increment in the lower post and then fix the pay in the new scale with effect from 1-6-2005. Accordingly, the pay is fixed as follows:-

Pay as on 1-4-2005 (date of promotion)	Rs 14,875
Add increment on 1-6-2005 in lower scale	Rs 325
Total	Rs 15,200
Add notional increment in lower scale	Rs 325
Pay after notional increment in lower scale	Rs 15,525

**Pay fixed in the higher scale w.e.f. 1-6-2005 Rs 15,850**

But I am of the opinion, once a person reaches the maximum limit in the lower scale after giving notional increment on 1-6-2005 (i.e. Rs 15,200) again a notional increment cannot be given exceeding the ceiling of the scale (i.e. Rs 15,525) which is not existing in the scale of Rs 10,000-325-15,200). Kindly clarify.

As per Proviso to FR 22(I)(a)(1) of *Swamy's Compilation of FR & SR, Part-I*, where a Govt. Servant is drawing pay at the maximum of the time-scale of the lower post, his initial pay in the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay by an amount equal to the last increment in the time scale of the lower post.

The fixation of pay made by your office, is therefore, correct.

9. • Fixation of pay on transfer to a lower post;

While I was drawing the basic pay of Rs 6,200 with DNI 1-12-2003 in the scale of Rs 5,500-175-9,000, I applied for transfer to the post of Auditor holding a lower scale of Rs 4,500-125-7,000 and joined the post on 22-7-2003. On my appointment as Auditor, I gave option for pay fixation on the date of my next increment in respect of my old post, i.e. 1-12-2003 and continued to draw Rs 6,200 till that date. Subsequently, my pay was fixed at Rs 6,250 in the scale of Rs 4,500-125-7,000 from 1-12-2003. But it appears from the provisions contained in FR 22 (I)(a)(2) that my pay had to be fixed at 6,375 in the scale of Rs 4,500-7,000 from 1-12-2003. Kindly clarify.

Since you have drawn Rs 6,200 in the new post on 22-7-2003 without any fixation, your pay has to be fixed on the date of your increment in the old post, i.e., on 1-12-2003 with reference to the option exercised by you.

Vide FR 22(I)(a)(2) read with GIO (5) below FR 23, your pay has to be fixed at Rs 6,375 (in the same stage of the new scale of pay) from 1-12-2003.

10. • Option for fixation of pay is admissible when ad-hoc promotion is followed by the regular promotion.

An UDC, drawing a Basic Pay of Rs 5,600 with DNI 1-3-1998 in the scale of Rs 4,000-100-6,000 was promoted to the post of Assistant in the scale of Rs 5,000-150-8,000 on *ad hoc* basis from 1-10-1997. His pay on the date of promotion was fixed at Rs 5,750. While discharging his duties as Assistant on *ad hoc* basis, the official was granted promotion to the same post on regular basis from 1-6-1998.

Kindly confirm whether the official is eligible to exercise option for fixation of his pay from the date of increment in the lower post, i.e., on 1-3-1998.

As per the provisions of FR 22(I)(a)(1) in "Swamy's Compilation of FR & SR - Part.I - General Rules", option is not admissible in respect of *ad hoc* promotions. If such promotion is followed by regular appointment to the higher post without any break, option may be allowed as from the date of initial appointment.

11. • An employee though resigned prior to the grant of upgraded pay scale with retrospective effect is eligible for the same.

One Jr Hindi translator drawing the pay of Rs 4,625 with effect from 1-4-1996 in the scale of Rs 4,500-125-7,000 (revised scale) has resigned from service on 29-7-1997. Now, the scale of Jr. Hindi Translator, Rs 4,500-125-7,000, has been revised to the scale of Rs 5,000-150-8,000 giving the benefit with effect from 1-1-1996. In this connection, it is requested to clarify whether the higher scale benefit can be extended to the resigned employee.

The resigned employee is entitled to get the benefit in the revised pay scale of Rs 5,000-150-8,000 from 1-4-1996 to 28-7-1997.

12. • FR 35 stipulates only restriction of pay and not on other allowances on the restricted pay;

I have been posted as Jr. Accounts Officer (Officiating) for 180 days within our department and my pay has been ordered to be fixed under FR 35. Accordingly, my pay has been restricted at the stage of Rs 4,600 plus 15% of basic pay (i.e. Rs 5,290). But the allowances, i.e. DA, HRA, CCA, etc, have not been paid on 15% of basic pay by the concerned DDO on the plea that 15% of basic pay is paid as Special Pay. In this connection, it is requested to clarify whether the officials whose pay has been restricted under FR 35 are eligible for allowances on 15% of such basic pay or it should be treated as an allowance.

As per GIO (2) below FR 35 of "Swamy's Compilation of FR & SR Part-I", the pay in the instant case will be as follows:-

Pay in lower post	-	Rs 4,600
Minimum basic pay in JAO's pay scale of Rs 5,500-175-9,000	-	Rs 5,500
Difference	-	Rs 5,500-4,600 = Rs 900
The pay of the JAO should be restricted to 15% of the basic pay in the lower post or Rs 1,000, whichever is less	-	Rs 4,600 x 15% = Rs 690
Hence the pay in the JAO's post should be fixed at	-	Rs 5,290 (Rs 4,600 + 690)

You are entitled for all allowances such as DA, HRA, CCA, etc for the above pay of Rs 5,290.

13. • Restriction of pay under FR 35 on ad-hoc promotion;

I was promoted to the post of Assistant Inspector Control in the pay scale of Rs 5,000-150-8,000 from 8-11-2004 on ad hoc basis. As I was drawing a basic pay of Rs 4,190 in the lower post, my basic in the promoted post has been fixed at Rs 5,000. Now it is learnt that my basic pay is being fixed at Rs 4,820 instead of Rs 5,000. I, therefore, request you to kindly clarify whether fixing my pay at Rs 4,820 in the promoted post is correct. Whether

my basic pay will be again re-fixed at the time of regular promotion in the same post.

The fixation done by your office is correct vide FR 35 in "Swamy's Compilation of FR & SR-Part-I-General Rules".

14. • Option for fixation of pay under FR 22(I)(a)(1) is not available on ad-hoc appointment/ promotion;

I was promoted as Deputy Commissioner of Customs and Central Excise at Mumbai Central Excise on ad hoc basic and joined on 13-11-2002. As I opted to have my fixation of pay in the promoted post on the date of accrual of increment in the lower post, my pay in the promoted post was fixed at Rs 11,625 on 13-11-2002 and re-fixed at Rs 11,950 on 1-1-2003 in the scale of 10,000-325-15,200 with DNI on 1-1-2004. On my transfer to Goa Commissionerate on 23-12-2002, the Sr. Pay & Accounts Officer, Customs and Central Excise, Panaji raised objection stating that on ad hoc promotion, pay is to be fixed without option in the higher post and if such ad hoc promotion is followed by regular promotion without break, then the opinion is admissible. I request you to accord necessary guidance.

The stand taken by the Sr. Pay & Accounts Officer, Customs and Central Excise, Panaji is correct vide FR 22(I)(a)(1). Option is NOT available on ad hoc appointment.

15. • Method of fixation under FR 22(I)(a)(2) when the official opts for fixation of pay on the date of his increment;

While an official was drawing a basic pay of Rs 5,250 in the scale of Rs 4,500-125-7,000 with DNI on 1-7-2002, his pay scale has been upgraded to Rs 5,000-150-8,000 from 16-1-2002. The pay of the official requires to be fixed under FR 22(I)(a)(2). The concerned official exercised option for fixation of his pay in the upgraded scale from 1-7-2002. kindly make us available the pay fixation in the above case.

In the instant case, under FR 22(I)(a)(2), the official will draw Rs 5,250 from 16-1-2002, i.e. the

date of upgradation of the pay scale and Rs 5,450 from 1-7-2002 with DNI 1-7-2003 in the scale of Rs 5000-8000.

16. • Method of fixation of pay under FR 22(I)(a)(1) on promotion to a higher scale

While I was drawing a basic pay of Rs 9,650 in the scale of Rs 8,000-275-13,500 with DNI 1-1-1998, I was promoted to the post of Sr Marketing Officer on 5-12-1997 which post also carry the same scale of Rs 8,000-275-13,500. Accordingly, my pay in the promoted post was fixed at Rs 10,200 with DNI 1-12-1998. Subsequently, the scale of pay for the post of Sr. Marketing Officer has been revised to Rs 10,000-325-15,200 from 1-1-1996. As I got promotion to the post of Sr. Marketing Officer on 5-12-1997 and my pay in the scale of Rs 8,000-275-13,500 was fixed at Rs 10,200, I feel my revised pay in the higher scale of Rs 10,000-15,200 is to be fixed at Rs 10,325. However, my office is not agreeing for such fixation. Kindly clarify.

For the basic of Rs 9,650 in the scale of Rs 8,000-275-13,500, your pay on promotion to the post of Sr. marketing Officer, i.e. on 5-12-1997 (in the scale of Rs 10,000-325-15,200) should be fixed at Rs 10,000 with DNI 1-12-1998 under FR 22(I)(a)(1).

The fixation done at Rs 10,200 is not correct.

17. • Pay on promotion to the post having identical scale of pay is to be fixed under FR 22(I)(a)(2);

While I was drawing a basic pay of Rs 11,950 with DNI 1-9-2004, in the scale of 10,000-325-15,200, I was selected to a higher post from 13-2-2004 carrying the same pay scale. I opted to have a fixation of pay in higher scale on the date of promotion itself hoping that my pay will be fixed at Rs 12,600. But my pay has been fixed at Rs 12,275 only. Please clarify.

As per FR 22(III), your appointment to the post having identical scale of pay shall not be deemed as involving higher responsibilities and hence your pay is to be fixed under FR 22 (I)(a)(2) at Rs

11,950 with DNI on 1-9-2004.

18. • Fixation of pay when the scale of pay of the post held is subsequently revised;

While I was drawing the basic of Rs 3,100 in the scale of Rs 2,750-70-3,800-75-4,400 with DNI on 1-2-1998, the scale of pay had been revised to Rs 3,050-75-3,950-80-4,590, effective from 10-10-1997. My pay in the revised scale has been fixed at Rs 3,050 plus Rs 50, as Personal Pay on 10-10-1997, with DNI 1-2-1998. However, I am of the view that my pay should have been fixed at Rs 3,125 on 10-10-1997, under FR 22 (I) (a) (2) and FR 23. Am I correct ?

According to FR 22 (I) (a) (2), if there is no stage equal to pay in the previous scale, the pay has to be fixed at the next higher stage. Hence your pay has to be fixed at Rs 3,125 only, with DNI on 1-10-1998.

[ FR 22 (I) (a) (2) ]

19. • Option for fixation of pay under FR 22(I)(a)(1) on appointment from one post to other under direct recruitment is available upto 9-8-2000;

While I was drawing a basic pay of Rs 4,500 per month from 1-9-1998 in the scale of Rs 4,000-100-6,000, I was appointed in another Department in the scale of Rs 4,500-125-7,000 from 25-6-1999 on selection through SSC. I opted to have my fixation of pay on the date of accrual of increment in the lower post, i.e., on 1-9-1999 as per provisions contained under FR 22(I)(a) (1). However, on 1-9-1999, my pay was fixed at Rs 4,625 instead of Rs 4,750 under FR 22 (I) (a) (1). Kindly advise me whether I am entitled to draw Rs 4,750 from 1-9-1999 in the present post.

The amendment to FR 22(I)(a)(1) withdrawing option in the case of appointment on direct recruitment basis was issued by Notification, dated 10-8-2000. Since your appointment was prior to the above date, you are entitled for option and your pay should be fixed as follows:-

Date	Pay in the scale of Rs 4,000-6,000	Pay in the scale of Rs 4,500-7,000
25-6-1999	Rs 4,500	Rs 4,625
1-9-1999	Rs 4,600	
Notational increment	<u>Rs 100</u>	
	<u>Rs 4,700</u>	Rs 4,750
Date of next increment		1-9-2000

You may represent.

20. • Option for fixation of pay under FR 22(I)(a)(1) is not available for direct recruits.

While I was working as Sr. Technical Assistant and drawing a Basic Pay of Rs 8,300 in the scale of Rs 6,500-200-10,500, I joined the department of Customs and Central Excise as Chemical Examiner in the scale of Rs 8,000-275-13,500 by tendering technical resignation to the previous post. Since my date of increment in my previous post was on 1-2-2002, I represented for fixation of my pay in the scale of Rs 8,000-13,500 initially at the stage next above the pay drawn in the lower post and re-fixation on the date of accrual of my increment in the previous post, i.e., on 1-2-2002 as per provisions contained under FR 22 (I)(a)(1). However, the Department has refused to fix my pay accordingly and the reason stated is that, such provision is not applicable to those appointed based on the UPSC selection. Kindly enlighten me.

As per FR 22(I)(a)(1), option is not available for direct recruits. The contention of your office is correct.

21. • When the UPSC recommends fixation of pay under normal rules, the pay should be fixed as per FR 22(I)(a)(1) based on the pay drawn in the lower cadre;

When I was working as Sr. Accountant in the Director of Accounts (Postal) and drawing a basic pay of Rs 5,600 in the scale of Rs 5,000-150-8,000, I joined as AAO/EO in the Employees Provident Fund Organization from 17-12-1999. I was recruited through UPSC. Initially my pay was placed in the pay scale of

Rs 5,500-175-9,000. However, after repeated requests, my pay was fixed at Rs 5,850. Subsequently, I was informed that my pay fixation after allowing pay protection is not in order as the UPSC did not recommend any higher pay and that the clause mentioned in the rules says that normal fixation under FR is to be allowed. Kindly intimate whether the fixation as above is in order.

The letter of the Assistant PF Commissioner (Adm.), West Bengal states that EO/AAO post is higher to Sr. Accountant, i.e. previous post held by you and that UPSC has recommended to fix the pay under normal rules.

Hence the pay in EO/AAO should be fixed under FR 22(I)(a)(1) with reference to the pay drawn by you as Sr. Accountant. Your pay on 17-12-1999 should be fixed at Rs 5,850 only. You may appeal.

22. • Pay on promotion to post held earlier should not be less than the pay drawn on the earlier occasion;

A Junior Technician who was drawing a Basic Pay of Rs 1,470 from 1-9-1995 in the scale of Rs 1,320-30-1,560-40-2,040 with DNI 1-9-1996 was promoted to the post of Senior Technician in the scale of pay 1,400-40-1,800-50-2,300 on ad hoc basis from 19-9-1995 and her pay was fixed at Rs 1,520 with DNI 1-9-1996. Her pay was fixed at Rs 4,750 on 1-1-1996 in the revised scale of Rs 4,500-125-7,000 corresponding to the pre-revised pay of Rs 1,520 in the scale of Rs 1,400-2,300. She was also granted annual increments on 1<sup>st</sup> September, every year. On 27-4-2002, the administration issued an order reverting her as Junior Technician retrospectively from 19-9-2000. She was granted ACP in the scale of Rs 4,500-125-7,000 from 19-9-2000. Her pay in the ACP scale was fixed at Rs 5,375 on 19-9-2000 with DNI 1-9-2001 as she was drawing a Basic Pay of Rs 5,375 in the post of Senior Technician on 19-9-2000.

On 4-11-2004, the authority again refixed her pay at Rs 4,600 on 1-1-1996 corresponding to the pre-revised pay of Rs 1,470 drawn in the pre-revised scale of Rs 1,320-2,040 with DNI 1-9-1996. Her pay in the ACP scale was refixed at Rs 5,125 on 19-9-2000,

in the scale of Rs 4,500-7,000 with reference to the pay of Rs 5,000 in the lower post.

As the post held by her from 19-9-1995 to 19-9-2000, i.e., Sr. Technician was on *ad hoc* basis, the pay drawn by her on 19-9-2000, i.e. Rs 5,375 was not taken into account for fixation of pay in the ACP scale. Kindly clarify.

Vide proviso to FR 22 (b) (2), fixation of pay on promotion to a post held earlier should not be less than the pay drawn on the earlier occasion.

23. • When an employee is on leave on 1-1-96, his notional pay in the pre-revised scale should be taken into account for fixation of pay under CCS(RP)Rules, 1997;

A Govt. Servant drawing a basic pay of Rs 1,390 in the scale of Rs 975-25-1,150-30-1,660 with DNI 1-12-1995 was on leave from 30-10-1995 to 3-1-1996. Consequent on the implementation of V Pay Commission pay scales, his pay was fixed at Rs 4,500 on 1-1-1996 in the revised pay scale of Rs 4000-100-6,000 corresponding to the pre-revised pay of Rs 1,390. He was allowed increment on 4-1-1996 raising his pay to Rs 4,600. The audit party raised an objection that the pay of the concerned official has to be fixed at Rs 4,500 on 4-1-1996 with DNI 1-12-1996. Please clarify whether annual increment has to be allowed from 1-4-1996 or 1-12-1996.

The contention of the audit party is correct. Thought he employee has not drawn the pay of Rs 1,420 on 1-12-1995 after allowing increment, it should be taken into account for the purpose of fixation of revised pay on 1-1-1996. Accordingly, the revised pay of the employee is to be fixed at Rs 4,500 on 1-1-1996 in the scale of Rs 4,000-100-6,000 corresponding to the pre-revised pay of Rs 1,420 in the scale of Rs 975-1,660 under third proviso to Rule 7 of CCS (RP) Rules, 1997 with DNI 1-12-1996.

24. • When the pay is revised retrospectively from 1-1-96, fixation of pay is to be made under CCS(RP)Rules, 1997;

Basic Pay of one my Head Clerk colleague who

was drawing a Basic Pay of Rs 1,900 on 1-1-1996 in the pre-revised scale of Rs 1,400-40-1,800-50-2,300 was fixed at Rs 5,875 in the corresponding revised pay scale of Rs 4,500-125-7,000. Subsequently the pay of Rs 4,500-125-7,000 was replaced by the upgraded pay scale of Rs 5,000-150-8,000 retrospectively from 1-1-1996 and the pay of the official was fixed at Rs 5,900 corresponding to the pre-revised pay of Rs 1,900. Now the pay scale of Rs 5,000-150-8,000 is revised to Rs 5,500-175-9,000 from 1-1-1996 and the pay of the said Head Clerk will be fixed at Rs 6,025 on 1-1-1996 instead of fixing at Rs 5,850 as there is no stage for the pre-revised pay of Rs 1,900 in the revised scale of Rs 5,500-9,000. Kindly clarify.

Since the upgraded pay scale of Rs 5,500-175-9,000 is granted retrospectively from 1-1-1996, fixation of pay is covered under CCS(RP) Rules, 1997. Accordingly, in the case referred to by you, revised pay of the incumbent has to be fixed at Rs 6,200 on 1-1-1996 in the revised scale of Rs 5,500 - 175 - 9,000 corresponding to the pre-revised pay of Rs 1,900 drawn in the pre-revised scale of Rs 1,400-40-1,800-50-2,300 by ensuring one increment in the revised pay scale for every three increments in the pre-revised scale vide third proviso to Rule 7 of CCS (RP) Rules, 1997.

25. • Date of promotion/appointment has no relevance to the application of third proviso to Rule 7 of CCS (RP) Rules, 1997;

My wife is holding the post of Library Information Assistant and was drawing a basic pay of Rs 1,800 on 1-1-1996 in the scale of Rs 1,400-40-1,600-50-2,300-60-2,600. Her pay in the revised scale of Rs 5,000-150-8,000 was fixed at Rs 5,600 on 1-1-1996 by considering 9 increments in the existing scale as per third proviso to Rule 7 of CCS(RP) Rules, 1997. Subsequently, the revised scale of pay of Rs 5,000-8,000 has been changed to Rs 5,500-175-9,000 from 1-1-1996. Her pay in the scale of 5,500-9,000 has been fixed at Rs 5,675 on 1-1-1996 by allowing one increment in the revised scale, on the grounds that she has actually earned only five increments in the scale of Rs 1,400-2,600. I feel that she has been deprived of two increments in the revised scale. Kindly enlighten us the correct

fixation.

In terms of third proviso below Rule 7 (1) (A) of "Swamy's Compilation of CCS(RP) Rules, 1997", the employee has to get at least one increment in the revised scale of pay for every three increments in the existing scale of pay. There is no condition in the rules that the increments in the existing scale should have been actually earned. The pay in the instant case should have been fixed at the stage of Rs 6,025 and not at Rs 5,675.

26. • Condition of Basic Pay plus Deputation Allowance should not exceed the maximum of pay scale requires to be revised consequent on introduction of "Dearness Pay";

I am working in the pay scale of Rs 5,500-9,000 on deputation basis. I was drawing a Basic Pay of Rs 6,550 and Deputation Allowance of 10% of Basic Pay. Since 50% of Basic Pay is treated as Dearness Pay from 1-4-2004, my Basic Pay plus Dearness Pay comes to Rs 9,825. As per existing rules, deputation Allowance is not admissible if the Basic Pay plus Deputation Allowance exceeds the maximum of the pay scale of the post. In my case it has exceeded the maximum of the pay scale of the post, i.e. Rs 9,000. In the relevant order issued by the Government of India merging 50% of DA with the Basic Pay and treating it as Dearness Pay, there is no specific mention about entitlement of Deputation Allowance in such circumstances. Please give necessary clarification in this regard.

We are of the opinion that the condition regarding Basic Pay plus Deputation Allowance should not exceed the maximum of the pay scale requires to be revised as has been done in the case of minimum/maximum amount of pension.

27. • Special allowance shall not count for fixation of pay on promotion;

I was working as an Accountant since 1996 and drawing a special pay (now termed as Special Allowance) of Rs 180 p.m. I have recently been promoted to TBOP scale with effect from 1-9-1999. In this connection, I would like to know whether the

**Special Allowance is to be treated as pay for fixation of pay in the higher scale.**

When the special pay has been changed as Special Allowance, there is no question of treating it as pay for fixation of pay on promotion.

*If the Special Allowance is in lieu of higher scale of pay and is being drawn for three years, it may be treated as pay for fixation - AUTHORS.*

[ Appx.-8, FR & SR. Part-I]

28. • **Fixation of pay on 1-1-96 in the case of missing persons;**

An official who was on Commuted Leave from 21-12-1995 to 29-3-1996 and on Earned Leave from 30-3-1996 and 31-3-1996 retired from service on 31-3-1996 without joining his duty under voluntary retirement on medical grounds. His retirement benefits were released and he was in receipt of monthly pension till August, 1996. Thereafter he was missing. His family members now claimed Family Pension from the date of FIR i.e. on 19-9-1996. In order to decide the quantum of Family Pension admissible in respect of the reported missing pensioner, the basic pay as on 1-1-1996 and 31-3-1996 are to be arrived at. The reported missing pensioner did not exercise option for fixation of his revised pay under Fifth Pay Commission pay scale.

It is therefore, requested to clarify whether the retired official is entitled for fixation of pay under Fifth Pay Commission from 1-1-1996 or not.

In terms of Note-2 below Rule 6 of CCS (Revised Pay) Rules, 1997, the official shall be deemed to have exercised option on and from 1-1-1996 or such later as is most beneficial to his dependents.

As the official was on leave till his retirement on 31-3-1996, he will not get arrears Pay and Allowances consequent on fixation of his pay under CCS(RP) Rules, 1997.

However, in terms of GID below Rule 6 of CCS (RP) Rules, 1997 (Swamy's Compilation), his pay will be notionally fixed in the revised scale of pay as on

1-1-1996 and the notionally fixed pay will be taken into account as emoluments for the purpose of pension and retirement Gratuity, and also Family Pension entitlement. Emoluments and Average emoluments have to be computed in terms of GID (5) below Rule 34 of CCS (Pension) Rules, 1972 (Swamy's Pension Compilation-Sixteenth Edition, 2002).

The arrears of pension *plus* Dearness Relief admissible for the period should be disbursed to the nominee of his family as the case may be.

The family pension has also to be revised and allowed to the family at normal/enhanced rates as may be applicable to him from the date of FIR, in terms of GID (12) below Rule *ibid*.

29. • **Gr."D" employees engaged for operating Photostat machine on or after 7-6-1996 are not entitled to Special Pay.**

One of the Group `D' employees of our office has been assigned the duty of operating the Photostat machine with effect from November, 2002. As per Department of Personnel and Training OM, dated 7-6-1996, the Group`D' official is entitled to draw a special pay of Rs 30 p.m. w.e.f. 28-4-1990. Accordingly a bill was submitted for payment of special pay from November, 2002 to February, 2004. The claim was rejected by Audit Authority stating that the employees who were doing the duty before 7-6-1996 are entitled to draw this special pay.

Kindly clarify the exact rule position whether the individual is entitled to draw special pay with effect from 14-11-2002 or not.

The contention of your Audit Authority is correct. You may go through O.M, dated 7-6-1996 carefully once again, according to which "no Group `D' employees other than those who are already operating Photostat machine should be engaged exclusively to operate Photostat machine".

Hence, Group`D' employees engaged for operating Photostat machine on or after 7-6-1996 are not entitled to special pay.

30. • Admissibility of Special Compensatory Allowance during Joining Time/Leave;

On 12-8-1999, I was transferred from an area where I was drawing Special Compensatory Allowance to another area where such allowance is not admissible. I reported to my new unit on 20-9-1999, after availing admissible Joining Time and also 29 days EL with the prior permission of the Competent Authority. Since an employee is entitled to draw HRA and CCA during joining time/leave at the same rates at which he was drawing at the old station and the SCA shall also be regulated in the same manner. I was paid SCA upto 19-9-2000. However, our Audit Authorities are of the view that SCA is not admissible on transfer to a station where such allowance is not admissible. Kindly Confirm.

The objections raised by your Audit are contrary to the rules. During the period of Joining Time/Leave, HRA and CCA will be drawn at the rates admissible at the station from where he was transferred vide Paras 7(a) and 6 (b) (Under Chapter II - HRA & CCA- General Rules and Orders) of Swamy's Compilation of FR & SR-Part V, HRA and CCA.

Special Compensatory Allowance should also be regularized in the same manner.

[FR & SR, Part-V]

31. • ACP is admissible when the pay scale of the feeder cadre and promoted cadre are merged;

While I was working as Assistant Librarian from 15-4-1982, in the pay scale of Rs 1,200-2,040, I was promoted to the post of Library-cum-Reference Clerk on 3-11-1989, in the pay scale of Rs 1,350-2,200. Subsequently, both the pay scales of Rs 1,200-2,040 and Rs 1,350-2,200 have been merged and placed in the scale of Rs 1,400-2,600 from 1-4-1991, with the change of designation as Library Information Assistant. As a result, my promotion has become null and void and is eligible for first financial upgradation under ACP. However, my office has denied the benefit. Kindly clarify whether the stand adopted by my office is correct.

As per clarifications issued against Serial No.1 in the Annexure to O.M., dated 10-2-2000, your promotion prior to merger of pay scales should be ignored and you are entitled for financial upgradation under ACP to the pay scales of Rs 5,500-9,000 from 9-8-1999.

[ OM, dated 10-2-2000]

32. • **Upgraded pay scales under ACP should not be withdrawn on refusal of regular promotion subsequently;**

Under the scheme of ACP introduced by the DoP&T vide their, OM, dated 9-8-1999, the CPWD authorities has granted upgraded pay scales of Rs 4,000-6,000 and Rs 5,000-8,000 for certain LDCs who have completed 12 years and 24 years of service respectively. Subsequently, some of such LDCs have been issued promotion orders to the post of UDC on regular basis in the offices located outside Tamil Nadu. Since these LDCs refused to accept their regular promotion, the authorities in their recent orders not only debarred them from for promotion for one year but also withdrawn their upgraded scales, by citing clarification No.22 in Annexure to OM, dated 10-2-2000. Kindly clarify whether the withdrawal of the upgraded pay scales is correct.

Fifth Pay Commission has recommended vide Para (xi) of Annexure 22.1 (Page No. 68 of Swamy's Compilation of the Fifth Pay Commission Report) that if any employee declines regular promotion after getting ACP, he should be reverted from ACP scales. But the Government has not accepted it.

Clarification given under Sl.No.22 of OM, dated 10-2-2000 referred to by you has to be read carefully. It is clarified that "though Fifth Pay Commission has recommended that in case of refusal to accept regular promotion subsequently by the employee concerned who has been allowed the benefit of first or second financial upgradation under ACP, he should be reverted from the higher grade granted under ACPS", the Government has not accepted the recommendation and has modified the scheme.

In such cases, the period of debarment for

refusal of regular promotion shall not be taken into account for counting their services for second financial upgradation under ACP on completion of 24 years vide Sl.No.10 of the conditions attached to ACP in OM, dated 9-8-1999.

The order issued in the case under reference is contrary to the orders of DoP&T.

33. • **Upgraded pay scale granted under ACP cannot be withdrawn on subsequent refusal of regular promotion;**

I got promotion to the post of Superintendent and joined on 25-9-2000. Thereafter, I got ACP benefits as shown below:

ACP-I issuing date on 22-9-2000 in the scale of Rs 5,500-9,000.

ACP-II issuing date on 5/12-1-2001 in the scale of Rs 8,000-13,500.

I left the post of Superintendent after completion of 5 months on the ground of serious illness of my family. Hence, the two ACPs granted to me were withdrawn by the higher authority on the ground of refusal of promotion to the post of Superintendent. Thereafter, I appealed to the higher authority for restoring ACP benefits but the same has not been considered till date. Kindly clarify.

Withdrawing the ACP benefits already granted by your authority is not correct. You may go through clarification No.22 in the Annexure to OM, dated 10-2-2000 according to which though the Fifth Pay Commission has recommended that in case of refusal to accept regular promotion subsequently, the employee concerned should be reverted from the higher grade granted under ACP, the Government has modified the scheme and not accepted this recommendation.

You may appeal to your higher authorities once again for restoring the ACP scales by quoting the above clarification. If not successful, you can approach CAT.

34. • Employees granted ACP in the group "B" scale continues to be group "C" and eligible for ad-hoc bonus;

I am a Group 'C' non-Gazatted Central Government employee in the scale of Rs 5,500-9,000. I have been granted two ACPs, one in August, 1999 in the pay scale of Rs 6,500-10,500 and the second in May, 2003 in the scale of Rs 10,000-15,200. I have not been paid ad hoc bonus for the years 2002-03 and 2003-04. Kindly clarify.

According to Condition No.12 in the Annexure - I to OM, dated 9-8-1999, financial upgradation under ACP scheme is merely placement in the higher pay scale on personal basis. Even after granting ACP, your status continues to be Group 'C' only and hence you are entitled to ad hoc bonus.

35. • Past service shall not be counted for ACP in the case of those appointed to higher pay scale under Direct recruitment;

I was appointed as LDC from 21-7-1966. Subsequently, I applied for the post of UDC against open advertisement in the same department and was re-appointed ad UDC from 1-9-1981. My pay on re-appointment was fixed under FR 22 (C). On introduction of ACP scheme, I was granted first financial upgradation from 9-8-1999. However, the audit authorities have not concurred my pay fixation case stating that one notional increment was granted to me at the time of fixation of pay on reappointment as UDC and as such not entitled for first financial upgradation under ACP. Kindly clarify.

As per Clarification Nos. 4 to 6 of Annexure to OM, dated 10-2-2000, if the appointment is made to higher pay scale either on direct recruitment or on absorption basis, such appointment shall be treated as direct recruitment and past service/promotion shall not count for benefits under ACPs. Accordingly, your appointment as UDC is to be treated as direct recruitment and you are entitled to 1<sup>st</sup> ACP from 9-8-1999.

36. • The benefit of first financial upgradation cannot be withdrawn on refusal of regular promotion subsequently, but the second upgradation will be deferred by counting the period of debarment;

One of our employees had been granted ACP-I on completion of 12 years continuous service in the scale of Rs 4,000-100-6,000 from 22-11-2005. As per his seniority, he has now been promoted to the post carrying the scale of pay Rs 4,000-100-6,000 from 1-4-2006. But the individual is unwilling for accepting the regular promotion, Accordingly, his unwillingness has been sent to the Audit officer, who in turn, intimated that individual will lose the benefit of ACP-I granted to him, if he refuses to accept normal promotion. Kindly Clarify.

The contention of your Audit Officer is incorrect.

In the instant case, the first financial upgradation already granted cannot be withdrawn. But the second financial upgradation under ACP will be postponed by the period of debarment.

You may refer to the condition No.10 in the Annexure-I to OM, dated 9-8-1999 and clarification No. 22 in the Annexure to OM, dated 10-2-2000 published under Chapter-4 (ACP Scheme) in "Swamy's Compilation of Seniority and promotion in Central Government Service:(C-4).

37. • Increment falling during joining time can be drawn only on joining duty.

Kindly clarify whether an official on transit is entitled to draw increment if it becomes due during transit period.

During joining time, a Government servant will draw pay equal to pay drawn on the date of relinquishing charge of the old post. Hence, increment falling due during the period of Joining Time will be drawn only on joining duty.

[ Rule 7, CCS(JT) Rules]

38. • Admissibility of increment falling on a closed holiday

An official was on leave from 2-5-2000 to 5-5-2000 prefixing the holiday on 1-5-2000. His increment falls due on 1-5-2000. I am of the opinion that the increment falls on 1-5-2000 and not on 6-5-2000. However, my department is not accepting my view. Please clarify.

The increment falling due on 1-5-2000, a closed holiday allowed to be prefixed to leave from 2-5-2000 should be drawn from 1-5-2000 itself and the leave salary also should be based on the increased salary.

[ Rule 22 (3) of CCS (Leave) Rules]

39. • Effect of annual increment during holidays suffixed to regular post.

My annual increment was due from 1-8-2002. I have availed Earned Leave from 15-7-2002 to 9-8-2002 along with suffix on 10-8-2002 and 11-8-2002 being Second Saturday and Sunday respectively and joined my duties on 12-8-2002. It may kindly be clarified whether the increment benefit is to be allowed from 10-8-2002 or 12-8-2002 and whether the suffix can be treated as duty period or leave period.

Please refer to Rule 22(3)(b) of Swamy's Compilation of FR & SR-Part III CCS(Leave) Rules, 1972. Your leave expired on 9-8-2002. The monetary benefit on account of drawal of increment should be allowed from 10-8-2002 and not from 12-8-2002, if duty pay and not leave salary is drawn for 10-8-2002 and 11-8-2002.

[ Rule 22, CCS (L) Rules]

40. • Annual increment due during the period of Maternity Leave will be drawn from the date of joining the duties after leave.

I joined on 25-9-2003 and my regular increment falls in the month of September. I have applied for Maternity leave from 1-8-2005 to 13-12-2005. While sanctioning the leave, my competent authority said that my increment will be shifted from September, 2005 to December, 2005. Kindly Clarify.

When an employee is proceeding on leave, he is entitled to draw leave salary equivalent to the pay drawn before proceeding on such leave. Accordingly, during the period of maternity leave, you are entitled to draw leave salary equivalent to the pay drawn before proceeding on maternity leave. Your annual increment falling during the period maternity leave will be drawn only from the date on which you join your duties.

41. • Increment falls on a holiday prefixed to regular leave, to be drawn from the due date only.

My date of increment was on 1-10-1998. I was sanctioned earned leave from 3-10-1998 to 2-11-1998 with permission to prefix the closed holidays. However, I was not allowed the benefit of increment from 1-10-1998, stating that the holidays prefixed to leave is a continuous spell of leave and accordingly my leave was treated from 1-10-1998. Kindly clarify whether I am entitled for drawal of increment from 1-10-1998 or otherwise.

As per Rule 22(3)(a) of the CCS(Leave) Rules, 1972, "if holidays are prefixed to leave, the leave and any consequent re-arrangement of pay and allowances take effect from the day after the holidays". You are entitled to get your increment drawn from 1-10-1998 and the leave salary will also be based on the increased pay only. If 1-10- and 2-10-1998 are debited in the leave account, due to medical certificate or otherwise, then it will be treated as leave and the increment can be drawn only from 3-11-1998.

[ Rule 22(3) of CCS(Leave) Rules]

42. • Vacation is treated as duty for drawal of Increment.;

Our office had granted annual increment to one of its vacation staff on 1-12-2007 being his normal date of increment with monetary benefit with effect from 17-12-2007 since he was on vacation for 20 days from 27-11-2007 to 16-12-2007. But he (vacation staff) is claiming that he should get the benefit of his increment with effect from 1-12-2007 on the plea that vacation is deemed as duty and can be combined

with casual leave which is also treated as duty as specific under GOI Decision No.(3) under Rule 28 of CCS (Leave) Rules, 1972. Kindly clarify whether the action taken by your office is correct as per extant rules.

In terms of GOI Decision No. (3) under Rule 28 of Swamy's Compilation of FR & SR, Part-III-Leave Rules, the action taken by your office is not correct. The benefit of increment should be given from 1-12-2007.

43. • Regulation of Date of Next Increment after counting EOL without MC;

In accordance with the provisions laid down in FRs 24 and 26, for the purpose for arriving at the date of next increment, the total of all such periods as do not count for increment shall be added to the normal date of increment. The date of next increment may fall on any date in a month but it will be drawn from the first of that month. Accordingly, increment in respect of an employee who has availed EOL, has been granted as under-

Date of last increment	- 1-7-2001
Normal date of next increment	- 1-7-2002
Period of EOL not counting for increment	- 1 month 15 days
Date of next increment	- 16-8-2002
Date from which next increment granted	- 1-8-2002

Again the same employee before the next increment due on 1-8-2003 availed 20 days EOL. We propose to grant his increment as under:-

Date of last increment	- 1-8-2002
Normal date of next increment	- 1-8-2003
Period of EOL not counting for increment	- 20 days
Date of next increment	- 21-8-2003
Date from which increment granted	- 1-8-2003

Kindly clarify whether granting of next increment as proposed above are correct.

Dates of increments calculated in your letter are correct.

44. • Admissibility of increment on passing the typing test;

One of our Group 'D' employee was promoted as LDC on 1-6-1999 in the scale of Rs 3,050-75-3,950-80-4,590 based on the departmental test. As he did not pass the typing test, it was mentioned in his appointment order that he is not eligible for drawing increments till he passes the typing test. After lapse of three years, i.e., on 28-2-2003, he passed the typing test and the office released all his pending increments from 1-6-2000 as under-

(A):-

1. Pay as on 1-6-1999 - Rs 3,050
2. Increment due on completion of one year, i.e., on 1-6-2000 - Rs 3,125
3. Increment due on completion of next one year, i.e., on 1-6-2001 - Rs 3,200
4. Increment due on completion of next one year, i.e., on 1-6-2002 - Rs 3,275
5. Normal annual increment due on 1-6-2003 - Rs 3,350

I feel that the above-mentioned calculations seems to be wrong and the incumbent should be allowed increment only from the date of passing typing test, i.e. from 28-2-2003 and not from anti-date. In my view, his fixation should be as under:-

(B):-

1. Pay as on 1-6-1999 - Rs 3,050
2. Increment from the date of passing the typing test i.e. from 28-2-2003 - Rs 3,125
3. Pay after allowing the annual increment on 1-6-2003 - Rs 3,200

Kindly clarify the correct position, which the correction fixation mentioned at A or B.

Fixation at 'A' is correct one, vide Para 6(b) of GIO (14) below FR 26 of "Swamy's Compilation of FR & SR - Part.I".

45. • Method of determining date of next increment when an employee avails EOL without medical certificate;

An individual was granted increment on 1-9-2002. His next increment was due on 1-9-2003. But he availed EOL without MC in different spells as shown below:-

- (a) From 14-10-2002 to 22-10-2002 - 09 days
- (b) From 03-11-2002 to 09-04-2003 - 158 days
- (c) From 12-06-2003 to 15-09-2003 - 96 days
- (d) From 20-05-2004 to 30-05-2004 - 11 days

Kindly intimate date of next increment to be granted in the above case.

Date of next increment in the case referred to by you is to be calculated as shown below:-

Date of last increment	-	1-9-2002						
Date of next increment due	-	1-9-2003						
Add:- EOL without MC	Y	M	D					
14-10-2002 to 22-10-2002	0	0	9					
03-11-2002 to 30-11-2002	0	0	28					
01-12-2002 to 31-03-2003	0	4	0					
01-04-2003 to 09-04-2003	0	0	9					
12-06-2003 to 30-06-2003	0	0	19					
01-07-2003 to 31-08-2003	0	2	0					
01-09-2003 to 15-09-2003	0	0	15					
	0	8	20	20	-	8	-	0
Date of next increment	-	21-5-2004						

46. • Admissibility of HRA/CCA during the period of Half Pay Leave;

I have availed Half Pay Leave (without Medical Certificate) for a period of 20 days in combination with Earned Leave with the sanction of Competent Authority. My employer while making payment of salary has deducted half of the basic pay along with DA and HRA for the period of Half Pay Leave availed by me stating that pay includes basic pay, DA and HRA also. Kindly clarify.

The Leave Salary is based on the pay drawn immediately before proceeding on leave. For Half Pay

Leave, the Leave Salary will be 50% of last pay drawn and DA will be calculated on this 50% of pay last drawn. During the period of leave HRA and CCA will be at the same rate at which he was drawing immediately before proceeding on leave. For Half Pay Leave, there will be no reduction in HRA and CCA. You may refer to "Swamy's Compilation of FR & SR-Part-V-HRA & CCA".

47. • No HRA to husband even if he resides separately but spouse allotted Govt. accommodation in the same station

Mrs. X got divorce from the appropriate Court in New Delhi on 5-3-1999. The department is willing to admit HRA to her from this date only. The Hon'ble Court decreed divorce after taking into account the presentation of the advocate of Mrs X that Mrs X has been living separately on her own arrangement for the statutory minimum period of one year.

Mr. X has been allotted/occupying Government accommodation. Since the Hon'ble Court has taken cognizance of the fact that Mrs.X has been living separately for one year, it would seem to be in order that Mrs X would be entitled to HRA on grounds of equality natural justice and spirit of the rules, from the date she has been reported to the Court, "as living separately". If so, can HRA be admitted from the date she has been living separately as per records of the Hon'ble Court by the Head of Department in exercise of his inherent competence after satisfying himself of the facts of the case and the premise (of Mrs X living separately for one year) on which the Hon'ble Court had decreed divorce. Or will Mrs X have to appeal to Ministry of Finance for grant of HRA for the statutory period she has been living separately?

According to the rules regarding grant of HRA, when a spouse of the Government servant is allotted Government accommodation, the Government servant is not entitled to HRA, irrespective of the fact whether they are residing together or separately, so long as they work in one and the same station. Hence, in this case, the Hon'ble Court's confirmation that they were residing separately does not make any change in the rules position.

Regarding appealing to the Ministry of Finance, we are of the opinion that it will be futile since there is no relaxation in the rules enabling anybody to grant HRA in supersession of the orders.

[ OM, dated 27-11-1965, Para.5(c)]

48. • When both spouses are Govt. servants, no HRA is admissible if one of them occupies the Govt. accommodation allotted to the other

One of the Officers working in this Research Centre is residing in the Govt. accommodation allotted to his wife who is employed in the State Government which is located 14 Kms away from this office. Accordingly, HRA has been stopped to the officer from the date he started residing in the Govt. accommodation allotted to his wife. But the officer is of the view that he is eligible to draw HRA since (1) the accommodation allotted to his wife is not in the same station where he is working and (2) his wife is paying 3% of her basic pay as rent to the Government of Kerala. Kindly clarify/

For the drawal of HRA, a Govt. servant has to incur some expenditure on rent/contribute towards rent or pay/contribute towards house or property tax and furnish a certificate to that effect as per Annexure-II in Para.8 of Swamy's Compilation of FR & SR, Part-V, HRA and CCA.

Hence in the case referred to by you, the employee will not be eligible for HRA.

[ OM, dated 27-11-1965, Para 5(c)]

49. • Eligibility of HRA when spouse is allotted Govt. quarters.

The fact of the case is that, my husband who has been allotted with Government's residential accommodation is residing separately. Since I have been deserted by my husband, I am living in a private rented accommodation for which sufficient proof is also there. There is no legal separation though we are living separately for about five years. In the circumstances, kindly clarify whether I am eligible for grant of HRA or not.

As per Para 5(c) (iii) of the rules relating to HRA and CCA (General Rules and Orders) at Page 18 of Swamy's Compilation of FR & SR, Part-V, HRA & CCA (15<sup>th</sup> Edition), a Government servant whose spouse has been allotted accommodation is not entitled to HRA, irrespective of the fact that he/she is residing separately and not in the allotted quarters.

[ OM, dated 27-11-1965]

50. • **HRA not admissible on refusal of Govt. accommodation**

My wife who is employed in a Paramilitary Organization and residing in her own house was granted HRA from 1-4-2001 since Government quarters are available for allotment. It may kindly be clarified whether official residing in their own houses are required to apply for allotment of Government quarters for the purpose of granting HRA by the department.

In the case of those Government servants to whom accommodation has been offered but refused to accept it, no HRA is admissible for the period for which they were debarred from further allotment of Government accommodation. Vide Para 4(b)(i) of HRA and CCA-General Rules and Orders in Swamy's Compilation of HRA and CCA. Hence the stand taken by the Department is correct.

[ OM. dated 27-11-1965, Para 4 (b)]

51. • **Criteria for classification of cities for HRA;**

Kindly enlighten me the basis on which the HRA is paid at various rates for classified cities. Are there any criteria for classification of cities?

HRA is paid to Central Govt. employees to compensate them partly for the specially high rents which they have to pay for hired residential accommodation in big cities. HRA is paid at different slab rates in different cities and for this purpose cities have been classified with reference to population. The existing criteria for classification of cities is as given below:

<i>Population of city</i>	<i>Classification</i>
Over 16 lakhs	A
Above 8 but not exceeding 16 lakhs	B-1
Above 4 but not exceeding 8 lakhs	B-2
Above 50,000 but not exceeding 4 lakhs	C

52. • **Family Planning Allowance is not admissible if the sterilization operation was prior to employment;**

I have intimated to the Audit Authorities that those who have already undergone sterilization operation for adopting small family norms prior to joining the Govt. service are not eligible for Family Planning Allowance. Kindly Clarify.

The incentive increment is admissible only to Govt. servants who or whose spouse undergo sterilization operation. Hence it is not admissible to those who had the operation while they were not Govt. servants.

[GIO below FR 27]

53. • **Child of the divorced wife is also included for the purpose of Family Planning Allowance;**

I had a male child from my first wife. My first marriage was dissolved and the child was given to my first wife's custody by the Family Court. The custody of the child remains always with the first wife, the upkeeping and maintenance of the said child shall be the sole responsibility of the first wife.

After the above Court Order, I married again with the permission of my office and now I have got two children from my second wife. She has undergone family planning operation on 17-1-2001. Now I am having only two surviving children, excluding male child of first wife.

In this connection, it may please be clarified whether I am eligible for incentive for promoting small family or not.

Since legally you are having three children, you are NOT entitled to Family Planning Allowance.

54. • Entitlement of CEA for the children born before 31-12-1987

I have three children and their dates of birth are 9-10-1986, 12-11-1988 and 28-10-1990. On producing the CEA forms, I was getting CEA for all the three children while I was posted in my previous unit till 31-12-2002. But in my present unit, the Competent Authority has sanctioned CEA only for 2 children. In this connection, the concerned in-charge told me that due to date of birth, I am not eligible to get CEA for all the three children. Kindly clarify.

You are entitled to reimbursement of CEA for all the three children vide order No.8 of CCA(EA) Order, 1988. We produce the reply furnished to one of the similar question and published as Sl.No.398 in "Swamy's Interpretations on Service Rules" (S-12-A):-

If there are :-

1. Three children born before 31-12-1987 and one born after 31-12-1987 - All the three born before 31-12-1987 will be eligible.
2. Two children born before 31-12-1987 and two born after 31-12-1987 - Three will be eligible, i.e. two born after 31-12-1987 and one born after 31-12-1987.
3. Three children-one born before 31-12-1987 and two born after 31-12-1987 - All the three will be eligible.
4. Three children born after 31-12-1987 - only two will be eligible.

55. • Reimbursement of tuition fee not admissible beyond Class XII

As per Order No.20 of CCS(EA)Orders, 1988, tuition fees of Polytechnic and University are reimbursable up to the rates prescribed by the Govt. colleges for first year class. But my claim of reimbursement has been returned back with the remark that the Tuition Fee is admissible upto Class XII only; Whereas my claim relates to above Class XII. Kindly clarify.

Reimbursement of Tuition Fee for the first year class of Technical College is admissible only if

a student joins such a course after passing Class X of the revised pattern of education vide Order No. 20 of CCS (EA) Orders, 1988. You may refer to "Swamy's Children Educational Assistance" in this regard.

There is no question of reimbursement of Tuition Fee for the class beyond Class XII.

56. • Reimbursement of tuition fee is admissible only for the 'I and II' years of Polytechnic Course where the admission is after X Std.

(A)

One child of the employee of this unit is studying Diploma Course in Polytechnic for prescribed duration of three years at Kalong Institute of Industrial Technology, Bhubaneswar affiliated to State Council of Technical Education and Vocational Training, Govt. of Orissa after having passed 10<sup>th</sup> Class(i.e. Matriculation) from Board of Secondary Education, Orissa. Our office is of the opinion that the said employee is not entitled to tuition fees since durations of Diploma course in Polytechnic of the child are three years and rules permit tuition fee for two years Diploma course in Polytechnic.

I request you to kindly clarify whether (1) the employee is entitled to Tuition Fee for consecutive two years though the duration of the course is for three years. If yes (2) kindly clarify whether the employee is entitled to tuition fee for another one year also since there are no provision in the rules for allowing Tuition Fee for consecutive three years.

1. While the child is doing three years course in Polytechnic, the employee is eligible for reimbursement of tuition fee for the first and second year of the course limited to the rates prescribed by the Government college for such course {Order No. 20 of CCS(EA) Orders, 1988}.

2. As per Order No. 3 (d) of CCS(EA) Orders, 1988 in "Swamy's Compilation of Children's Educational Assistance", reimbursement of tuition fee is only upto XII standard of the child. If the course is 10 + 3, the reimbursement will be for 10 + 2 only. There will be no refund for the third year of study.

(B)

As per rules, reimbursement of tuition fee will be admissible for the Ist and IInd year classes of a two-year Diploma Course in Polytechnic in cases where the minimum qualification for admission to the course is X standard of the revised pattern of education. Accordingly, I have submitted a claim for my son who is studying 3 years Diploma Course in a Polytechnic College on passing X Standard. Though I paid Rs 14,000 towards tuition fee for the first year course of my son, my office rejected the claim stating that I am entitled only Rs 50 per month as per the rates admissible to Studs. XI and XII. Kindly clarify.

Reimbursement of tuition fee for the I and II year Polytechnic course is admissible limited to the rates prescribed by the Govt. college for such courses.

[ Order No.20]

57. • Tuition fee not reimbursable for the third child born after 31-12-1987, even in the case of twin birth;

I am having three children. First child was born on 18-10-1990 and the second delivery was twins, born on 26-5-1992. When I claimed RTF for three children, my office has reimbursed only for two, stating that the reimbursement is admissible only for two surviving children born after 31-12-1987.

In this connection, I would like to mention that -

As per GI, Dept. of Per. & Trig. OM, dated 20-10-1997, the restriction of two surviving children for the purpose of LTC shall not apply, in case of multiple births after one child.

Prior to issue of G.I., OM, dated 6-7-1999, the condition for grant of Personal Pay for adopting small family norms was that the number of living children should not be four, *if twins are born to an employee who already has two living children.*

In my view, on the same analogy, I should get the reimbursement for my third child also. Kindly Clarify.

When different sets of rules are prescribed for different service matters, there is no question of settling an issue on the analogy of some other rules. However, it is only the department of Perl. & Trig., who is to give a clarification, relaxing the conditions for Children's Educational Assistance also.

58. • Admissibility of Children's Educational Allowance when both husband and wife are employed;

I am working in Jawahar Navadoya Vidhyalaya, North Goa. Here in Goa, the regional language is Marathi. My wife is also working in Jawahar Navadoya Vidhyalaya in Alleppey District, Kerala. My daughter is studying in a Govt. School in Malayalam medium which is not available in my present place of posting and hence I am forced to keep my child away from me. I have claimed Children's Educational Allowance which has been rejected by my Accounts Officer stating that my child is staying with her mother. Kindly Clarify.

Since your wife is also an employee of Jawahar Vidyalaya, the stand taken by your Accounts Officer is correct.

59. • No reimbursement of tuition fee for ITI Courses;

One of our staff members claimed reimbursement of tuition fee for his two sons who are studying two years Electronics/Mechanical ITI Course in an institute recognized by the Govt. of Karnataka and affiliated to NCVT, Delhi. As per CCS (Educational Assistance) Rules, reimbursement of tuition fees for the I and II year Polytechnic Course is admissible but there is no mention about ITI course. Kindly Clarify.

CCS (Educational Assistance) Orders cover only Classes I to X, XI, XII and Diploma/Engineering College for which minimum qualification for admission is X or XI. There are no orders regarding ITI Course. You may refer to the Govt. through your higher authorities.

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## **( 2 ) TRAVELLING ALLOWANCES**

1. • Charges for transportation of conveyance on transfer is admissible only when the conveyance is owned by the Government Servant;

One of the officer, on his permanent transfer from Lucknow to New Missamri preferred in his Transfer TA, claim charges for transporting a Motor Car from old station to new station registered in the name of his wife. However, CDA(O), Pune disallowed the same on the grounds that the car registered in the name of the officer alone is admissible for transportation. Please clarify.

Charges for transporting the conveyance on transfer are admissible ONLY if it is owned by the Government Servant.

[SR 116]

2. • Reimbursement of conveyance charges is admissible only for attending offices on Saturdays/Sundays/closed holidays;

As per the instructions contained in the Govt. of India's Order No.2 (c) under SR 71, there is an option to claim either reimbursement of conveyance hire charges under DFPRs or to claim Travelling Allowances under normal TA Rules, vide GIO (1) under SR 89. We were ordered to attend the office on 25-3-2000, 26-3-2000, 1-4-2000 and 2-4-2000 being holidays and also to sit late on 30-3-2000 and 31-3-2000 to clear the rush of work due to closing of financial year. When I preferred TA claim for these dates, our Principal Accounts Officer is of the view that my claim does not seem to be covered under the provisions of SR referred to above. Kindly clarify.

As per order, dated 31-7-1998 published in Swamy's Annual, 1998, reimbursement of conveyances charges for attending office after or before office hours during working hours has been withdrawn. However, for attending office during Saturdays, Sundays and closed holidays, reimbursement is permissible.

[GIO(1) below SR 89]

3. M.F.U.O.No.322-E.II(A)/88, dated 17-3-1988

Option to claim either normal TA or conveyance hire charges for local journey beyond 8 kms. But within municipal limits

Will the Ministry of Finance (Dept. of Expenditure)

kindly refer to Annexure below Schedule V to the Delegation of Financial Powers Rules, 1978, as partially amended vide their Notification No. F.1(13)-E.II(A)/86, dated 7-10-1986 (Sl.No.58 of 1986)?

2. In this connection, it will be recalled that in accordance with the earlier orders if a Govt. servant performs journey in the public interest within a radius of 8 kms, from his headquarters, he is entitled to reimbursement of actual conveyance charges in respect of the expenditure incurred by him in hiring taxi/scooter, etc. However, with the deletion of the words "a radius of 8 kms" a doubt has arisen whether a Govt. servant who performs the journey to or/and a place beyond a radius of 8 kms but within the municipal limits of the city in which his Headquarters is situated, will be entitled to Travelling Allowance or reimbursement of conveyance hire charges. While a plain reading of the amended para 1(a) in the said Annexure indicates that he shall be entitled to normal traveling Allowance (as admissible within the municipal limits), a doubt has been raised in certain quarters that even when the local journey is performed beyond a radius of 8 kms. from Headquarters, the claim shall not be in the form of TA; but the Govt. servant will be entitled only to reimbursement of actual conveyance hire charges. To exemplify, Sewa Bhawan in RK Puram is at a distance of about 8 kms from Shram Shakti Bhawan and a specific doubt has been raised whether in such circumstances a Govt. servant shall be entitled to normal TA or reimbursement of conveyance hire charges.
3. We shall be grateful if Dept. of Expenditure could kindly see for favour of urgent advice in the matter.

(Signed) O.P.Gupta

Deputy Controller of Accounts

Ministry of Finance(Dept. of Expenditure)-E.II(A)

WR/CA/AC/2(3)/87-88/5833-34, dated 24-12-1987

**MINISTRY OF FINANCE, Department of Expenditure  
E.II (A) Branch**

With reference to the U.O. from office of the Controller of Accounts (Ministry of Water Resources), it is stated that it has recently been decided that for local

journey performed by a Govt. servant in public interest within municipal limits but exceeding 8 kms, option may be made for the Govt. servant either to claim reimbursement of conveyance hire charges under the D.F.P.Rs or to claim traveling allowance under the normal TA Rules. Amendment of the D.F.P.Rs, 1978, to this effect will be issued in due course.

(Signed)

Under Secretary

Ministry of Water Resources (Dy. Controller of Accounts)

Min. of Finance, No.322-E.II (A)/88, dated 17-3-1988

4. • **Officials transferred on completion of full tenure are also entitled to Transfer TA and joining time**

It is seen at the page No. 181 of Swamy's Hand Book, 2000 that "Officials posted to their station of choice after completion of full tenure will be entitled to Joining Time" vide OM dated 18-12-1995. However, when a claim for joining time was submitted, the authorities have rejected it and informed that officials transferred after completion of full tenure, as prescribed from time to time, to the place of their choice will be entitled only for Travelling Allowance and 'Transit' as per OM dated 18-12-1995. Kindly clarify, whether it is a mistake in the Handbook, 2000.

It is not a mistake. You should read the above sentence quoted in conjunction with the previous paragraph.

As per SR 114, TA/Joining time is NOT admissible for transfer at own request. The Department of Posts has conveyed the decision that transfer to place of choice after completion of full tenure should not be termed as transfer on own request under SR 114. It automatically follows that such transfers have to be classified as transfer for public convenience only.

[SR 114 and DoP Order 4 thereunder]

5. • **If the period of absence does not cover any calendar month(s) in full, Transport Allowance is admissible for the entire month;**

While I was working in Rishikesh (Uttranchal), I was transferred to Agartala, (Tripura) and I got relieved from Rishikesh on 10-6-2005 and I joined at my new place on 11-7-2005. I had availed 15 days Joining Time from 11-6-2005 to 25-6-2005 and 14 days Earned Leave from 26-6-

2005 to 9-7-2005 with permission to avail suffix on 10-7-2005 being Sunday. While drawing my salary for the period from 11-6-2005 to 9-7-2005, my present unit has not paid Transport Allowance. Kindly clarify

As per Clarification No. I under OM dated 22-2-2002, if the period of absence does not cover any calendar month(s) in full, Transport Allowance is admissible for the entire month. As you were on duty from 1-6-2005 to 10-6-2005 and from 10-7-2005 to 31-7-2005, you are entitled to full Transport Allowance for the months of June, 2005 and July, 2005.

You may refer to Appendix-5 in "Swamy's Compilation of FR & SR - Part -II - Travelling Allowances Rules"(C-4)in this regard.

6. • Time-limit for claiming TA is one year;

Consequent upon the transfer of a Govt. Official in the interest of service to a place beyond 150 kms., the official has been granted Transfer TA for an amount equal to one month's basic pay. After expiry of one month from the date of his joining the new station, he has been directed by the DDO at his new office to deposit the entire amount drawn by him as Transfer TA along with an amount as interest calculated at the rate of 2% over the interest rate as applicable in GPF on the ground that the adjustment bill in respect of the Transfer TA has not been submitted within one month from his joining the new office. Kindly clarify whether the action of the DDO is in order.

As per SR 194-A of "Swamy's Compilation of FR & SR - Part -II - Travelling Allowances Rules" claim for TA is to be preferred within one year. The action taken by your office is therefore, not in order. The one month time-limit referred by your office is applicable to LTC claim only.

7. • When both the spouses are transferred from one station to another station, any one of them can claim entire Transfer TA.;

Mr `X' and Mrs `Y', both husband and wife were posted in the same unit. They were transferred jointly from the same unit to other unit/place. As the basic Pay of Mrs `Y' is more than Mr `X' by Rs 2000, Mrs `Y' submitted a claim for one month's Basic Pay as composite/transfer grant mentioning that journey expenses/luggage charges will be claimed separately by her

husband. Accordingly, Mr `X' submitted claim for journey expenses and luggage charges. Kindly clarify.

As per GIO (8) below Para VIII under SR 116 of "Swamy's Compilation of FR & SR - Part -II - Travelling Allowances Rules", if both husband and wife are Govt. Servants and transferred to the same place, either of them may claim TA, treating the spouse as a member of their family. Moreover, Composite Transfer Grant is a part of TA which cannot be split among more than one person. In the case referred to by you, the total claim is to be preferred by one and the same individual.

8. • Advance of pay on transfer due to shifting of headquarters cannot be claimed after joining in the new headquarters;

Our headquarters was shifted from Sriganaganagar (Rajasthan) to Sitamarhi (Bihar) permanently and according to GFR-223, some personnel who had applied for two months advance pay prior to shifting of headquarter have received their payment at new headquarter and some personnel who could not apply for such advance pay prior to shifting of headquarter due to one reason or the other have submitted their applications on reporting/joining at the new headquarters. It may please be clarified whether a Govt. Servant is entitled to apply for advance pay on joining at the new headquarters.

There is no provision in the GFR, to apply for two months pay as advance on joining at the new headquarters, i.e., after shifting of headquarters.

9. • Change of headquarter during suspension is treated as "Transfer".

An official was placed under suspension and his headquarters during suspension was fixed at Changlang, his actual place of posting. After 5 months, his headquarters was changed and headquarter fixed at Lohit under the establishment of SP, of Lohit District. In such cases, whether the change of headquarter during suspension will be treated as "Transfer". If not, where will his Subsistence Allowance drawn.

As per GID (3) below SR 153-A of Swamy's Compilation of FR & SR-Part-II, the suspended officer is entitled to TA on transfer and will be regulated by the grade to which he belonged prior to his suspension.

10. • TA when transfer order is issued while the official was on leave;

As per SR 134/135 read with Sl.No.46-A of Appendix-I, TA may not be granted for a journey while proceeding on leave or while returning from leave. (1) Suppose an officer applied for transfer and proceeded on leave. He got transfer order while on leave and joined the new post. (2) An Officer got transfer and relieved from the old post and proceeded on leave. After expiry of leave, he joins the new post.

Since in both the cases the officers join the new post after the expiry of leave. Kindly clarify whether TA is admissible in these cases.

In both the cases SR 124 applies and NOT SR 134. The officers are eligible for TA.

11. • TA to the family if admissible, if the journey is before one month or within six months of the movement of the retiree;

An officer is due for superannuation on 31-10-2001. Please confirm that the reimbursement of TA for his family is admissible if he dispose of his family six months prior to date of superannuation or after superannuation. If so, please intimate the authority.

The family will be entitled to TA if their journey is performed within one month before the date of movement of the Government servant or six months after that date.

[ SR 147 and GIO thereunder]

12. • Service charges paid to the recognized Agent for booking air-ticket reimbursable;

An officer who is entitled to travel by air on tour has purchased a air-ticket through an agent because no air travel booking office is available in local cities and service charge and surcharge have been paid by the officer to the concerned agent. Kindly clarify whether the officer is entitled to reimburse the service charge and surcharge paid to the agent.

Though as per OM dated 20-1-1949 (GIO under SR 48-E), expenses incurred for booking air-tickets should be borne by the concerned Govt. servant, as per latest OM dated 3-7-1998 (GIO (7) below 34), service charges paid to the agent recognized by the Zonal Railways for booking

tickets is reimbursable.

On the same analogy, we are of the opinion that the service charges paid to the agent recognized by the Indian Airlines for booking tickets can be reimbursed.

13. • Production of Railway tickets along with TA claim is not compulsory;

One of our Sr. Private Secretary who was transferred from Chennai to Mumbai submitted his Transfer TA claim. For his total 3 journeys, he has submitted two original tickets and for bringing family he has mentioned PNR number and ticket not enclosed as the same was lost. However DDO is insisting to produce the tickets. Kindly clarify whether production of ticket is compulsory ?

There is no rule to demand the train tickets as the same are to be surrendered to the Railway Authorities at the destination station. Hence furnishing of PNR/Ticket number will be sufficient.

14. • The amount paid to the container cannot be reduced/restricted, while sanctioning the bill.

I am an Assistant Commandant /CISF drawing basic pay of Rs 11,950 + DP Rs 5,975. I have been transferred from Coimbatore (Tamil Nadu) to Amritsar (Punjab) and the distance between the places is 3170 kms.

I transported personal effects in a single container through M/s Container Corporation of India, a Government of India Undertaking, promoted by railways to deal Railway Container Service. I paid Rs 55,034 as charged by M/s Container Corporation of India. I declared the weight of the personnel effects as 60 quintals.

When I submitted the claim for Rs 55.034 towards the transportation of personal effects, my DDO said that I am not eligible for full reimbursement of the amount paid by me to M/s Container Corporation of India. The contention of the DDO is that, the reimbursement is to be restricted to Goods Train Tariff for 60 quintals from Coimbatore to Amritsar and worked out to Rs 26,033 (Rs 347.10 per Qtl x 60 plus 25% extra) as against the claim of Rs 55,034.

The DDO is not convinced the rulings I cited. I have been ordered to repay the utilized portion of advance with interest. Kindly clarify.

The question of limiting the claim to Railway

charges plus 25% applies only if the personal effects are transported by Road. Container service is by Rail only and not by Road. Your claim is correct as you are entitled to a single container.

There is no Rule to reduce/restrict the amount paid to the Container Corporation of India. You may appeal again and if not successful approach CAT.

15. • **Cost of Transporting personal effects on transfer should be calculated at rates for transport by goods train only.**

As per SR -116(a)(iii), personal effects should be transported by goods train between places connected by rail. If transported by road, the actual expenditure or 1½ times of the amount admissible for transport by goods train for the maximum admissible quantity, whichever is less will be admissible. In this connection, it may be confirmed whether the limit can be admissible as per rates formulated in GPS (General Parcel Scale) or the limit should only be on the rates as if transported by goods train.

The rates admissible for transporting the personal effects by goods train only should be taken into account for limiting the amount admissible for transporting the personal effects by road. You may refer to Para.III under GIO (I) below SR 116 of "Swamy's Compilation of FR & SR-Part-II-Travelling Allowance".

16. • **Additional fare by entitled class for onward journey and return journey, if the family did not accompany the Government servant initially;**

When I was transferred from Varanasi to Guwahati in May, 1999, I left alone leaving my family at Varanasi as there is no Govt. accommodation in Guwahati. Subsequently, I arranged suitable accommodation at Guwahati and brought my family. Accordingly, I submitted my transfer TA bill claiming additional to and fro fare for self which was passed by my DDO. However, in the course of post-check, the Pay and Account Officer pointed out that I am not entitled to get the additional fare for to and fro as per GIO (7) below SR 116 and ordered for its recovery along with penal interest.

The contention of your PAO is NOT correct. You are eligible for additional to and fro fare by entitled class on transfer, if the conditions specified in Para. VI of GIO (1) below SR 116 are fulfilled. This GIO (1) has NOT

been cancelled or withdrawn. You may appeal.

[ GIO(1) VI below SR 116]

17. **M.F.,U.O.No.2323-E.IV/88, dated 28-7-1988**

**TA on transfer-Transportation of personal effect by road between stations connected by rail-Clarifications.**

Office of the Comptroller and Auditor-General. A Govt. servant on transfer carrying goods by road between places connected by rail can draw actual expenditure on transportation of personal effects by road or the amount admissible on transportation by railway and an additional amount of not more than 25 per cent thereof, whichever is less, vide our O.M,dated 24-11-1986 (Sl.No. 346 of 1986). With reference to this, office of the C & A G, needs clarification whether this 25% is of the maximum admissible quantity of personal effects by goods train to which an officer is entitled on transfer or of the actual weight carried by a Govt. servant.

The additional amount of not more than 25% is based on the recommendation of the Fourth Central Pay Commission and there is no mention that the 25% is of the maximum admissible quantity of personal effects to which an officer is entitled or of the actual weight carried. Vide our OM, dated 29-6-1974 , a Govt. servant carrying goods by road between places connected by rail can draw actual expenses but not exceeding the amount which would have been admissible had he taken the maximum admissible quantity of personal effects by goods train.

On the analogy of our O.M., dated 29-6-1974, we may take a view and clarify that the 25% mentioned in our O.M., dated 24-11-1986, is of the maximum admissible quantity to which an officer is entitled to carry by goods train on transfer.

18. **C.& A.G., Lr,No.582/Audit-I/106-86/IV-88(89), dated 17-6-1988**

**Additional fare for both onward and return journeys in addition to normal transfer TA entitlement-Clarifications**

Will the Ministry of Finance, Department of Expenditure refer to para 7 of their O.M.No.19030/5/86-E.IV, dated 24-11-1986 (Sl.No.346 of 1986), on the subject

cited above?

According to the provisions of the said para, an employee will be, entitled to an additional fare by the entitled class both for onward and return journeys in addition to the normal transfer TA entitlement, if he has to leave his family behind because of non-availability of Government residential accommodation at the new place of posting. In case an officer, who applies for residential accommodation at the new place of posting either brings his family before actual allotment or does not accept the Government accommodation allotted to him on the grounds of being of lower category or for any other reason, it is presumed that in both the cases the officer is entitled for the additional fare by the entitled class in terms of the provisions of para. 7 of O.M., dated 24-11-1986, as the primary condition appears to be non-availability of Government accommodation on the date the officer joins the post at the new station. Another related point is, about the immediate non-availability of private accommodation in places where Government quarters have not been constructed. It is presumed that such cases would also be covered.

The above presumptions may please be confirmed.

(Signed) RS Ramanujam

Administrative Officer (Audit-I)

Shri Kuldeep Singh, Under Secretary, Min.of Fin., Dept.of Expenditure, E.IV Branch, New Delhi

C&AG's U.O.No.446-Audit. 1/67-85, dated 2-5-1988

**MINISTRY OF FINANCE**

**[ Deptt. of Expenditure, Est. IV Br.]**

The doubts raised by C&AG in their UO Note No.466-Audit.I/67-85, date 2-5-1988, are being clarified as follows:-

In cases where the Govt. accommodations is available and the officer does not accept the Government accommodation allotted to him on the ground of being of lower category or for any other reason, he is not entitled to the additional fare in terms of Para 7 of our O.M., dated 24-11-1986, as the Government accommodation is available and the officer had refused for it.

When the Govt. servant brings family before actual allotment in such cases, if TA/DA has been claimed for such family members, there is no family left behind and additional fare cannot be made admissible.

At the stations where Govt. quarters have not been constructed, this may be treated as non-availability of Govt. accommodation and Govt. employees will be entitled to the additional fare in terms of our OM, dated 24-11-1986.

However, non-availability of private accommodation cannot be treated as a ground for additional fare.

(Signed) Kuldeep Singh  
Under Secretary to the GOI

C&AG of India(Audit-I)

Min. of Finance (Exp.) U.O.No.1017/E. IV/88, dated 12/13-5-1988

19. • **Road mileage admissible between residence and Railway Station on both ends while on tour.**

One of the Deputy Secretary has travelled by his own car on official tour from his residence at New Delhi to Chandigarh and claimed road mileage, i.e., taxi fare from his residence at New Delhi to New Delhi Railway Station and AC-II-tier fare, i.e., entitled class fare from New Delhi Railway Station to Chandigarh Railway Station. The Accounts Section restricted his claim from New Delhi Railway Station to Chandigarh Railway Station of his entitled class which he did not agree.

Kindly clarify whether road mileage from residence to New Delhi Railway Station is admissible or not.

As per GID (2) below SR 46, the official is entitled to Road Mileage between residence and Railway Station at both ends.

20. • **Regulation and Transportation of Personal effects between places partly connected by Rail and Road.**

I was transferred from Rampur(UP) to Velluguri(Assam). My old station is connected by rail but my new place of posting is not connected by rail. The Railway Station is 30 kms away from the new station of posting. Therefore, I have carried my personal effects by road/truck from old duty station to new station of posting and claimed road mileage at the rate of Rs 18 per

kilometer. But our Controlling Authority is of the view that the entitlements for transportation of personal effects will be allowed as under:-

- (i) Fair of personal effects by goods train from Rampur to Hojai (nearest Railway Station to the new place of posting) in which 6% of the fare is to be deducted for North-Eastern Concession plus 25% of the actual fare and road mileage as per rates prescribed by State Govt. from nearest railway Station Hojai (Assam) to new place of posting, i.e., Velluguri (Assam). Kindly clarify.

Your claim for transportation of personal effect by road between Rampur (UP) to Velluguri(Assam) is to be restricted as under:-

From Rampur to 125% of amount admissible on  
Hojai:- transportation of maximum  
(Places connected admissible quantity of personal  
by Rail) effects by goods train plus  
From Hojai to Road mileage @ Rs 18/0 per km.  
Velluguri:- limited to the actual  
(Places not expenditure incurred.  
connected by Rail)

21. • **When free boarding and lodging are provided, only 25% of DA is admissible;**

Kindly clarify the position regarding admissibility of Daily Allowance when free boarding and lodging were provided since the information available in "Swamy's Handbook-2003" at page No. 191 and the information provided in the GOI Order No.(4) under SR 51 of "Swamy's Compilation of FR & SR - Part -II - Travelling Allowances Rules" are contradictory. In the Handbook, it is stated that 25% of ordinary Daily Allowance would be provided if free boarding and lodging are provided while under SR 51 no such mention is found.

There is no contradiction in the information provided under SR 51 and in Swamy's Handbook. You may see GIO (3) under SR 51 in "Swamy's Compilation of FR & SR - Part -II - Travelling Allowances Rules" regarding admissibility of Daily Allowance when free boarding and lodging are provided.

22. • If the tour station happens to be the residence of the official from where he commutes daily for his office, he will not be entitled for daily allowance.

One of the employees was transferred from Chandigarh to Nalagarh(HP) in March, 2001 and he continued to attend the office from his Chandigarh residence. The distance between Chandigarh and Nalagarh is about 65 kms. The concerned employee was deputed for official work at Chandigarh in April and May, 2001. The employee started his journey from Chandigarh in the evening at 17.30 hrs. and stayed his residence at Chandigarh and attended the official work at Chandigarh office on the next day and returned to Nalagarh.

It may please be clarified whether the concerned employee is entitled to TA/DA for performing his official work at his Chandigarh office.

If the employee has been officially permitted to stay at Chandigarh, we are of the opinion that he will not be entitled to draw any DA for his stay at Chandigarh on the analogy of Para (c) (2) of GIO (2) below SR 114 of "Swamy's Compilation of FR & SR, Part-II-Travelling Allowances".

23. • When a Govt. Servant proceeds on leave while on tour, his TA/DA for return journey can be permitted by the Head of the Department.

During July, 2004 I was ordered to move on temporary duty to Kolkata by the Competent Authority. On completion of duty, I have commenced my return journey on 6-8-2004 from Howrah and on 8-8-2004 from Chennai. I was supposed to join my headquarters on 9-8-2004 but after reaching Coimbatore, my both legs suddenly developed swelling and bleeding from verrucose ulcer. I was forced to meet the doctor at Kuppuswamy Hospital, Coimbatore and who advised me emergency admission for treatment and bed rest. The facts I have immediately informed my next officer at headquarters. I have joined my duties on 21-8-2004 after availing medical leave from 9-8-2004 to 20-8-2004.

While auditing my adjustment TA claim, my return TA/DA from Howrah to Aruvankudu has been disallowed as per SR 134. Since I could not foresee my sudden sickness en

route, I have represented that disallowing TA/DA, for my return journey is not justifiable. But Head of Office not agreed to my representation. Please clarify my above claim.

As per SR 135 read with Item No.46-C of Appendix-1 of "Swamy's Compilation of FR & SR - Part.II- Travelling Allowances", Head of the Department may permit the Govt. servant to draw TA for the return journey also. You may appeal to your Head of the Department quoting the above provision in the rules.

24. • Scheduled reporting time in the Airport is the criteria for calculating daily allowance on the date of departure:

I went on official tour to Mumbai. The scheduled time of departure of the flight was 13.00 hrs. and reporting time was 12.00 hrs. I reached the Airport at 11.45 hrs. Necessary boarding card was issued and the boarding in the plane was allowed in time. Due to technical fault, the flight could not go in time. The pilot tried for one hour and we were all sitting in the aircraft. Finally we were provided a new aircraft which left for Mumbai at 15.00 hrs.

Full rate of Daily Allowance was claimed for the day of departure considering reporting time at the Airport at 12.00 hrs. but the Pay and Accounts Office allowed the DA considering revised departure time of the plane. Kindly clarify.

As the scheduled reporting time was 12.00 hrs., calculation of Daily Allowance (0.7 DA) made by the Pay and Accounts Officer is correct.

You may refer to Para 4 of GIO (I) under Rule 71 of "Swamy's Compilation of FR & SR - Part II - TA".

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## **( 3 ) LEAVE RULES**

1. • Time limit for availing Paternity Leave

(A)

My wife gave birth to our first child on 8-8-2004. I applied for Paternity Leave from 4-2-2005 to 18-2-2005. But our Administration denied the leave for 15 days saying that under the existing rule, we have to exhaust the Paternity Leave within six month from the date of delivery. Since the date of delivery is 8-8-2004, the six months period expires on 7-2-2005 as such the Paternity Leave can be sanctioned from 4-2-2005 to 7-2-2005.

Please state whether the action taken by the Administration is in order.

Paternity Leave has to be availed within six months from the date of delivery of the child and there is no provision that it should be exhausted within that period. Hence, the contention of your office is not correct.

(B)

I have availed Paternity Leave from 20-3-2001 to 3-4-2001. As the date of birth of my child is 4-3-2001, it may be clarified whether the paternity leave availed by me is within the permissible period.

As per clarification under GID(5) below Rule 43 of CCS(Leave) Rules, 1972 of Swamy's Compilation of FR & SR - Part.III-Leave Rules (now Rule 43-A) Paternity Leave can be availed up to 15 days before or six months from the date of delivery. As the date of delivery of your child is 4-3-2001, Paternity Leave availed by you from 20-3-2001 to 3-4-2001 is in order.

[Rule 43-A]

2. • LND can be sanctioned even if Earned Leave is at credit

An official has applied for leave requesting to grant 4 days HPL combined with 28 days of LND on MC from 11-10-2004 to 1-11-2004. As the official is having 92 days of EL and 4 days HPL to his credit as on 11-10-2004, it is opined that grant of LND is not admissible in his case when he got other kind of leave to his credit. Kindly clarify.

LND is being availed as advance of HPL that will be earned by the official in the rest of his service. Hence it

can be granted when there is no HPL at credit. The availability or otherwise of Earned Leave has no bearing on sanction of LND.

3. • LND can be availed even if Earned Leave is at credit

(A)

I was on deputation to the office of Principal Director of Audit. During this period, I was on Maternity Leave from 29-4-2002 to 10-9-2002. In continuation of Maternity Leave, I applied for extending my leave for 60 days Commuted Leave as per Leave Rule 43(4). As my child is still at the infancy stage, I applied for extension of leave by applying Leave Not Due for 83 days from 10-11-2002 to 31-1-2003 under Rule 43 (4) of CCS(Leave) Rules, 1972. On expiry of the same, I joined my duties on 3-2-2003. The office of the Principal Director of Audit informed me that I will not be granted LND as I was on deputation and also I had EL at my credit at that time and LND is sanctioned only after exhausting all other leave available in my credit. Kindly clarify.

Leave Not Due is not related to the availability of EL. If there is no HPL, LND can be availed even if EL is at credit. The contention of your office is not correct.

(B)

I have applied to avail Leave Not Due on medical grounds for 2 months from 5-7-1998. I am informed by my office that 15 days EL at my credit will first be debited and the rest of the period will be Leave Not Due. The reason advanced is that Leave Not Due cannot be granted when EL is at credit.

I solicit your valued guidance.

LND can be granted when the conditions stipulated in the Leave Rules are fulfilled even though the official applying for LND has EL at his credit. There is no stipulation in the rules or orders of Govt. that LND should not be granted when EL is at the credit of the official.

The reason advanced by your office in refusing to grant LND has no sanction of rules or orders of Govt.

[ Rule 31]

4. • LND cannot be adjusted against the future credit of EL

One of our employee has been sanctioned LND on medical grounds for 106 days, subject to the condition that the future EL and HPL both will be adjusted against the LND availed. As such, please let us know whether any provision is there in the Rules to adjust the future EL against the LND?

If you are governed by the provisions of CCS(Leave)Rules, 1972, LND can be adjusted against the future credit of HPL only.

[ Rule 31 (1) (c) ]

5. • Except Casual Leave no other kind of leave can be granted for half day

One of our officer applied for three and a half days commuted leave. Whether half-a-day's commuted leave could be granted. Kindly clarify.

There is no provision for grant of half-a-day leave in the case of any kind of leave except casual leave.

6. • Permissible period of CL can be availed continuously in the consecutive years.

(A)

Please confirm whether as per CCS (Leave) Rules, if CL for the current year is availed up to 31-12-2002, casual leave for the next year, i.e., 2003 can be availed from 1-1-2003 without reporting for duties.

There is no prohibition to avail casual leave for the period up to 31<sup>st</sup> December of the current year and also from 1<sup>st</sup> January of the next year in one spell without reporting for duties.

(B)

A few personnel of this unit would like to avail casual leave for the year 1999 in combination of CL for the year 1998 terminating on 31<sup>st</sup> December, 1998. Kindly clarify whether there is any rule/order against sanctioning/not sanctioning the CL for the year combining with the same falling due in the succeeding year.

There are no orders prohibiting grant of CL in one spell combining two calendar years. The period falling in

each calendar year will be debited to the respective years. However, the maximum number of days of CL that can be granted on a single occasion has to be observed.

[ Chapter 4 (III) of Swamy's Complete Manual on Establishment and Administration]

7. • Combination of CL and RH in two successive years permissible

I had applied for 3 days CL on 28<sup>th</sup> to 30<sup>th</sup> December, 1992 and 2 days RH on 31-12-1992 and 1-1-1993. The sanctioning authority has allowed only 3 days CL and 1 day RH. The RH for 1-1-1993, was not sanctioned. Kindly clarify whether there is any rule for denying the RH falling in the next calendar year.

There is no order or rule against availing RH and CL for a year combining with the same falling due in the succeeding year. Denial of RH for 1-1-1993 is not in order.

8. • Combination of CL with regular leave, not allowed

Explanation under Rule 11 of CCS(Leave)Rules, 1972, provides that CL shall not be combined with any other kind of leave, Rule 22 ibid provides combination of holidays (prefix/suffix) with regular leave, Orders with regard to grant of CL also provide for prefixing/suffixing facility of weekly holidays, closed holidays, weekly off, etc., with CL. These orders also provide that Sundays and Holidays falling during the period of CL are not counted as part of CL.

In the context of the above orders, a doubt has arisen as to whether an employee can be permitted to avail CL on Friday (with suffix facility on Saturday and Sunday) and EL from Monday onwards. The period of doubt is, whether in such situations, it amounts to combination of CL with EL or otherwise.

In an employee is granted CL for one day on Friday, allowed to enjoy holidays on Saturday and Sunday and granted regular leave from Monday, we are of the opinion that it will amount to combination of CL with regular leave though intervened by holidays. The entire period from Friday onwards should be treated as regular leave.

[ Rules 11 and 22]

9. • Restricted Holidays can be combined/sandwiched between casual and closed holidays

I had applied for four days CL and one day RH as detailed below:-

18-10-2002 - CL  
19 & 20-10-2002- Closed Holidays.  
21-10-2002 - RH and  
22-10-2002 -CL.

My office did not approved the leave citing Rule 11 of CCS(Leave) Rules wherein it is explained that CL being not recognized as leave shall not be combined with any other kind of leave admissible under these Rules. Further, they quote GOI decision No.(2) of Rule 22 wherein it is stated that RH can only be prefixed or suffixed to CL. Since RH is akin to a closed holiday, I am of the opinion that I can take RH in between two CLs. Could you please clarify?

As per Rule 11 of CCS(Leave) Rules, 1972, CL shall not be combined with any kind of leave admissible under the CCS(Leave) Rules, i.e. regular leave only. RH is similar to closed holidays and the same can be suffixed or prefixed or sandwiched between CL and other closed holidays.

10. • Restricted Holiday can be prefixed/suffixed to any regular leave

It is to request you to clarify whether restricted holiday can be availed in a manner suffixing public holidays which are suffixed to leave (EL/Commuted Leave/HPL) and prefixed as well in the similar way.

RH can be prefixed or suffixed to regular leave vide GID(2) below Rule 22 of "Swamy's Compilation of FR & SR - Part.III-Leave Rules".

11. • Compensatory Holiday can be suffixed/prefixed to any kind of leave

Please clarify whether the Compensatory Holiday(CH) applied in combination of HPL can be prefixed and suffixed to the General Holidays.

For example-  
HPL from 1-2-2005 to 9-2-2005  
CH from 10-2-2005 to 11-2-2005.  
General Holidays on 12 and 13-2-2005.  
CH on 14-2-2005.

Also please clarify within what period CH can be availed.

Compensatory Holiday can be suffixed/prefixed to HPL. The CH in combination to HPL cited in your example is admissible. As per OM, dated 27-11-1965 read with OM, dated 20-3-1967, CH is to be granted within a month of its becoming due and this can be relaxed by the HOD on account of administrative convenience.

You may also refer to Page No.128 of "Swamy's Compilation of FR & SR-Part.III-Leave Rules".

12. • **Special Casual Leave cannot be sandwiched between two spells of leave**

I had applied for EL for 9 days from 28-4-2003 to 6-5-2003, Special Casual Leave for 14 days from 7-5-2003 to 28-5-2003 and Maternity Leave for 135 days from 29-5-2003 to 10-10-2003. In reply to my application, our Department stated that the DoP&T has advised that Special Casual Leave may be prefixed with regular leave but cannot be suffixed with regular leave. But while going through Rule 11 of CCS(Leave) Rules, 1972, regular leave may be granted in combination with or in continuation of any kind of leave and as per Item (9) below Section 'B' for family Planning under FR & SR-Part.III-Leave Rules, Special Casual Leave connected with Sterilization/Canalization may be suffixed or prefixed to regular leave. Hence I have submitted a representation to my Department to re-examine the case. Kindly clarify.

As per CCS(Leave) Rules, 1972, Special Casual Leave may be suffixed as well as prefixed on regular leave and maternity leave may be combined with any other kind of leave.

From your letter, it is seen that sterilization operation was made on 7-5-2003 and that your date of delivery might be during the period from 28-4-2003 to 6-5-2003. Maternity Leave cannot begin one month after confinement. Further, Special Casual Leave cannot be

sandwiched between two spells of leave.

13. • Special Casual Leave for Family Planning operation is to be availed following the date of operation

While a Govt. servant was on leave from 26-4-2004 to 18-6-2004, his wife undergone tubectomy operation (Family Planning) on 19-5-2004 after two children. Please clarify whether the individual is entitled to Special Casual Leave for 7 days in conjunction with other leave availed by the individual.

As per B (3) under Appendix.III of "Swamy's Compilation of FR & SR-Part.III-Leave Rules", the intention of granting Special Casual Leave to a make Govt. servant whose wife undergoes tubectomy operation is to enable him to look after his family after the operation. Hence, the special Casual Leave will necessarily have to follow the date of operation and it cannot be availed after a gap of more than a month.

14. • Special Casual Leave is not admissible for tubectomy operation undergone during maternity leave.

As per CCS(Leave ) Rules, a female Govt. employee with less than two surviving children is entitled to maternity Leave for a period of 135 days from the date of its commencement. Such Govt. servant who undergo tubectomy operation, whether puerperal or non-puerperal is also entitled to Spl CL not exceeding 14 days. In this connection, it may kindly be clarified whether a female employee who delivered a child on 1-7-2001 and who underwent tubectomy operation on the next day i.e. 2-7-2001 is entitled to Spl CL for 14 days from 2-7-2001 and 135 days Maternity Leave from 16-7-2001 in continuation of Spl CL.

In the instant case referred to by you, the female Govt. servant is not eligible for the grant of Spl. CL for undergoing the operation while on maternity leave.

15. • While calculating Special CL, intervening holidays will also be taken into account.

I had applied for grant of Spl. CL for Trekking Expedition excluding Saturday/ Sunday/gazetted Holiday. But my leave sanctioning authority has sanctioned Spl. CL

including Saturday/Sunday/Gazetted Holiday. Kindly clarify.

As per the provisions of Paras A and B under Appendix.III Spl. CL in "Swamy's Compilation of FR & SR-Part.III-Leave Rules", except in the cases specifically mentioned as Spl. CL for number of working days (male employees who undergo vasectomy operation), all other Spl. CL mentioned as for number of days, the intervening holiday will be taken into account while calculating the number of days availed.

16. • While calculating Special Casual Leave for undergoing for family planning, intervening holidays should be ignored.

I have undergone through NSV operation for small family norms on 7-11-2007 and applied for 6 working days special CL for 7-11-07 and 12-11-07 to 15-11-07 as permissible under rule. In this connection, my competent authority is not sanctioning the leave as mentioned above with the remarks that 'special CL cannot be granted partly, leave should be continuous for six days', whereas 9-11-07 to 11-11-07 are Gazetted Holidays. Please let me know whether I am entitled for the above leave or not.

The action of your office is not in order. Sunday and closed holidays intervening the period of Spl.. CL should be ignored-vide Appendix-III in Swamy's Compilation of FR & SR-Part-III-Leave Rules. You may appeal.

17. • Medical Certificate not required for availing Maternity Leave

It is necessary as per rules for a female Govt. employee to produce MC before proceeding on Maternity Leave? Few instances have been noticed where Maternity Leave has been denied for want of MC while commuted leave without MC in continuation of Maternity Leave has been sanctioned. While no such demand was made for my first maternity leave by my parent department, the present office demands it. Kindly clarify.

Production of Medical Certificate is not necessary for availing Maternity Leave.

[ Rule 43 (1) ]

18. • Maternity Leave to a female Govt. Servant who married a widower having two surviving children

I got married to a person whose wife expired leaving behind two children. Consequent to my marriage, I gave birth to a child and my Controlling Authority sanctioned me Maternity Leave, as per Leave Rules since female employees having less than two surviving children are entitled to maternity Leave. However, the authorities are of the opinion that soon after my marriage, I became mother of two children of my husband who were born through his first wife and the child born to me is to be considered as third child in the family and accordingly seeking clarification from our higher authorities regarding admissibility of Maternity Leave. Kindly clarify.

On getting married to a person, the lady automatically becomes the STEPMOTHER of his children and NOT the mother.

In the present case, the female Govt. servant is entitled to Maternity Leave since she is having less than two surviving children.

[ Rule 43(1)]

19. • Maternity leave can be granted from the date of its commencement and need not necessarily be with relevance to delivery

Due to complication in my pregnancy, Doctor has advised me to take care of my child before and after delivery. Hence I applied for maternity leave for 135 days from 1-11-1999, thought he expected date of delivery is 2-2-2000. But our Administrative Officer refused to grant ML prior to delivery on the grounds that ML can be granted only from the date of its commencement vide Rule 43 (1) of CCS(Leave) Rules, 1972, and according to his interpretation, "from the date of commencement" means "from the date of delivery". Kindly let me know what is the actual meaning of this sentence.

Maternity leave is admissible for 135 days from the date of commencement of such leave and it does not have any relevance to the date of delivery.

[ Rule 43(1)]

20. • 45 days Maternity leave on account of abortion/miscarriage admissible in the entire service can be availed on more than one occasion.

I had to undergo an abortion in November, 1999 and applied 7 days leave out of 45 days admissible to me. Again I had to undergo another abortion in August, 2002 and applied for 21 days leave out of the remaining 38 days leave admissible to me. However, the same was not sanctioned on the grounds that maternity leave on account of miscarriage/abortion can be availed only once in the entire service period. Kindly clarify.

As per Rule 43(3) of CCS(Leave)Rules, 1972, the total period of maternity leave on account of miscarriage/abortion should be restricted to 45 days in the entire career of a female Govt. servant and it need not be in one occasion only.

The contention of your leave sanctioning authority that Maternity Leave on account of miscarriage/abortion can be availed only once in the entire period of service is not correct.

21. • Admissibility of maternity leave if married a widower having two surviving children

A female Govt. servant got married to a widower already having more than two surviving children from his first wife who has expired.

A female Govt. servant with less than two surviving children is eligible for maternity leave. Kindly intimate whether maternity leave can be granted in this case.

A female Govt. servant in the instant case is eligible for grant of maternity leave so long the surviving children born to her is less than two.

[Rule 43(1)]

22. • No Maternity Leave to a widow having more than two surviving children and remarried later.

A widow who at the time of appointment on compassionate grounds had two surviving children got remarried subsequently and now requests for grant of maternity leave. Her contention is that she has presently got the "married status" and this is the first maternity after re-marriage. Kindly clarify whether she is eligible for grant of maternity leave.

If a female Govt. servant, whether married or unmarried or remarried widow, has two surviving children she is not eligible for the grant of maternity leave.

[ Rule 43]

23. • How many times the Maternity Leave could be availed?

As per amended Rule 43(1) of CCS (Leave) Rules, maternity leave is admissible to a female employee if she has less than two surviving children. Please clarify whether a female employee who has been granted leave on two occasions earlier could be granted this leave again in case of death of first/second child.

It is clear from the amended Rule 43(1) that maternity leave is admissible if the female employee has "less than two surviving children". There is no restriction as to the number of times the maternity leave could be availed. Hence, maternity leave is allowed in all cases where the female employees have no living children or only one living child.

[Rule 43(1)]

24. • Maternity Leave for miscarriage/abortion taken prior to 16-6-1994 not to be taken into account.

Our Institute is under Ministry of Commerce of Govt. of India and all pay scales, leave rules, etc., are on par with Central Govt. servants.

Recently I underwent an abortion and applied for Maternity leave for miscarriage/abortion under Rule 43(3) of CCS(Leave) Rules, 1972. My office has informed me that as per Department of Perl. & Trg., OM. Dated 16-6-1994, I am entitled to this only once during my entire service and that since I have already availed this in the past, it cannot be granted now. However, the orders stipulate that they are applicable from the date of issue, viz. 16-6-1994 and my contention is that since the earlier occasions are prior to 16-6-1994, I am entitled to the leave now. Kindly confirm.

The restriction of maternity leave on account of miscarriage/abortion to 45 days in the entire career of a female Govt. servant is effective from 16-6-1994 and such maternity leave granted and availed of by a female employee in the past should not be taken into account.

In view of the above, you are entitled to avail maternity leave on account of miscarriage/abortion for 45 days in one or more occasions after 16-6-1994 in your entire career and the rejection of your request by your office is not correct.

[ Rule 43(3)]

25. • Leave in continuation of maternity leave in the case of temporary employees

Rule 43(4)(b) of CCS(Leave)Rules, 1972 is a new addition to the Leave Rules made in the interest of family welfare- for the healthy growth of the new born baby and/or restoration of the mother's health. This is part of the maternity benefit. When the leave Rules itself have not made any distinction between temporary Govt. servant and permanent Govt. servant for the grant of maternity leave, the restriction for the grant of EOL in continuation of maternity leave to temporary Govt. servants seems an unnecessary irritance.

On a plain reading it is clear that the provision has been made in relaxation of the general rule. Had it been subject to the limits prescribed in Rule 32 it should have been mentioned as such. Kindly clarify.

We fully agree with you that maternity leave is a welfare measure in that no distinction is made between permanent and temporary employees. Rules 43(4)(b) of CCS(Leave) Rules provides for the grant of leave of the kind due and admissible up to a maximum of one year in continuation of maternity leave. No doubt, this includes EOL also. However, the relaxation given is only the exemption of medical certificates for grant of Commuted Leave [ Rule 30(1)] and LND [Rule 31(1)] for which production of medical certificate is compulsory in the normal course. Had the intention of the Govt. been to waive the limit in the amount of EOL to temporary employees, they would have certainly worded the sub-rule as "Notwithstanding the requirement of production of medical certificate contained in sub-rule (1) of Rule 30 or sub-rule (1) of Rule 31 and also the provision sub-rule (2) of Rule 32". Therefore, the limit in the grant of EOL to temporary employees is very well there.

[ Rule 43 (4) (b)]

26. • Surviving children does not include step child for eligibility of Maternity Leave

I have one child by birth to me and one step child. Recently I applied for maternity leave for my second child, for which my office has directed me to apply for other kinds of leave, since the ML can be granted to female employees with less than two surviving children only. Kindly clarify whether the term "surviving children" includes the step child also.

For the purpose of grant of maternity leave to female employees, expression "with less than two surviving children" does not include stepchild/children. In as much as you have only one surviving child, you are eligible for the grant of ML under the said rule.

If the intention of the rule-makers was to include stepchildren also, they would have made provision in the said rule itself to the effect that "children, including, stepchildren".

[ Rule 43(1) ]

27. • Maternity Leave to commence from the date of confinement at the latest.

My wife who is pregnant is a Teacher in Delhi Govt. School which follows leave rules framed by the Central Govt.. She is going to have summer vacations from 1-5- to 30-6- . She intends to attend her school till 30-4- when the school closes for two months for summer vacations.

The expected date of delivery of our baby is 16-5-. I am very keen to know whether her 135 days maternity leave will start from the date of delivery or from 1-7-, when the school reopens after summer vacations.

Maternity leave is a special kind of leave granted to the female Govt. servants, and it is not one of the regular kinds of leave due and admissible.

'Maternity' means motherhood/motherliness (childbirth). Under Leave Rules, the maternity leave is limited to 135 days from the date of its commencement. This special kind of leave is granted to them for rest and convalescence just before and after confinement. The leave may commence before confinement, but at any rate from the date of confinement at the latest. This is not meant to be availed by them during any time of the service at their

will.

Hence, in this case, the maternity leave should commence from the date of confinement and not from 1-7- after expiry of vacation and a long time after confinement.

[Rule 43]

28. • **Maternity Leave cannot commence after vacation when confinement was during vacation**

I am serving as PET in Kendriya Vidyalaya, Bairagarh. My date of confinement is 22-5-1994. Accordingly, I have applied for sanction of maternity leave w.e.f. 27-6-1994 after completion of vacation period. But the Principal refused to sanction maternity leave w.e.f. 27-6-1994 and asked me to apply for ML w.e.f. 22-5-1994.

Is there any provision that leave may be sanctioned by prefixing vacation?

Inasmuch as the date of confinement is stated as 22-5-1994, the maternity leave can be sanctioned only from that date notwithstanding the fact that it will fall during vacation. It will run concurrently with vacation.

[ Rule 43]

29. • **Maternity Leave cannot be availed in installments**

One of our employees proceeded on Maternity Leave from 16-6 onwards. However, she was promoted to the next higher grade w.e.f. 1-7.

She assumed the charges of higher responsibilities in the promoted post on 1-8- and again proceeded on leave for the balance period.

Kindly clarify whether Maternity Leave can be sanctioned in such cases having a break of one day or should it be continuous spell.

Rule 43, does not envisage grant of Maternity Leave in installments. In the instant case, the official can avail EL/HPL/EOL from 2-8-.

[Rule 43]

30. • **If the fitness certificate issued by the Doctor happens to be a holiday, that date deemed to have been suffixed to regular leave.**

I was on leave on medical grounds from 7-5-2004 to 21-5-2004. The doctor gave me the fitness certificate on 22-5-2004 morning although the time was not mentioned, the date was mentioned. Since 22-5-2004, being Saturday, I

applied for leave on medical grounds up to 21-5-2004, but I was asked to apply for leave for 22-5-2004 also by the leave sanctioning authority. Subsequently the leave was sanctioned. Kindly clarify whether the action taken by the concerned officer is in order.

As per your letter, the fitness certificate was given on 22-5-2004, Saturday, which was a holiday. If the date of fitness certificate happens to be a holiday, then that holiday is deemed to have been suffixed. Hence 22-5-2004 and 23-4-2004 are deemed to have been suffixed and no need to apply for leave vide Rule 22(1)(ii) of CCS (Leave) Rules.

31. • MC need not necessarily be signed by the doctor on the date the Govt. servant fell ill

One of our colleagues met with a serious accident on 1-7-2000 (Saturday) and was admitted in a hospital in an unconscious state. He regained his consciousness a few days later and obtained a medical certificate on that day, requiring leave from the date of next working following the date of accident, i.e. from 3-7-2000. However, our administration is of the view that the medical certificate should be signed and dated by the doctor on the date of actual admission in the hospital. Kindly enlighten whether the objection is in order.

There is no Rule that the medical certificate for leave should be issued by the concerned doctor on the same date on which the Govt. servant fell ill.

[ Rule 19]

32. • MC and FC not necessary from the same Doctor

I went to my native place on EL and had fallen sick during the leave period. The Medical Certificate issued by the Civil Surgeon was produced to the leave sanctioning authority along with a Fitness Certificate issued by an AMA and requested for conversion of EL to Commuted Leave. My office had turned down my request on the ground that the FC produced was not from the same Doctor who issued the MC. Please clarify whether FC is necessarily to be obtained from the same Doctor who issued the MC.

The rules do not envisage that the Fitness Certificate should be given by the same Doctor who gave the Medical certificate. Conversion of one kind of leave already availed into another kind is solely at the

discretion of the leave sanctioning authority and cannot be claimed as a matter of right by the official.

[Rule 30]

33. • AMAs nominated by CG local Co-ordination Committees can also issue medical certificates to Group "A" officers.

Kindly clarify whether Group 'A' officers could consult the Authorized Medical Attendants appointed by the Central Govt. Employees Welfare Co-ordination Committee, for obtaining medical certificates based on which commuted leave could be granted to them.

Commuted leave to a Gazetted Govt. servant can be granted on the basis of the certificate issued by the Authorized Medical Attendant appointed by the Chairman of the Central Govt. Employees Welfare Co-ordination Committee.

[ Rule 30-GID(3)]

34. • Dies non' period will not qualify for leave, increment and pension

An employee who was terminated from service from 20-12-1976 under CCS(Temporary Service) Rules, 1965 was reinstated on 22-9-1987 based on the judgment delivered by CAT, Kolkata Bench which is reproduced below:-

"It is ordered that the order of termination is hereby set aside. The applicant will be reinstated in service with effect from tomorrow, i.e., 22-9-1987. The applicant will not get any pay for the absent period for which he was out of service, but the period will be treated as 'dies non' so that continuity of the service is maintained."

In my view and spirit of judgment, he is eligible for counting the termination period for all benefits without any back-wages for the period from 20-12-1976 to 21-9-1987. Please confirm.

The period from 20-12-1976 to 21-9-1987 has been ordered by the CAT, to be treated as 'dies non'. As per the rules, period treated as 'dies non' will not count for leave, increment and pension.

35. • Period of leave already sanctioned cannot be treated as 'Dies-non' subsequently.

An employee had applied for 14 days EL and 10 days HPL which was sanctioned. He rejoined duty after 19 days

overstayal. The leave sanctioning authority is of the view that the entire period including the period of leave already sanctioned should be treated as overstayal and leave sanctioning authority can regularize the entire period as per his discretion. Kindly enlighten.

The view of the sanctioning authority is wrong. The leave already applied for, sanctioned by the competent authority and availed by the official cannot be treated as 'Dies non'.

36. • Transfer of leave from one organization to another, on permanent absorption is not permissible.

While I was working in a Central Autonomous Body of GOI, I applied for appointment in the Central Govt. Department on deputation basis through proper channel. When I got permanent absorption in Central Govt. department, I submitted my technical resignation to the parent department. In terms of Appendix-12 of "Swamy's Pension Compilation", I have opted for counting of previous service for pensionary benefits by the present department as my parent department has a pension scheme inline Central Govt. pattern. Although my parent department has agreed to transfer my past service for pensionary benefits, they have pointed out to encash the EL at credit as per Rule 39-D of Leave Rules, since the EL at credit in the parent department could not be carried forward to the new department.

Kindly enlighten me whether I can get encashment for 300 days of EL from the parent department and another encashment of EL for 300 days at the time of superannuation.

Transfer of leave fro one organization to another, on permanent absorption is not permissible. However, encashment of EL of 300 days at credit on acceptance of your resignation is allowed. In such an event, you will NOT be eligible for encashment of leave at the time of retiring from the Central Govt. Department.

37. • Treatment of EL at credit on appointment from one Deptt to another after tendering technical resignation

While I was serving in GREF-under Border Road Organization, I applied for appointment in NEERI (under CSIR-an autonomous body fully financed by Govt. of India)

through proper channel. When I got appointed in NEERI, I submitted by technical resignation to the parent department and joined my new assignment. In terms of Appendix-12 in Swamy's Pension Compilation, I have opted for counting of previous service for pensionary benefits by the present department. Accordingly, my GPF, CGEGIS accounts have been transferred. But regarding 90 days EL available in the previous department, our office has some doubts.

Whether I am eligible to encash the balance 90 days EL or it should be carry forward. If I get encashment for 90 days EL, can I get another encashment of EL for 300 days at the time of my Superannuation? Kindly clarify.

You are entitled to encashment of EL for 90 days at the time of your transfer to NEERI. However, this 90 days will be included in the maximum amount of EL that can be encashed at the time of your superannuation vide order, dated 31-1-1986 (Order No.(1) of Appendix-11 of Swamy's Compilation of Pension Rules.

38. • Fraction of a day should be rounded off when crediting the EL

Under Rule 27 (4) of CCS(Leave) Rules, 1972, there is a provision for affording credit of EL fraction of a day shall be rounded off to the nearest day. A doubt has arisen as to 2½ days EL to be rounded off to 3 days or 2 days as because both the 3 and 2 is the nearest day of 2½. Kindly enlighten.

Vide Rule 27 (4) of CCS(Leave) Rules, 1972 is "Swamy's Compilation of FR & SR-Part.III-Leave Rules", the fraction should be rounded off when crediting the leave. Hence 2½ days will be treated as 3 days.

39. • One who joins on the afternoon of the first day of a month is not entitled to EL for that month

Please clarify whether a Govt. servant who joined duties on the afternoon of 1-4-1993 is entitled to EL at the rate of 2½ days per month for the month of April?

When a Govt. servant joins duty on the afternoon of a day, his salary and service counts only from the next day. Hence, in the instant case it is 1-4-1993 AN and for that matter April, 1993 will not be taken into account for calculating EL.

40. • Official has to join duty at the beginning of working hours of the office on expiry of Earned Leave.

Please advise rule position if `A' has gone on LTC for 10 days EL with two days suffix being Saturday/Sunday. On coming back from Kolkata to Delhi, if `A' joins his duty at 11.40 am next day, it is permissible or not, because officer is asking half-a-day leave while `A' had joined duties after availing sanctioned leave on next working day.

The action of your office in calling for the leave application is correct, as the official has to join duty at the beginning of working hours of the office. Half-a-day CL cannot be combined with EL. In the instant case, the official has to apply for three more days of EL i.e. Saturday, Sunday and Monday.

41. • Leave once sanctioned/regularized by the competent authority, cannot be questioned/reviewed by any other authority

Myself was overstayed w.e.f. 12-5-04 to 12-8-04 for 93 days and my Head of Office regularized above period as HPL (with no leave salary). I submitted an application to my Head of Office to re-consider my case with reasons I overstayed. On my application my Head of Office reviewed his orders and regularized whole period as HPL, canceling previous orders of HPL (with no leave salary).

Now, the authority had cancelled the orders of my Head of Office with the remarks that he is not competent to review his own orders. I was directed to submit my representation to next Appellate Authority.

After that, myself submitted an application to next Appellate Authority quoting references of Swamy's Disciplinary Proceedings, Edition-1997 at Page No. 110-Para (3) wherein it has been suggested that Punishment/Penalty which is imposed under CCS(CCA) Rules, 1965, the disciplinary authority cannot cancel its own orders. But in my case, my next Appellate Authority did not consider the above aspect, as I am not dealt/imposed penalty under CCS(CCA) Rules, 1965 and no disciplinary proceedings or

enquiry was conducted against me.

Now Sir, Kindly clarify whether directions to submit my application to the next Appellate Authority is in order or otherwise.

If the competent authority regularizes the overstayal by grant of HPL with salary, it cannot be questioned by any other authority.

42. • Conversion of leave is at the sole discretion of leave sanctioning authority

Our office communicated that CL cannot be converted/commuted into any kind of leave, i.e. EL or HPL. Kindly clarify.

CL can be commuted into leave admissible and due at the sole discretion of the sanctioning authority.

43. • Study leave can be availed in different spells and can be combined with other kinds of leave.

I am working as a Research Assistant in Coffee Board and I am planning to proceed on study leave for doing Ph.D. I am pregnant and the expected date of delivery is in May/June, 1996. Kindly enlighten whether I can avail Maternity Leave for 3 months while under study leave and if so whether the study leave can be extended by 3 months.

Study leave can be availed by a Govt. servant in more than one spell also subject to the condition that such study leave availed of in different spells does not exceed 24 months. As such you may avail study leave in more than one spell in which case you can avail maternity leave also. The total duration of leave (study leave, maternity leave and any other kind of leave taken together) should not exceed 36 months. But there is no provision to sandwich ML by two spells of study leave as one continuous spell of leave.

[ Rule 51]

44. • Overstayal of leave to be regulated as per CCS(Leave) Rules, 1972

Mr. `X' was sanctioned 15 days EL from 1-10-1999 and on expiry of leave, he remained absent unauthorizedly up to 1-11-1999. On the preliminary enquiry conducted to examine

the genuineness of the overstayal, he was found guilty and awarded minor penalty. Now, a doubt has arisen whether the period of overstayal is to be debited against his HPL, to the extent of such leave is due, and the period in excess of such leave due being is to be treated as Extraordinary Leave. If so, will it not amount to "double jeopardy"?

Debiting the period of "Overstayal of leave" in HPL account and not paying any leave salary for that period is the requirement under the CCS(Leave) Rules, 1972 and not a punishment.

Instituting of "Disciplinary Proceedings" for overstayal of leave and imposing punishment under CCS(CCA)Rules is an administrative action. This will not amount to "double jeopardy".

[ Rule 25]

45. • **Regularization of period of overstayal of leave**

Few of the CISF Personnel who have been granted EL have overstayed the leave without prior permission. The competent authority has regularized their overstayal of leave period by granting HPL and their period of HPL has been debited against their HPL account and they have not been paid any half pay salary. While granting annual increments, their increments have been granted from the 1<sup>st</sup> of the month and monetary benefits have been extended up to period of HPL regularized. Kindly clarify whether the period of HPL regularized without any salary will count as qualifying service for all purpose or otherwise.

The Competent Authority may grant any kind of leave to cover the period of overstayal, in which case the official will be eligible for the leave salary for that period and that period will be treated as if he is on leave.

On the other hand, if the competent authority does not grant leave to cover the overstayal period, that period will be debited in the official's leave account as HPL but no leave salary is admissible. That period will be treated as 'dies non' for leave, increment and pension.

[ Rule 25 and GID (1)]

46. • **Leave encashment on the death of a Govt.Servant.**

Under sub-rule 2(b) of Rule 27 of CCS(Leave)Rules, 1972, when a Govt. servant dies while in service, credit of EL shall be allowed up to the end of the calendar month

proceeding the calendar month in which he dies. However, Rule 39-A ibid provides that in the event of the death of a Govt. servant while in service, cash equivalent of the leave salary that the deceased employee would have got had he gone on EL that would have been due and admissible to him on the date following the death, not exceeding 240 days shall be paid to his family in the manner specified in Rule 39-C.

Kindly clarify whether encashment of leave salary can be paid to the eligible family member of a Govt. servant, who died while in service on the last day of a month, for EL that he would have been eligible had he gone on leave from the following day but for death.

An example to illustrate this doubt is given below:-

EL up to 30-6-1998	: 165 days
EL up to 1-7-1998	: 180 days
(including the credit given in July,1998)	
Date of death	: 31-12-1998

In case sub-rule 2(b) of Rule 27 applies, the number of days of EL that can be encashed is only 178 days (165 days + 13 days from July to November, 1998. 5 months x 2.5 = 12.5 rounded off to 13 days) whereas Rule 39-A provides encashment of 180 days.

Rule 27 of CCS(Leave) Rules speak about the procedure of calculation of EL and according to sub-rule 2(b), the credit of EL in the case cited by you will be only 178 days. Rule 39-A exclusively deals with cash equivalent of leave salary in case of death in service. This rule clearly states that the cash equivalent of leave salary in case of death in service. This rule clearly states that the cash equivalent in case of deceased employee would be what he would have got on the date following the date of death had he not died and it can be only for the leave at credit which in turn is governed by Rule 27(2). Hence the cash equivalent will be for 178 days as on 1-1-1999.

47. • No bar to pay Leave Salary advance for the month of March

One officer of our division was sanctioned EL w.e.f. 15-3- to 15-4-. The official requested that he may be sanctioned leave salary for the month of March before 31<sup>st</sup> March.

As a Junior Accounts Officer of the Division, I advised my Executive Engineer that March salary cannot be paid in advance (i.e.) in March, since the official would draw 13 months salary in the financial year. I would request you to kindly clarify the rule position in the above case.

Advance of leave salary may be allowed to a Govt. servant who proceeds on leave for a period of more than 30 days and the advance is to be limited to a month's pay and allowances admissible, subject to deductions of account of Income Tax, Provident Fund, House Rent recovery, recovery of advances, etc., irrespective of the months which cover the period of leave.

The amount of leave salary does not relate to salary of any specific month but is to be adjusted from the leave salary bill of the concerned official. Hence the stand taken by you is not in order.

[ Rule 42]

48. • **Date of retirement on medical grounds**

In the Food Corporation of India, a Category-III/IV employee, seeking voluntary retirement from the service on medical ground, is required to produce a medical certificate issued by a Civil Surgeon. However, the competent authority can seek medical opinion by referring the case to the Medical Board before allowing the voluntary retirement, which is time-consuming process - say 2-3 month's time. In such cases, a doubt has arisen as to what should be the date of effect of voluntary retirement; whether the date of issue of invalidation certificate by the Civil Surgeon/Medical Board? Further, if the retirement is to be given effect to from the date of issue of certificate by the Medical Board, how should the period between the two certificates be treated? Kindly clarify.

The case of the type mentioned in your letter has to be dealt with in accordance with Rule 20 of CCS (Leave) Rules, 1972. If the employee is on duty, he will be invalidated from service from the date of relief to be arranged immediately on receipt of the report from the Medical Board; if he is already on leave, he will be invalidated from service on the expiry of that leave.

[ Rule 20 of CCS(Leave) Rules]

49. • **Leave encashment not admissible on dismissal**

A Govt. servant whose date of appointment is 14-10-

1980 was dismissed from service on 30-9-1994 AN by conducting a departmental enquiry. As on date of his dismissal from service, he was having 73 days EL and 97 days HPL credit in his leave account.

Kindly clarify whether the Govt. servant is eligible for any leave (EL & HPL) encashment at the time of his dismissal.

Any claim to leave at the credit of an employee ceases from the date of his dismissal. Hence, the dismissed employee is not entitled to any encashment of leave.

[ Rule 9 ]

50. • Withholding of pay for the period of absence

I am the Principal of Jawahar Navodaya Vidhyalaya, Warangal (Medak District, AP) and I went on duty to JNV Warangal on 13-10-1995, where I fell sick. Later I was shifted from the local hospital to Hyderabad on 22-10-1995 and I was subjected to heart by-pass surgery in 31-10-1995. I had sent my leave letter to the sanctioning authority, viz, Deputy Director of Navodaya Vidhyalaya Samithi at Hyderabad in the last week of October, 1995, directly without routing through the Principal/In-charge of my Vidyalaya.

But I was paid salary only for 13 days in October on the plea that my leave letter was not available in the school though the leave application was submitted to the sanctioning authority. I had 50 days EL and 90 days HPL at credit on 14-10-1995.

Kindly clarify whether the action of the Principal In-charge is correct in paying salary only for 13 days while I had sufficient leave at credit and had been hospitalized for heart disease.

If you have not submitted your leave application in time, it is only unauthorized absence and the Head of Office has the right to treat the period as such and he can withhold the pay and allowances for the period of absence till it is regularized.

[ Rule 25(1) ]

51. • Drawal of increment falling due during holidays prefixed to EL

In the case of an official, the annual increment

fell due on 1-12-1994 which was declared as a holiday on account of Assembly Election. He availed one day EL on 2-12-1994 and rejoined duty on 3-12-1994. Kindly clarify whether the increment should be drawn from 1-12-1994 or from 3-12-1994.

In the instant case 1-12-1994 has to be treated as a holiday prefixed to EL on 2-12-1994, and the increased pay consequent on the accrual of increment has to be drawn from 1-12-1994 and Leave Salary for 2-12-1994 regulated accordingly.

[ Rule 22-CCS(Leave)Rules]

52. • *Drawal of increment during Holidays suffixed to EL*

My date of increment was 1-2- I was on EL from 29-1- to 22-2-, I joined duty on 26-2- since 23 to 25<sup>th</sup> were closed holidays. In my opinion I should get increment from 23-2- as per Rule 22(3)(b) of CCS(Leave)Rules, 1972; whereas my DDO has drawn my increment from 26-2-. Instead of from 23-2-, Kindly clarify the correct position.

Your contention that the increment is to be given from 23-2, is correct. The clarification contained in O.M., dated 24-8-1974, that increment cannot be drawn during leave is for the reason that duty pay is not drawn during the period. Since duty pay is to be drawn from 23-2-1999, increment.

53. • *Increment falling during Casual Leave, to be drawn*

An employee's increment falls due on the 1st of October. On the plea that he was on CL for 3 days from 1<sup>st</sup> to 3<sup>rd</sup> October, increment is allowed only from 4<sup>th</sup> October. Can Casual Leave be equated with other leave and increment postponed on the ground of absence?

CL is not treated as a kind of regular leave. During the period of CL a Govt. servant draws only duty pay and not leave salary. In the instant case, the increased pay consequent on accrual of increment during CL is admissible for 1<sup>st</sup> October and not from 4<sup>th</sup> October.

[ Appx.III CCS(Leave) Rules, 1972]

54. • *Suffixing holidays to regular leave*

I joined the Defence Accounts department, Madras, as a Clerk on Inter-Departmental Transfer basis on 27-6-Monday, forenoon after technical resignation from the post

of LDC in AFHQ Clerical Services, New Delhi. I was relieved from AFHQ, New Delhi on 22-6- afternoon and joined the Defence Accounts Department at Madras on 27-6- forenoon. I applied for EL for 2 days on 23<sup>rd</sup> and 24<sup>th</sup> June, with permission to suffix holidays on 25<sup>th</sup> and 26<sup>th</sup> June (Saturday and Sunday). The Department treated the entire period from 23<sup>rd</sup> to 26<sup>th</sup> June, as EL denying the suffixing of holidays on 25<sup>th</sup> and 26<sup>th</sup>. Kindly elucidate whether I am eligible or not to have the holidays on 25<sup>th</sup> and 26<sup>th</sup> June, suffixed to leave.

The holidays on 25-6- and 26-6- can be allowed to be suffixed to EL granted from 23-6-. The action of the competent authority in denying the benefit of suffixing holidays to the EL is not in order.

[Rule 22]

55. • **Denial of prefixing/suffixing of holidays for DDOs**

There are 48 Regional Directors of the Regional Workers Education Centres of Central Board for Workers Education functioning as DDOs.

Whenever they proceed on 5 days EL from Monday to Friday prefixing/suffixing Saturdays/Sundays they are being denied this facility and are asked to apply for leave for those holidays also, as prefixing/suffixing holidays may not be allowed in cases where handing over or taking over of securities or moneys other than a permanent advance is involved. Kindly clarify about the correct interpretation of this provision.

The intention of Rule 22 of CCS(Leave)Rules is as follows:-

(1) The prefixing/suffixing of holiday(s) to leave is automatic (unless for administrative reasons, permission to prefix/suffix holidays to leave is specially withheld) in the cases of employees who are not required to hand over charge of cash/stores, etc., to the relieving employee.

(2) The competent authority may permit prefixing/suffixing of holiday(s) to leave in case of employees who have to hand over cash/stores to the relieving employee, if the relieving employee is also from the same office/station.

In the case of DDOs proceeding on leave, if the relieving officer could be found in the same office/station and it does not involve taking over charge on promotion, there can be no objection for the competent authority to

permit prefixing/suffixing holiday(s) to leave. The rule is meant for liberal interpretation wherever possible/permissible and not for harassment.

[Rule 22]

56. • **Prefixing and Suffixing of Sunday/holidays not permissible while availing leave in continuation of Joining Time**

An official was relieved on 19-8-2000 (Saturday) AN, to join the new post. He was granted 22 days leave in conjunction with joining time from 22-8-2000 to 12-9-2000 with permission to prefix Sunday and RH on 20-8-2000 and 21-8-2000 respectively. After availing 12 days joining time from 13-9-2000, he has reported for duty on 25-9-2000 (FN). Kindly clarify whether prefixing of Sunday and RH allowed as above is in order.

The JT shall commence from the date of relinquishment of charge of the old post if the charge is made over in the forenoon or the following date if the charge is made over in the afternoon.

In the instant case, the JT commences on 20-8-2000 and holidays on 20<sup>th</sup> and 21<sup>st</sup> will form a part of the JT. Leave will commence from the day following the day of termination of JT.

In view of the above, the holidays cannot be prefixed.

[ Rule 5(1) of CCS(JT) Rules]

57. • **Holidays cannot be sandwiched between leave and Joining Time**

An employee was relieved from the old post to join new post on 31-3-2001 (AN). He was granted 15 days leave in conjunction with his JT. Accordingly, he availed 12 days JT from 1-4-2001 to 12-4-2001 and 15 days EL from 16-4-2001 to 30-4-2001 with permission to prefix on 13-4-2001 to 15-4-2001 being holidays.

Kindly clarify whether prefix can be availed on termination of JT.

There is no provision to sandwich the holidays between JT and regular leave.

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## **( 4 ) MEDICAL FACILITIES**

1.
  - Dependency condition not applicable to spouse for reimbursement of medical expenses under CGHS.

I am an employee of DAD and beneficiary of CGHS. In my Service Book, I has shown my husband as not employed, as he was not employed at that time. Later on, he started a small shop of Auto spares which is not running well presently. During the month of November, 2001, my husband suffered first heart attack and the medical claims for reimbursement submitted by me were reimbursed by the Department. After that in January, 2002, he suffered another heart attack and I submitted the medical claim which was not forwarded by the Officer-in-Charge stating that I am not entitled for the claim since my husband is an income tax payee. After the second heart attack, the CGHS doctor referred my husband to Bombay Hospital, Mumbai where he was conducted angiography and by-pass surgery of heart. On my return from Mumbai, I was again told by my Officer-in-Charge that no claim for medical reimbursement for my husband will be accepted. Kindly clarify.

As per the definition of family for CGHS, the condition of dependency does not apply to husband/wife. Hence, you are entitled to reimbursement of medical expenses incurred in respect of your husband vide G.I.,M.H.,O.M. No. S-11012/1/98-CGHS(P), dated 14-3-2001 (Sl.No.133 of Swamy's Annual, 2001).

2.
  - Sisters cannot be treated as dependant, if mother is not dependent on Govt. Servant

I was appointed on compassionate grounds consequent on the demise of my father. My mother is receiving a family pension of Rs 1,650 per month plus Dearness Relief. I am having two unmarried sisters and they do not earn. My Controlling Officer states that my sisters are dependent on my mother and I am not entitled to claim any medical reimbursement for them. Kindly enlighten me.

Your sisters cannot be treated as wholly dependent on you, if your mother is not dependent on you.

3.
  - When both husband and wife are Govt. Servants both can claim reimbursement of medical expenses for their respective parents

As per CS(MA) Rules, 1944, in case where both husband and wife are Central Government servants, they, as

well as eligible dependents, may be allowed to avail of the medical concessions according to his/her status. For this purpose, they should furnish a joint declaration to their respective authorities as to who will prefer the claim for reimbursement of medical expenses in respect of wife/husband and children. After marriage, a female Govt. servant will be given the choice to include either her parents, or her parents-in-law for the purpose of availing medical benefits under CS(MA)Rules, 1944. Here the case is, both the husband and wife are employees of our organization and claiming the medical concession under the above rules. They have furnished joint declaration according to which husband has preferred to claim the concession for himself, wife, children and his parents and wife has preferred to claim for her parents.

Since both the employees belong to our organization and staying at the same station, a doubt has arisen whether the female employee claim medical reimbursement for her parents and her other dependent family members. Kindly clarify.

When both husband and wife are Govt. employees, both of them can claim medical reimbursement for their respective parents subject to the condition that the income from all sources of such parents should be less than Rs 1,500 and they should reside with the concerned Govt. servant or with the rest of the family members.

In the case referred to by you, if the above conditions are fulfilled, they are entitled to prefer medical claims for their parents.

4. • Dependent married son is entitled to medical facilities

As per Circular No.4-24/96-C&P/CGHS (P), dated 17-9-1999 of dept. of Health, a dependent son irrespective of his age is entitled to CGHS medical facilities. There is no mention of his marital status. The Additional Director, CGHS, Jaipur is refusing to include the name of a married dependent son in the CGHS card of a pensioner on the plea that the son is married. Kindly clarify.

While defining dependency for son/daughter vide G.I., Ministry of Health and Family Welfare O.M., dated 31-12-1992 - Order (a) below Note-2 of the Definition of Family under Chapter 4 of "Swamy's Compilation of Medical Attendance Rules", the clause 'married' has been included

to the conditions only in the respect of daughter and NOT in respect of son. Hence, the stand taken by the Additional Director, CGHS, Jaipur is not correct.

5. • A Govt. Servant cannot claim medical reimbursement for his father who is in receipt of fixed medical allowance;

A pensioner is drawing less than Rs 1,500 per month. He is residing outside CGHS area and therefore granted Rs 100 per month towards medical allowance. He is residing with his son who is a Govt. employee. The son is claiming medical reimbursement for OPD treatment of his father on the plea that his father's income is less than Rs 1,500 per month and therefore dependent upon him.

Will you please clarify whether his son can claim medical reimbursement?

When the father, a pensioner is drawing fixed medical allowance of Rs 100 per month, his son is not entitled to claim medical reimbursement for the OPD treatment of his father.

6. • When the father of a Govt. servant is not dependent, mother cannot be considered as dependent;

The out-of-turn allotment committee of NCERT under Rule 19 recommended the allotment of Type IV flat on the basis of illness of the mother of married daughter (the Govt. servant) and instructed her to produce the evidence of dependency of her mother. The name of the officer's mother was neither in the CGHS card on the date of meeting nor in the service book of the officer. However, in recent renewal of CGHS card, the name of the mother was included and allotment is being made to her. The father of the officer to whom flat is being allotted is alive and drawing very handsome pension after retirement. Kindly clarify the following points:-

- (i) Whether mother can be dependent on married daughter even though her father is alive and drawing handsome pension?
- (ii) Is the evidence created after the date of meeting of out-of-turn allotment committee is valid to allot the accommodation?

Inclusion of mother as the dependent of married female Govt. servant in the CGHS card is not correct, when

the father of the female Govt. servant is not depending on her and has his earnings more than the income limit prescribed under the Rules. Though out-of-turn allotment on medical grounds of parents is allowed as per rules, such parents should necessarily be dependent on the Govt. servant. In the instant case, mother cannot be considered as dependent when the father is not dependent on the Govt. servant.

7. • **Medical facilities if spouse employed in other organization at the same/different station**

Please clarify whether the spouse employed in a National Bank can avail the medical facility for himself /herself alone from the Bank while the spouse employed in Government department can avail facilities under CS(MA)Rules for self and other family members.

In such cases medical facilities can be availed either under CS(MA) Rules or from the organization where the other spouse is employed, for all the family members. In the case, cited the spouse employed in the Bank cannot avail the facility for himself/herself alone while the other members avail facilities under CS(MA) Rules. The entire family can avail the facilities from only one source as a unit and for this purpose a joint declaration should be given by the couple to their respective departments.

However, if the spouse employed in other organization is stationed at different station he/she can avail the facilities from the organization for self only, while the spouse and the family members living with him/her can avail facilities under CS(MA) Rules, provided he/she is not in receipt of fixed monthly medical allowance.

[Explanation (b)&(d) below Para-I(i)in Section 4]

8. • **Pensioner in receipt of fixed medical allowance cannot be a member of family of an employees for the purpose of medical facilities**

A Postal Assistant of this Division has applied for reimbursement of medical expenses incurred for O.P.treatment of her husband who is a Central Govt. pensioner and receiving the fixed medical allowance of Rs 100 per month along with his pension. Kindly clarify whether the official can avail medical reimbursement facility for her husband.

We are of the opinion that the Govt. servant is not entitled to reimbursement of medical expenses for her husband who is claiming Rs 100 per month as fixed medical allowance.

[GID(1)in Section 4]

9. • **Spouse in receipt of fixed Medical Allowance is not entitled for reimbursement of medical expenses as a member of Govt. Servant.**

One of the staff has preferred a medical claim towards the medical expenses incurred for her husband for coronary Angiogram followed by CABG surgery at a private hospital recognized under CGHS, Chennai. Her husband is a retired person and availing family pension benefits. While scrutinizing the claim, the following doubts have been arised:-

1. Whether a Central Govt. staff is eligible to reimburse medical expenses for his/her spouse who has been retired from the Govt. service and obtaining family pension exceeding Rs 1,500 per month with a fixed medical allowance per month.
2. Whether a Central Govt. staff is eligible to reimburse medical expenses of his/her parents who has been retired from service and obtaining family pension exceeding Rs 1,500 per month with medical allowance/without medical allowance.

Kindly Clarify the eligibility.

In the case of spouse of an employee, the question of `dependency' on the Govt. servant does not arise and the spouse will be eligible for reimbursement irrespective of his monthly income. In the instant case, as the spouse is said to be getting medical allowance of Rs 100 per month, he is not eligible for reimbursement vide Para 1(f) in Section 4 of "Swamy's Compilation of Medical Attendance Rules".

In the case of parent(s), the reimbursement is not admissible, if the parents monthly income from all sources (including pension, etc) is Rs 1,500 and above.

10. • Members of family residing away from the place of posting of the Govt. Servant are entitled to avail medical facilities under CS(MA)Rules.

A Govt. servant was transferred from one station to another on his own request. His wholly dependent family members are residing in his own house at the old station. He could not shift his family to the new place of posting. His family members are taking treatment at old station. Kindly clarify whether he can avail the facility of medical reimbursement in respect of his family members.

The concerned Govt. servant can avail the facility in respect of the family members who are residing away from the place of duty. However, the dependent parents should reside either with the Govt. servant or with the other members of family to avail the facility. You may please refer to Para 2 (c) under Section 4 of "Swamy's Compilation of Medical Attendance Rules" (C-7).

11. • Restriction of two children is not applicable for claiming medical reimbursement

As per existing rules, reimbursement of tuition fee, children's Educational Assistance, LTC, etc., are admissible for two dependent children only. In this connection, a doubt has arisen whether an employee is entitled to reimbursement of the medical expenditure incurred for his wife during the pregnancy of third child and also admissibility of Paternity Leave in such cases.

There is no ban under the CS(MA) Rules, 1944 or CGHS Rules for reimbursement of medical expenses incurred during the pregnancy of third child. However, Paternity Leave is not admissible if the employee has more than two surviving children vide OM, dated 16-7-1999 (now Rule 38-A of CCS (Leave) Rules, 1972).

[ GID(1) in Section 4 ]

12. • Spouse can claim the medical expenses incurred prior to the death of the deceased employee.

The wife of deceased Central Govt. employee has submitted the claims in Form Med-97 in respect of the said employee and his dependents for the period before his death.

We are in the opinion that she is not a Govt. servant and she cannot claim in for Med-97. There is no

clear rule in Medical Attendance Rules on the above issue. You are, therefore, requested to intimate the admissibility of the said claims with authority /rule if any.

Pay and allowances of all kinds claimed on behalf of a deceased Govt. servant may be paid without the production of usual legal authority under the order of Head of Office in which the Govt. servant was employed at the time of his death, provided the Head of Office is otherwise satisfied about the right of the claimant. On receipt of the claim for payment of arrears of pay and allowances of all kinds (including traveling allowances claims) on behalf of a deceased Govt. servant from his heir(s), the Head of Office in which the Govt. servant was last employed should draw the amount in the appropriate bill. On the same lines medical claim also may be paid to the legal heir(s) of the deceased Govt. servant.

[ Rule 95 of CGA Receipts and Payment Rules]

13. • Admissibility of medical facilities to the parent residing with family members away from headquarters

I was working at Doordarshan, High Power Transmitted, Bhawanipatna(Orissa) and staying without family. My family is consisting of my wife, one daughter and aged widowed mother who is a Neurosurgical patient and bed-ridden since June, 1993 are residing at Bhubaneswar. One family member is almost required to her bed-side. On the other hand, there is no Neurosurgical facility available at my working place, as a result I am unable to bring my family to Bhawanipatna. In this sequence, a question arises whether reimbursement of medical expenses can be admissible if treatment being given through hospital/AMA declared for Central Govt. Employees at Bhubaneswar or near vicinity in respect of my family members.

Medical facilities are available to the parents of a Govt. servant even when they reside with the rest of his family members at a place other than his duty station for whatever reason. In such cases, the conditions regarding residence of the parents with the Govt. servant is waived.

Hence you are entitled to avail the medical facilities at Bhubaneswar for your mother who is residing with your family members away from your headquarters.

[ Para (2), in Part-I of Section 4, G.I.,M.H.,O.M.,dated 10-9-1976]

14. • Admissibility of TA for medical treatment.

The headquarters of one of our employees is Bhopal. His family lives at Hoshangabad which is 74 km away. His daughter had to be brought to Bhopal for treatment. When the official submitted his TA claim for the journey performed by his daughter, the same was rejected. The rejection was based on the provision contained in Para 10 of Section VI of the CS(MA) Rules, 1977, published by the Govt., which says-

"The journey should be deemed to have commenced from the place from which the patient actually travels to the place of the treatment and the return journey to have ended at the place to which the patient actually travels or at the headquarters of the Govt. servant concerned, whichever is nearer".

But in your compilations the words "or at the headquarters of the Govt. servant concerned" have been omitted. Please correct your compilation now.

The provision contained in Para 10 *ibid* was subsequently amended by OM, dated 17-1-1966, by deleting the words "or at the headquarters of the Govt. servant concerned", and inserting the words, "at the place from which the patient proceeded for obtaining treatment". This correction was not obviously carried out in the Govt. compilation brought out in 1977. But in all our compilations right from 1971 this para as amended in 1966 is being published.

Hence in the case cited by you traveling allowance is admissible for the journey from Hoshangabad to Bhopal and from Bhopal to Hoshanganbad.

15. • Air travel for medical treatment, admissible to all irrespective of pay scales.

We would like to have your opinion regarding the entitlement of the officers for air travel for the purpose of medical treatment on the points mentioned below:-

- (1) If the officer is entitled to travel by air on tour, whether he is also entitled for air travel for medical treatment or not.
- (2) Kindly advise whether the special provision for the refund of air fare paid in the individual cases, if the Govt. is satisfied that air travel was

absolutely essential otherwise the life of the patient would have been in danger, is applicable for only those employees, who are not eligible for air travel on Govt. tour or for all sections of the employees.

TA by air for medical treatment is totally different from TA entitlement on tour/transfer. TA by air for medical attendance is admissible to all the Govt. servants irrespective of their pay, etc., if conditions mentioned in (2) of your query is satisfied. There is no question of TA for journey by air if the condition is not fulfilled.

[ Para (1) in Part-1 of Appendix-II]

16. • Entitlement of TA both ways for attendant to stay with patient.

As per the instructions of the Medical Superintendent, RAPS Hospital, I traveled with an attendant from Rawat Bhata to BARC Hospital, Bombay, and my attendant was also going along with me. When I got recovered there was no necessity for him to continue with me and he came back. After two days I was discharged and returned to Rawat Bhata.

When the TA claim for my attendant for both ways was submitted, the Accounts section has not paid the claim for return journey, since he has not accompanied me from Bombay to Rawat Bhata. Kindly advise me whether it is correct.

An attendant/escort will be entitled to TA both ways for accompanying the patient to the place of treatment. This implies that TA is admissible for his return journey after leaving the patient at the place of treatment. It is not necessary for him to stay with the patient at the place of treatment.

Similar TA has been provided to the escort to accompany the patient on his return. The second TA is also both ways. Both are independent. The only requirement is that the Medical Authorities should certify to the necessity of the escort.

[ Para 6 Appendix-VIII of CS(MA) Rules]

17. • Attendant/escort of a patient need not necessarily be a member of the family.

I am an Officer in a Govt. Undertaking at Hyderabad which follows Central Govt. Medical Attendance Rules. I had submitted a claim for TA for an attendant on the strength of certificate from AMA as required. But my employer has not agreed to admit the claim on the ground that the attendant should be a member of my family and TA is not admissible otherwise. I request you to please clarify, as I feel that the attendant need not be a member of my family.

The stand taken by your employer is not correct. CS(MA)Rules says that "An attendant/escort will be entitled to TA at the rates admissible to a member of family". From this it is clear that the attendant/escort need not necessarily be a member of family and he will get TA as admissible to a member of family.

[ Para 8 of Appendix-VI of CS(MA) Rules]

18. • Reimbursement of expenses on emergency treatment in Private Hospital.

My wife had to be rushed to the nearest Dr Bhargav Vyas Hospital, Kalanala, Bhavnagar, for the emergency treatment and indoor patient. She was admitted in the hospital on the same day immediately for major operation for caesarean and discharged. My claim for reimbursement of Rs 5,711 incurred for this treatment has been rejected by our Accounts Officer on the ground that the treatment was taken in a private hospital run by an individual and not a hospital run by a trust/group of persons/social institute. However, it is seen from the Min. of Health and Family Welfare O.M.No. S.14025/46/92-MS, dated 4-2-1993, that the orders are applicable to all private medical institutions without making any distinction between a private hospital and a private nursing home/clinic.

Kindly clarify the position to get the reimbursement of the said bills.

In terms of OM, dated 4-2-1993, the reimbursement of the medical expenses incurred on emergency treatment at private medical institutions may be allowed by the HODs under the delegated powers, without making any distinction between a private hospital and a private nursing

home/clinic. No distinction has also been made between the institutions run by a body and an individual. The definition for "Private medical institutions" given by your Accounts Officer (cash) does not hold good after issue of OM, ibid.

Therefore, the claim preferred by you can be admitted for reimbursement subject to other conditions.

[Para (1) in Appendix-VIII]

19. • **Pensioner hospitalized with prior permission of HOD -reimbursable is admissible**

When the fixed medical allowance of Rs 100 is received by the pensioner, the spouse-a Govt. servant -is entitled to reimbursement for OPD treatment in respect of the pensioner.

However, if the concerned pensioner was hospitalized with prior permission of the HOO/HOD as per G.I., Ministry of Health and Family Welfare O.M.No.S. 14025/7/2000-MS, dated the 28-3-2000 (GID (6) below Rule 6 -Page No.45 in Swamy's Compilation of Medical Attendance Rules (C-7)"-2003 Edition), reimbursement is admissible.

20. • **Official under suspension is eligible for all medical facilities.**

An employee is under suspension for more than one year at a Govt. office in Dehra Dun. The Govt. District Hospital has directed him to go to either Lucknow/Delhi for Angiography and Trade Mill Test. Now my queries are:-

- (1) Whether he is entitled for all the Medical expenditures involved in this process; and
- (2) Is he entitled for TA claim for his journey either to Lucknow/Delhi along with his attendant/Assistant.

I would be grateful to you if could send your reply.

The official under suspension is covered by CS(MA) Rules and he is eligible for all the facilities as if he had not been suspended.

[Note 2 below Rule 2]

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**( 5 ) DISCIPLINE**

1.
  - **Date of effect of punishment when the official goes on earned leave.**

An official in the Postal Department drawing a basic pay of Rs 4,600 from 1-5- was awarded with reduction of pay of 5 stages from Rs 4,600 to Rs 4,100 w.e.f. 1-6- for one year.

But the official was on EL for 2 months from 1-6- and resumed duty on 1-8-.

Kindly clarify whether the punishment has to be effected from the actual date, i.e. 1-6- or from the date of resumption of duty i.e. 1-8-.

As rules operate under normal conditions only. When competent authorities exercise the powers conferred on them under statutory rules, any order passed under such powers shall override the provisions available under normal rules.

A decision taken by a disciplinary authority is a judicial decision and once it is arrived at, it is final vide GII (i) below Rule 17 of Swamy's Compilation of CCS(CCA) Rules. Hence once an order is passed by the disciplinary authority, it takes effect from the date specified therein and it shall remain operative during the entire period unless it is altered on appeal or revision by the competent authority.

It is, therefore, imperative that the punishment of reduction to lower stage in the time-scale should be given effect to from the date from which it is ordered, whether the Govt. servant is on duty or on leave. The normal rule that the last pay drawn shall be the leave salary shall give way to the judicial order to become operative.

If on the other hand it is argued that a punishment cannot be effected in this case, a peculiar situation will arise if an official who is not under suspension but who is to be removed from service as a disciplinary measure, goes on medical leave continuously, the punishment order cannot be implemented at all.

2. • *Inquiry to be continued and concluded by the same authority even after his retirement, unless the appointment is changed.*

I conducted an departmental Inquiry under Rule 14 of CCS(CCA) Rules, 1965 and completed the Inquiry before my retirement on superannuation. However, I could not write the Inquiry Report before my retirement. Please advise whether I can write the Inquiry Report after my retirement.

Once an Inquiring authority is appointed by the competent authority, such inquiring authority has to discharge his duties as such and complete the proceedings unless its appointment is changed. Hence you have to submit the inquiry report to the disciplinary authority irrespective of the fact whether you are in service or have retired from service.

[ Rule 14 (23) of CCS(CCA) Rules]

3. • *Disciplinary proceedings should be dropped if the concerned employee dies before conclusion of the proceedings.*

A Central Govt. employee was retired on superannuation while he was under suspension due to pending criminal case in the court launched against him. Accordingly, he was sanctioned provisional pension and he was also in receipt of the same. The Court case could not be settled so far and the said pensioner died. The wife of the pensioner intimated to the Head of Office for the release of family pension but it is not being released by the concerned office.

Kindly clarify how the family pension case of the lady is to be settled.

When such a Govt. servant dies before conclusion of disciplinary proceedings, the proceedings should be dropped and cannot be continued either under CCS(CCA) Rules or under CCS(Pension) Rules. The period between the date of suspension and the date of retirement shall be treated as duty for all purposes and all claims settled as in the normal course subject to adjustment of subsistence allowance already paid.

In this case the family is to be paid all the retirement benefits.

[ GID(5) below Rule 15 of CCS(CCA) Rules and FR 54-B(2)]

4. • Imposing punishment of recovery from Pension.

Kindly clarify the following points:

(i) In a disciplinary proceedings, the punishment of recovery from pension was imposed on a pensioner. Can the recovery be effected on pension alone or on dearness relief on pension also?

(ii) A Govt. servant was awarded the penalty of withholding of his next increment for a period of six months. This period falls during the last ten months of his service before retirement on superannuation. Whether this period of six months will count as Qualifying Service for Pension? What 'emoluments' will be taken for the purpose of average emoluments in respect of this period?

(i) The President can impose the penalty of recovery from pension. The term 'Pension' does not include 'dearness relief on pension' vide Rule 3 (a) ibid. As such recovery from pension alone can be effected if such penalty is imposed.

(ii) The period of six months during which the increment was postponed will count as qualifying service for pension. The 'emoluments' actually drawn by the Govt. servant during the said period will be taken into account for the purpose of 'average emoluments'.

(iii) Govt. dues outstanding against a pensioner can be recovered from Dearness Relief on pension.

[ Rule 9 & 55A]

5. • Inquiry is mandatory when a minor penalty imposed has the effect in reducing the pension.

The competent authority had imposed the penalty of "Reduction of pay by one stage in the present scale of pay from the date of issue of order", i.e. 23-12-2000 on Shri 'A' after observing the procedure laid down under 'Minor Penalty'. Shri 'A' retired on superannuation on 31-12-2000 with loss of one stage of pay. Shri 'A' had made an appeal on the ground that as per sub rule No.2 of Minor Penalty, if any penalty imposed under Minor Penalties has an adverse effect on retirement benefit payable to employee, than an

enquiry shall have to be held in the manner laid down under sub-regulation (3) to (23) of Major Penalties. Hence the penalty imposed lacks the sanctity of the procedure and therefore the Appellate Authority was required to set aside the penalty. Since the appeal was rejected, review petition was made to the higher authority which is still not settled.

Please guide in the matter.

As per rule 16(1-A) of "Swamy's Compilation of CCS(CCA) Rules", an enquiry shall be held in the manner laid down in Rule 14 ibid. Shri 'A' may appeal and if no favourable reply is received, he can approach CAT. He is sure to win.

6. • After the Charge-sheeted employee is permitted to seek retirement on invalidation, it is not proper to continue disciplinary proceedings against him.

One of the Group 'C' official is facing charge-sheet under Rule 14 of CCS(CCA) Rules. The inquiry is under process. Meanwhile, he applied for retirement on invalid pension. The Medical Board issued a certificate to the effect that he is unfit for further continuance in Govt. service as he is mentally unfit.

Kindly enlighten whether-

1. the enquiry is to be continued even though he is unfit for further duty.
2. the official's request for retirement under invalid pension is to be accepted.
3. the charge-sheet is to be dropped since he is unfit for further duty in the Department.

When the Department itself refers an employee facing charges under Rule 14 of CCS(CCA) Rules in the Medical Board for invalid pension and the Medical Board also certifies him as mentally unfit, it is not proper to continue the enquiry proceedings against him.

7. • Treatment of punishment period for the purpose of earning increment

An employee was awarded the following punishment:-  
"The pay of 'X' is reduced by one stage, i.e. from Rs 'A' to Rs 'B', for a period of six months from 1-5-2003. He will not earn increment during this period". Accordingly, the pay

was reduced by one stage for a period of six months. The employee is due for annual increment on 1-2-2004.

There are two views regarding the operational part of the said punishment. One view is that, the employee will not earn increment during the period means, the punishment period cannot be counted for annual increment and the employee will become eligible to draw his annual increment only on 1-5-2004, i.e. after completion of six months punishment period and the increment be granted only after completion of one year. The other view is that, the employee will not earn increment during the period of punishment only, i.e. from May, 2003 to November, 2003 and after completion of that period, he is eligible for annual increment.

Kindly clarify.

If the period of punishment has the effect of postponing the future increment, the employee will be entitled to draw his annual increment only on 1-8-2004. If the punishment order does not have such effect, the employee can draw his annual increment on the due date, i.e., on 1-2-2004.

8. • *If the punishment order is silent as to whether the period of reduction will postpone future increments or not, the employee on reinstatement should be allowed the pay which he would have drawn in the normal course but for reduction.*

An officer drawing the pay of Rs 7,700 from 1-1-2004 in the pay scale of Rs 6,500-200-10,500 was awarded the penalty of reduction to the lower rank in the scale of pay of Rs 5,500-175-9,000 until he is found fit after a period of three years from the date of rejoining of the officer, to be restored to the higher post from 10-2-2007. His date of increment is 1-1-2005. The stage at which pay would be allowed in the lower post is not specified in the order. Kindly advise fixation of pay of the officer in the lower rank from 10-2-2004 to 9-2-2007 and in the higher original post from 10-2-2007.

The order of penalty of reduction to a lower grade should specify the following:-

- (i) The date from which it will take effect and the period for which the penalty shall be operative.
- (ii) The stage in the lower time scale in which the pay is to be fixed.
- (iii) Whether the period of punishment will postpone future increments or not.

If the order is silent on (iii) above, on the expiry of the period of reduction, the employee should be allowed the pay which he would have drawn in the normal course but for the reduction.

You may go through FRs 28 and 29 and GIOs thereunder in Swamy's Compilation of FR & SR-Part.I-General Rules.

9. • Penalty of withholding increment can be operative only from the date of accrual of next increment.

(A)

While Mr. 'X' was drawing a basic pay of Rs 2,850 per month with DNI 1-7-2000 in the scale of Rs 2,610-60-2,910-65-3,300-70-4,000, he availed 20 days EOL without medical certificate from 24-1-2000 to 12-2-2000. Then a penalty of withholding one increment for one year from 19-6-2000 to 18-6-2001 without cumulative effect was imposed on him. During the period of penalty, he again availed 47 days EOL without medical certificate from 10-7-2000 to 25-8-2000. As the individual was on leave till 25-8-2000, he was granted increment on 26-8-2000 raising his pay to Rs 2,910 per month which appears to be incorrect. It is felt that his increment falling due on 1-7-2000 should have been granted from 8-9-2000 to be drawn from 1-9-2000. But we are unable to make out whether the penalty of withholding one increment imposed on him and also the period of EOL availed will change the date of normal increment due on 1-7-2000.

Your considered advice in this complicated case is earnestly solicited.

The penalty of withholding one increment for one year can be operative only from the date of accrual of next increment after the date of penalty, i.e., the increment due on 1-7-2000 would be withheld for a period of one year. He is due for increment only on 1-7-2001 and his pay will be raised to Rs 2,975, but the same can be drawn from 1-8-2001 due to EOL for 47 days. (without MC).

(B)

An officer was granted annual increment on 1-3-1999 raising his pay to Rs 6,200 per month in the pay scale of Rs 5,000-150-8,000. He was imposed a penalty of (A) withholding of next increment when due for a period of three years with cumulative effect vide order, dated 19-5-1999 and another penalty of (B) withholding of one increment for a period of one year without cumulative effect was imposed vide order, dated 1-7-2000. The above penalties were operated as under:-

1-3-1999	-	Rs 6,200	-	Increment granted
1-3-2000 to 28-2-2003	-	Rs 6,200	-	Penalty Order (A)
1-3-2003 to 29-2-2004	-	Rs 6,200	-	Penalty Order (B)
1-3-2004	-	Rs 6,500	-	Increment due on 1-3-2003 and 1-3-2004 granted

Kindly confirm whether the operation of the above penalty orders are in order.

The increment in the instant case has to be drawn as follows:-

	Due	To be drawn	
1-3-1999	- Rs 6,200	Rs 6,200	
1-3-2000	- Rs 6,350	Rs 6,200	(I Punishment)
1-3-2001	-	Rs 6,200	
1-3-2002	-	Rs 6,200	
1-3-2003	- Rs 6,350	Rs 6,350	(restoration)
1-3-2004	- Rs 6,500	Rs 6,350	(II Punishment)
1-3-2005	- Rs 6,650	Rs 6,650	

10. • **Drawal of annual increment when an employee is placed under suspension and subsequently revoked after initiating disciplinary proceedings.**

While an officer was drawing a basic pay of Rs 8,550 from 1-7-2002 in the scale of Rs 8,000-275-13,500, he was placed under suspension on 8-8-2002. The said suspension was revoked on 10-3-2003 after initiating disciplinary proceedings against him. The proceedings have not been finalized yet and hence no order has been issued so far regarding treatment of suspension period and subsequent increments have not been drawn. As per FR 26(a), "All duty

in a post on a time scale counts for increments in that time scale". Hence it may kindly be clarified as to whether pending receipt of orders regarding the treatment of suspension period, the increment of the officer may be regulated by treating the period of suspension as non-counting period for increment as detailed below which is subject to revision on receipt of the order.

	D - M - Y
Date of next increment in the normal course	1 - 7 - 03
Suspension period treated as non-counting period for increment, i.e., 8-8-2002 to 9-3-2003	3 - 7 - 00
	<hr/>
	4 - 2 - 04

The increment which gets extended to 4-2-2004 may be drawn from 1-2-2004 raising his pay from Rs 8,550 to Rs 8,825 and further raised to Rs 9,100 from 1-2-2005.

Calculation of postponement of increment shown by you is correct. Further revision is to be made on receipt of final outcome of the case, specially as to how the suspension period is ordered to be treated.

- 11      • Penalty of withholding increments under CCS(CCA) Rules cannot be imposed for an indefinite period.

While I was deputed for official duty, I took the vehicle and the vehicle met with an accident. Unfortunately, a Group `D' employee expired in the accident. The police lodged the FIR and a challan was put up before the Court. The case is pending in the Court for final judgment. Meanwhile, my department, after inquiry imposed a penalty of withholding of annual increments till the decision of the Court. I represented the authority that during pendency of Court case, the department cannot impose the penalty but the department is not giving any reply. Kindly clarify.

There is no provision in CCS(CCA) Rules for imposing penalty of withholding of increments for an indefinite period like, "till the decision of the Court", etc. You may appeal.

12. • When the period of suspension is treated as duty for all purposes, any increments, due during that period are admissible.

An official was put under a probation period of two years from the date of joining as driver. During probation period, he was placed under suspension, for nine years because of his involvement in some criminal case and got the subsistence allowance 50%, then 75% during suspension. The criminal case against him concluded in acquittal on merits. Thereafter, he was taken back on duty and the suspension period was treated as spent on duty for all intents and purposes. The difference of salary of suspension period was released to him. During suspension, his probation period was not extended neither on the file nor was any office order was released on this issue. His probation period was successfully completed after assessing his performance for the remaining period of probation (exactly after two years of his actual duty), excluding the period of suspension. The question is, how his increments will start/operate if he was appointed as driver on 5<sup>th</sup> January, 1996 with two years of probation and placed under suspension in July, 1997. Will he get all increments during probation and suspension as his suspension period was treated as spent duty for all intents and purposes and the probation was not extended beyond the actual worked period of two years.

When the suspension period has been treated as spent on duty for all intents and purposes, his pay and increments etc., are to be regulated just like any other Government servant.

13. • Regulation of pay on imposition of penalty of reduction of pay to minimum of the time scale of pay for two years with cumulative effect.

While I was drawing a Basic Pay of Rs 4,800 in the scale of Rs 4,000-100-6,000 with DNI 1-8-1997, I was placed under suspension in July, 1997 and after inquiry I was awarded a major penalty which reads as "He is imposed with a major penalty of reducing his pay to the minimum of the time scale, i.e. his pay is reduced to Rs 4,000 in the scale of Rs 4,000-100-6,000 with cumulative effect for a period of two years from the date he reports for duty and the entire suspension period will be treated as non-duty". As I joined the duty on 13-3-2002, the period of penalty started on that day and completed on 12-3-2004. During the entire penalty period, my Basic Pay was fixed at Rs 4,000. For the period

from 13-3-2004 to 31.3.2004, I was paid a Basic Pay of Rs 4,000 instead of Rs 4,800 which I drew prior to the date of suspension. When I approached the authorities, they told me that since the penalty order says that pay is reduced to Rs 4,000 with cumulative effect for two years, my old Basic Pay of Rs 4,800 will not be restored. Please clarify.

From 13-3-2002 to 12-3-2004, you will draw a pay of Rs 4,000 (instead of Rs 4,800). On 13-3-2004, your pay should be restored to Rs 4,800, the pay which you were drawing before suspension. The period during which you were drawing Rs 4,800 will be taken into account for fixing your date of next increment.

14. • Regulation of Pay and Allowances when an employee is awarded series of penalties.

One of the official who was drawing a Basic Pay of Rs 3,875 with DNI 1-4-2003 in the scale of Rs 2,750-70-3,800-75-4,400 was placed under suspension from 11-8-2002 to 28-8-2002. He was paid subsistence allowance at Rs 1,938 i.e. half of his Basic Pay as per FR 53 (1)(ii)(a). His suspension was revoked from 29-8-2002 by the Appellate Authority.

Further he was awarded the punishment of reduction of his pay by two stages from Rs 3,875 to Rs 3,730 for periods of 24 months vide order dated 27-8-2002. Accordingly his pay was regulated as follows:-

Period	Due stage Rs	Reduced stage Rs
1-9-2002 to 31-3-2003	3,875	3,730
1-4-2003 to 31-3-2004	3,950	3,800
1-4-2004 to 31-8-2004	4,025	3,875
1-9-2004 onwards	4,025	-

Meantime, the official was awarded the punishment of withholding next one increment for a period of 12 months vide order, dated 27-11-2003. As such, his pay is regulated as under:-

	Rs	Rs
1-4-2004 to 31-8-2004 (4,025)	3,875	3,800
1-9-2004 to 31-3-2005	4,025	3,875
1-4-2005 onwards	4,100	-

You are requested to kindly confirm the regulation of pay in the case of series of penalties.

As per GIO (18) below Rule 11 of "Swamy's Compilation of CCS(CCA) Rules", the pay of the official should be regulated from 1-4-2004 as under :-

(It is presumed that the original punishment is without cumulative effect and that during the punishment period, the official will earn increment).

	Rs	Rs
1-4-2004 to 31-8-2004	4,025	3,875
1-9-2004 to 31-3-2005	4,025	---
		(I punishment ends)
1-4-2005 DNI	4,100	4,025
		(II punishment starts)
1-4-2006	4,175	----
		(II punishment ends)

15. • Reduced stage of pay with cumulative effect due to penalty, shall be restored to the stage from which it was reduced on completion of the penalty period.

One of my colleagues who was imposed penalty of reduction of pay by one stage for a period of one year with cumulative effect from 1-5-2000 is of the view that on completion of penalty period, his pay has to be restored to the stage from which it was reduced. However, it is considered view that as the penalty had been imposed with cumulative effect, it is a permanent loss to him and he will earn increments from the reduced stage of pay scale only. Kindly clarify.

On completion of penalty period, the pay of the individual will be restored to the stage from which it was reduced.

[ GID(12) below Rule 11 of CCS(CCA) Rules]

16. • Regularization of pay and allowances when the dismissed employee is reinstated and imposed penalty of reduction of pay.

I was placed under suspension from 1-12-1999 to 30-6-2001 followed by dismissal order from 1-7-2001. At the time of suspension, I was drawing a basic pay of Rs 5,850 in the scale of Rs 5,500-9,000. On appeal, the dismissal order was set aside by the Appellate Authority with immediate effect

by imposing a penalty for three years with further direction during the penalty I will not earn any increment and will postpone future increments. As per the order of the Appellate Authority, the period of suspension and dismissal will be regularized as under:-

- (a) The period from 1-12-1999 to 30-6-2001 will be treated as leave due and admissible for which I should be paid pay and allowances as applicable under rules.
- (b) The dismissal period will be treated as Non-duty.

The reinstatement order, dated 19-4-2002 was reproduced by the Disciplinary Authority vide its order, dated 30-5-2002 which was received by me on 7-6-2002 and I reported for duty on 11-6-2002. On assuming duty, I applied for 334 days EL and 63 days HPL from 1-12-1999 to 31-12-2000. The period from 1-1-2001 to 30-5-2002 was treated as Non-duty.

In this connection, kindly clarify whether the action taken by the Disciplinary Authority to treat the date of reinstatement on 30-5-2002 instead of 19-4-2002 being the date of order issued by the Appellate Authority is in order. Kindly also clarify on completion of penalty period at which stage my pay will be restored.

The order of reinstatement takes effect only from the date you resume duty after your dismissal, i.e. 11-6-2002. The pay shall be regulated as follows:-

	Due	To be drawn
1-4-1999	Rs 5,850	Rs 5,850
1-4-2000	Rs 6,025	Rs 6,025
	(to be drawn from 11-6-2002 due to leave and non-duty period)	
1-9-2002(DNI postponed due to EOL, etc.)	Rs 6,200	Rs 6,025 (penalty)
1-9-2003	Rs 6,200	Rs 6,025
1-9-2004	Rs 6,200	Rs 6,025
1-9-2005	Rs 6,200	Rs 6,200 (Restoration)

When the dismissal period was ordered to be treated as non-duty, it will not be counted as qualifying service for pensionary benefits.

17. • Regulation of Pay and Allowances on reinstatement

Full pay and allowances is admissible on reinstatement of an official where his removal was set aside by the CAT on merit of the case. I shall be grateful if you kindly confirm whether this full pay and allowances is excluding or including subsistence allowance already paid. Because nowhere it is mentioned that this full pay and allowance is subject to adjustment of subsistence allowance or not.

Subsistence allowance is payable only when the Govt. servant furnishes a certificate that he is not engaged in any other employment, business, profession or vocation. Under FR 54 and FR 54-B, any payment made to a Govt. servant on his reinstatement is subject to adjustment of any amount earned by him during the said period. This automatically covers Subsistence Allowance also.

It is fundamental principle that one cannot be paid more than what he would earn by being on duty.

[ FR 53 ]

18. • Regulation of pay after punishment.

I joined in Central Silk Board on 22-6-1983. I was promoted to next higher grades twice on 20-12-1986 and 20-12-1991. Date of next increment after second promotion was 1-2-1992. Vide Disciplinary Authority Order, dated 3-9-1997, I was removed from service on 25-9-1997.

I received the reinstatement order from Appellate Authority stating that "reduction to a lower stage in the time scale of pay by two stages for a period of two years" with further direction that "he shall earn his annual increments of pay during the said period of reduction, the reduction will not have the effect of postponing his future increments of pay". It is further "ordered that the intervening period between the date of removal from service and the date of his rejoining duty shall be treated as 'dies non' for all purposes. On reinstatement on 4-11-1999, my pay was fixed at Rs 5,000 in place of basic pay of Rs 5,250 before removal from service [ DNI First February]. First increment was sanctioned in 1-11-2000 and pay fixed at Rs 5,150. On 1-11-2001, I got second and two back annual increments fixing the pay at Rs 5,500. On 15-11-2001, the scale of pay was upgraded from Rs 4,500-7,000 to Rs 5,000-

8,000 and my basic pay was fixed at Rs 5,600 under FR 23 and FR 22(1) (a) (2) and since then I am getting annual increment in the month of November.

In the light of the above information, kindly clarify whether the pay fixed after rejoining the Central Silk Board is correct and whether the basic pay fixed after the completion of two years, i.e. period of reduction in pay scale is correct.

Pay fixation in this case will be as follows:-

	Rs 4,500-7,000	
1-2-1997	5,250	
25-9-1997	5,250	(Removal from service)
4-11-1999	5,250	(Reinstatement)
	<i>Normal</i>	<i>Punishment</i>
	<i>Rs</i>	<i>Rs</i>
4-11-1999	5,250	5,000 starts
1-3-2000	5,375	5,125
1-3-2001	5,500	5,250
4-11-2001	5,500	5,500 ends
15-11-2001	5,600	(scale revised to 5,000-8,000)
1-11-2002	5,750	

19. • Regulation of pay when two punishments are implemented

A postman was awarded punishment of reduction of pay by 5 stages from Rs 960 to Rs 870 w.e.f. 1-11-1991 for a period of three years with direction that he will not earn increment during the period of reduction and that on expiry of this period of reduction, it will not have the effect of postponing his future increments of pay, vide SSPOs Gulbarga Order, dated 31-10-1991.

Meanwhile he was removed from service w.e.f 14-11-1991 vide order, dated 12-11-1991.

On appeal his punishment of removal was modified to that of reduction of his pay to the minimum in time-scale of pay (Postman Scale) for a period of 5 years with further direction that he will not earn increment during the period of reduction and will have the effect of postponing his future increments of pay vide Memo, dated 25-1-1993.

He was reinstated as Postman w.e.f. 25-2-1993 and was promoted as Postal Assistant w.e.f. 12-5-1999 (as he was previously qualified).

Kindly confirm how the two punishments should be implemented in this case.

You may refer to GIO (2) below FR 29 of Swamy's Compilation of FR & SR-Part.I-General Rules. From 1-11-1991 to 13-11-1991, his pay will be reduced to Rs 870. From 14-11-1991 to 13-11-1996, his pay will be reduced to minimum of the scale. The modified penalty of dismissal into reduction to the minimum of the scale should be deemed to take effect from 14-11-1991 vide FR 29-A. On 14-11-1996, his pay should be restored to Rs 960.

20. • Regulation of pay in pre-revised and revised scales of pay, when the punishment was reduction to lower stage in the time scale with cumulative effect.

An official in the pay scale of Rs 975-25-1,150-EB-30-1,540 whose date of increment was 1<sup>st</sup> June was drawing Rs 1,050 from 1-6-1993. Under Rule 10 (1) of CCS(CCA) Rules he was placed under suspension from 1-10-1993 to 24-11-1994 and during that period he was paid half of the basic pay as subsistence allowance and after revocation of suspension w.e.f. 25-11-1994 he was not granted any increment.

In the meanwhile, by another penalty under Rule 12 and 15(4) of CCS(CCA) Rules, it was ordered that: "His pay be reduced by lower stage from Rs 1,050 p.m. to Rs 975 p.m. in the above time scale for a period of three years w.e.f. 1-4-1995 and that he will not earn increments of pay during the period of reduction and, on the expiry of this period the reduction will have the effect of postponing the further increments of his pay".

On implementation of the revised pay scales, his pay was fixed at Rs 3,200 in the scale of Rs 3,200-85-4,900, with DNI as "restoration of penalty imposed by the competent authority". Now that the official has completed three years penalty period on 1-4-1998, his pay has been raised from Rs 3,200 to 3,455, allowing him three increments in bulk, and thereafter he has again been granted annual increment w.e.f. 1-4-1998, i.e., Rs 3,540 in toto.

The higher authorities clarify that the above fixation is not in order. They say that his pay may be raised from Rs 3,200 to Rs 3,285 with effect from 1-4-1998.

You are requested to clarify the correct position.

In the instant case, the pay of the official has to be regulated as under, since he was awarded the punishment of reduction to lower stage in the time scale for three years with cumulative effect.

Period	Regulation in the pay scale of	
	Rs 975-25-1,150-30-1,540 (pre-revised)	Rs 3,200-85-4,900 (Revised)
1-6-93 to 30-9-93	Rs 1,050	-----
1-10-93 to 24-11-94	Suspension	-----
25-11-94 to 31-3-95	Rs 1,050	-----
1-4-95 to 31-12-95	(1,050) Rs 975 Reduction	-----
1-1-96 to 31-3-98	(1,050) Rs 975 Reduction	(3,285) Rs 3,200
1-4-98 to 30-6-98	----	Rs 3,285 ( on Restoration of penalty period)
From 1-7-98	----	Rs 3,370*

\*It is presumed that the period of suspension from 1-10-93 to 24-11-94 is not treated as duty for increment.

21. • Regulating of pay and allowances when an employee is imposed penalty of reduction of pay.

An employee drawing a pay of Rs 10,750 in the pay scale of Rs 7,500-250-12,000 with DNI 1-1-2004 is awarded a penalty on 22-3-2004 as "order to impose the penalty of reduction of pay by one stage in the scale of pay for a period of six months with immediate effect. It is further directed that Shri xxx will not earn increments of his pay during the period of such reduction and on expiry of the periods the reduction will have the effect of postponing the future increments of his pay".

It may please be clarified how his pay will be regulated with DNI. If the same penalty is for a period of one year, how his pay will be regularised with DNI may also be please furnished.

When the penalty of reduction has the effect of postponing the future increment, the pay will have to be regulated as follows:-

Pay as on 1-1-2004	- Rs 11,000
Pay as on 22-3-2004	- Rs 10,750 (Penalty)
Pay as on 22-9-2004	- Rs 11,000 (Restored)
Date of next increment in the normal course	1-1-2005
To be postponed to :-	
If penalty if for six months	- 1-7-2005
If penalty is for one year	- 1-1-2006

22. • When the disciplinary authority issued orders for payment of pay and allowances for the period of suspension, payment cannot be denied.

On a criminal charge-sheet against my name in Hon'ble Sessions Court, I was suspended by my Department in April, 1989. In April, 1996 the Hon'ble Sessions Court found me not guilty and was acquitted me from the charges made against me. In the light of the judgment, my suspension order was revoked from 24-5-1996 with the following order:-

"Pay and allowances admissible during the period he spent under suspension should be fully paid as if he was on duty during such period. The period he spent under suspension should be treated as time spent on duty for all purposes".

Though I was re-instated, I was deprived of my annual increments from 1989 to 1996 and arrears pay and allowances have not been paid.

Meanwhile the State Govt. has filed an appeal against the acquitted order in the Hon'ble High Court of Gujarat and hence my office rejected my request for payment of arrears till the verdict comes on the appeal from High Court.

Kindly let me know whether I am entitled for the arrear pay and allowances.

When the disciplinary authority has issued specific orders regarding treatment of the period of suspension and payment of pay and allowances for the said period, there is no ground to defer payment on the ground of appeal in the case by the Department. You may appeal and if you do not succeed, you may approach CAT. You are sure to win.

23. • Any revision of pay occurring during the currency of penalty has to be given effect to and the punishment continued in the revised scale.

While I was drawing a basic pay of Rs 1,390 in the scale of Rs 975-25-1,150-30-1,660 with DNI 1-5-1995, a punishment of reduction of pay from Rs 1,390 to Rs 1,360 for three years without cumulative effect was awarded to me on 16-2-1995. Accordingly, my pay was reduced to Rs 1,360. On 1-1-1996, my revised pay was fixed at Rs 4,400 in the scale of Rs 4,000-100-6,000. After expiry of the punishment period, my pay was restored at the stage of Rs 4,700.

Kindly clarify whether the fixation of my revised pay on 1-1-1996 and pay restored after the punishment period are correct.

On completion of the penalty period, the pay will be restored to Rs 4,700 w.e.f. 16-2-1998 with DNI on 1-5-1998. The fixation done by your office is in order. The details of the fixation is as follows:-

<i>Period</i>	<i>Due</i>	<i>Drawn</i>
	<i>Rs</i>	<i>Rs</i>
1-2-1995 to 15-2-1995	1,390	1,390
16-2-1995	1,390	1,360
1-5-1995 (DNI)	1,420	1,390
1-1-1996 (revised Pay)	4,500	4,400
1-5-1996	4,600	4,500
1-6-1997	4,700	4,700
16-2-1998 (Penalty over)	4,700	4,700
1-5-1998	4,800	4,800

24. • Fixation of pay when reverted to lower rank on punishment;

One official was appointed on 1-7-1987 in rank of Sub-Inspector. He was confirmed in the rank on 1-1-1990. He was promoted to the rank of Inspector on 4-11-1996. he was drawing basic pay of Rs 7,300 in the scale of pay 6,500-200-10,500 w.e.f. 1-10-2001. On disciplinary grounds, he was placed under suspension w.e.f. 11-5-2002 and subsequently dismissed from service w.e.f. 1-11-2002 A/N. The period of suspension from 11-5-2002 to 1-11-2002 has been treated as suspension for all purpose. On appeal the ex-official was ordered for reinstatement in service on reversion to the rank of Sub-Inspector for three years and the period of dismissal from service w.e.f. 2-11-2002 to 19-5-2003 has been regularized as 'dies non' for all purpose. Further in the order of reinstatement, the pay to be fixed in the reverted rank pay scale of Rs 5,500-175-9,000 was also not mentioned. Accordingly, when the official on reversion has reported to the authorities and the pay has been fixed at Rs 6,550 at a stage which he would have reached had he not been promoted to higher rank, i.e. Inspector.

Please confirm whether the pay of the official is to be fixed at Rs 7,425 as per the provisions contained in FR 28 and Fr 22 (I)(a)(2) as the order of reinstatement is silent in this aspect or the pay regulated at Rs 6,550 is in order.

Since, the punishment order is silent about the stage at which the pay of the official in the post of Sub-Inspector should be fixed, the pay is to be fixed at Rs 7,425 in the lower rank vide FR 28 read with FR 22 (I)(a)(2).

25. • Recommendations in the sealed cover need not be acted upon in the case of penalty imposed.

I am working in NAL(CSIR) Bangalore. I am due for promotion from Grade-II(1) to Grade-II(2) w.e.f. 11-1-1997. The Assessment Committee which met on 15,16-12-1997 considered my case. As a disciplinary case has been pending against me, the recommendations of the committee was kept in a sealed cover. On conclusion of the enquiry, a penalty of reduction of pay by two stages from Rs 3,725 to Rs 3,575 in the time scale of Rs 3,050-4,590 for a period of two years

was imposed. However allowed to earn increment during the period of reduction. Another committee which met on 30-12-2004 opened the sealed cover and found that I was recommended for promotion by the earlier committee. Accordingly, I was promoted to the next higher grade of Grade-II(2) in the pre-revised scale of Rs 1,350-2,200 (revised scale of Rs 4,500-7,000) w.e.f. 11-1-1997 notionally with actual financial benefit on the expiry of the penalty period (i.e., w.e.f. 9-4-2004) as follows vide order, dated 18-2-2005.

Date	Pay in the		
	Existing Post Rs	Promoted Post Rs	
11-1-97	3,350	4,500	
1-1-98	3,425	4,625	
1-1-99	3,500	4,750	
1-1-00	3,575	4,875	
1-1-01	3,650	5,000	
1-1-02	3,725	5,125	
9-4-02	3,575	4,875	Punishment starts
1-1-03	3,650	5,000	
1-1-04	3,725	5,125	
9-4-04	3,875	5,375	Punishment ends
1-1-05	3,950	5,500	

Kindly clarify my eligibility for promotion with financial benefits with effect from 11-1-1997.

As per OM, dated 25-2-1999 (Para 17.6.2 of Part-V under 'Departmental Promotion Committee' -Page No. 106 of Swamy's Compilation of Seniority and Promotion the findings of the DPC kept in sealed cover should be ignored. Your case should be placed before the next DPC and promotion if any, should be given only on its recommendations. The notional promotional fixation given with effect from 11-1-1997 is your case is contrary to the rules. The fixation of pay (i.e. Rs 3,875 on 9-4-2004) in Column 2 of letter, dated 18-2-2005 of NAL, Bangalore-17 is only applicable in your case and your assessment to promotion is to be decided by the next DPC only.

26. • The convicted official under suspension should immediately be dismissed. The family of the dismissed official is not entitled to any pensionary benefit.

A Govt. servant was placed under suspension since 28-2-1994 due to prolonged jail custody. He was convicted on 31-1-2000 by the Hon'ble CJM. Department did not take any action against the Govt. servant on the basis of the court's order but he was under suspension since 28-2-1994. During suspension, he expired on 4-3-2003 and left behind widow and children. In my opinion, the widow is entitled to all pensionary benefits of her deceased husband. Please confirm.

When the Govt. servant under suspension was convicted by the judiciary on 31-1-2000, he should have been dismissed w.e.f. the same date. Without taking such action, keeping the convicted official under suspension even after 31-1-2000 is a serious lapse and responsibility has to be fixed for this lapse.

Your 'opinion' that in this case the widow is entitled to all pensionary benefits is wrong. The family of the dismissed official is not entitled to any pensionary benefit and the failure to act on the conviction cannot be exploited to grant illegal benefit.

27. • Disciplinary Authority cannot place the official under suspension, if he is acquitted by the Court of Law for the same facts and charges.

Is it possible that the Disciplinary Authority can initiate departmental enquiry, by placing the official under suspension on the same facts and same charge of the same case, which was examined and acquitted by the Trial Court and upheld by the High Court?

As per proviso to Rule 10 (4) and GOI 8 below Rule 19 of CCS (CCA) Rules, Disciplinary Authority cannot initiate enquiry, if the facts or allegations were examined by a Court and the Court has acquitted the official by going into the merit of the case. Hence the action of your office to place the official under suspension is not in order. You may appeal.

28. • No leave salary is payable when the period of absence is regulated under Rule 25 of CCS (Leave) Rules.

One of the employee of this Institute was absent from duty for the period from 11-11-1999 to 10-9-2000. He was sanctioned the last increment raising his pay to Rs 5,100 from 1-6-1999 in the scale of Rs 4,000-100-6,000. He was awarded punishment by reduction of his pay by four stages from Rs 5,100 to Rs 4,700 for a period of 4 years from 19-12-2000. It was ordered that the employee will not earn increment during the period of reduction but on the expiry of the punishment, the period of punishment will not have the effect of postponing his future increments. Further it was ordered that his absence period from 11-11-1999 to 10-9-2000 to be regulated under Rule 25 of CCS(Leave) Rules, 1972. His leave balance as on date of absence, i.e., on 11-11-1999 was 218 EL and 131 HPL. Due to restoration of his pay on 19-12-2004 after completion of his punishment period, the non-sanctioning one increment due effective from 1-6-2000 is justified or not. Your valuable guidelines for his pay now to be regulated may kindly be intimated.

Under Rule 25 of CCS (Leave) Rules, 1972, period of absence has to be treated as overstays of leave and debited against HPL account to the extent available and the period in excess thereof as EOL. Further no pay/leave salary will be drawn for the period of such overstays and the period will not count for increment vide Audit Instruction below Rule 25 of CCS(Leave) Rules, 1972. Hence the official will be entitled to his increment on 1-4-2001 as shown below:-

Date of next increment due in normal - 1-6-2000  
course.

Add: Period of overstays of leave, i.e., - 0-10-0  
from 11-11-1999 to 10-9-2000

Date of next increment - 1-4-2001

In view of the punishment, his pay is to be regulated as under:-

Period	Pay admissible if the reduction of pay is			Remarks
		By 4 stages	To the stage of Rs 4,700	
19-12-2000				
to	Rs	Rs	Rs	Punishment starts
31-3-2001	(5,100)	4,700	4,700	
1-4-2001	(5,200)	4,800	4,700	
1-4-2002	(5,300)	4,900	4,700	
1-4-2003	(5,400)	5,000	4,700	
1-4-2004				
to	(5,500)	5,100	4,700	
18-12-2004				
19-12-2004	5,500	---	---	Punishment ends

29. • **Punishment under CCS(CCA) Rules cannot be imposed retrospectively.**

On conclusion of departmental enquiry initiated under Rule 14 of CCS(CCA) Rules, 1965, I was imposed major penalty of reduction of pay by three stages for a period of six years and five months retrospectively from 7-4-1989 (the date of suspension) and that I will not earn increments of pay during the period of reduction and that on expiry of the period of reduction, it will have the effect of postponing future increments of pay and the period of suspension shall be treated as non-duty. Since there is no specific provision for imposing any penalty with retrospective effect under CCS(CCA) Rules, kindly clarify whether the order of the Department is as per Rules.

Any punishment under CCS(CCA) Rules cannot be imposed with retrospective effect. You may appeal and if not successful, approach CAT. You are sure to win.

30. • **Officer holding temporary charge can also suspend an employee.**

An per Govt. of India Instruction (2) below Rule 12 of CCS(CCA) Rules, 1965, an officer appointed to perform the current duties of a post can exercise administrative or financial powers vested to the full-fledged incumbent of the post, but he cannot exercise statutory powers, whether those

powers are derived direct from an Act of Parliament or Rules, Regulations and Bye-Laws made under various Articles of the Constitution.

In view of the above, it may kindly be clarified whether such an officer can place an official under suspension?

An authority lower than the Appointing Authority is empowered to place an official under suspension.

[ Proviso to Rule 10(1) CCS(CCA) Rules]

31. • No provision to issue corrigendum for a charge-sheet already issued.

A Branch Postmaster under put-off duty was issued a charge-sheet under Rule 8 of C&S (EDA) Rules. After the charge-sheet was received by the charged official, a corrigendum was issued on the charge-sheet. Kindly clarify the provisions for issuing a corrigendum to the charge-sheet.

There is no provision in CCS(CCA) Rules or Conduct and Service Rules for ED staff to issue corrigendum, addenda, etc., to the charge-sheet issued. In such a situation, the alternative is to withdraw the earlier charge-sheet stipulating therein that the withdrawal is without prejudice to issue of fresh charge-sheet for the same misconduct.

32. • Punishing authority is not competent to revise its own order.

An officer was charged with the negligence of duties and the charge-sheet was served to him. The reply given by the officer was also considered by Appointing Authority who is also Disciplinary Authority in the said case. He ordered for inquiry by appointing an Independent Inquiry Officer under Rule 14 of CCS(CCA) Rules, 1965. On the basis of the enquiry, the charges against the concerned officer was partially proved. The Disciplinary Authority imposed minor penalty of Censure and the order of which was passed by the Disciplinary Authority. However, a copy of the Inquiry Report and Show Cause Notice were not issued to the concerned officer before imposing the penalty inadvertently. The officer has now given a representation to the Disciplinary Authority stating that he has not been given a copy of the Inquiry Report which is mandatory before imposing the penalty and requested the case be withdrawn.

In view of the position explained, kindly clarify whether the order of the Disciplinary Authority to impose penalty can be withdrawn by him on the ground that the Inquiry Report was not given to the concerned officer.

As per Govt. of India Instruction-3 under Rule 29 of Swamy's Compilation of CCS(CCA) Rules, the punishing authority is not competent to revise or cancel its own order.

33. • The order of the Appellate Authority takes effect from the date of original punishment order.

I was placed under suspension from 27-3-1998 to 2-2-2003 against a criminal case filed by my in-law's family. In the lower court, the case was not in my favour but subsequently, the Hon'ble High Court of Gujarat acquitted me on the merit of the case. However, the department had initiated disciplinary proceedings against me on the grounds that I had not informed the verdict of the lower court in time. Hence I was imposed one of the major penalties of 'reduction to lower grade' after revocation of suspension order. On my appeal, the Appellate Authority modified the order as 'stoppage of two increments for three years without cumulative effect'. In view of this, the Disciplinary Authority issued a revised order, according to which two increments are to be stopped as indicated below:-

Sl. No.	Event	Rs	Regulation of pay during penalty period
1.	Pay as on 30-4-2003 (before commencement of penalty)	7,900	
2.	Operation of penalty:-		
	1-5-2003 to 30-4-2004	7,900	} Stoppage of two increments for a period of three years without cumulative effect.
	1-5-2004 to 30-4-2005	7,900	
	1-5-2005 to 30-4-2006	7,900	
	1-5-2006 to 30-4-2007	8,100	
	1-5-2007	8,900	Restoration
	1-5-2008	9,100	Increment

In the case of withholding increments, the GIO(16) below Rule 11 of CCS(CCA) Rules, 1965 says "Withholding of increments effective on increment acquiring after date of punishment order". Since the punishment order issued by the Appellate Authority is from 1-6-2004, stoppage my increment must commence from May, 2005, i.e. the date of acquiring my

next increment instead of 1-5-2003. Kindly enlighten me.

You may refer to Clause (b) of FR 29-A in Swamy's Compilation of FR & SR-Part-I-General Rules (C-1) according to which the order issued by your Department regulating your pay from time to time is correct, if the Appellate Authority's order envisages that during the penalty period, the official will not earn increment and the period of punishment will not have the effect of postponing future increments.

34. • Method for implementing series of penalties

The following penalties was imposed on an employee:-

- (1) Withholding of two increments without cumulative effect when next due for a period of 2 years (penalty order, dated 26-8-1997). He was placed under suspension from 2-9-1999 to 9-1-2000(FN). Suspension period is not taken into account for the purpose of qualifying purpose.
- (2) Pay reduced from Rs 5,100 to Rs 4,900 with cumulative effect for a period of 2 years from 24-1-2002 (penalty order, dated 24-1-2002). Nothing is mentioned in second penalty order whether both penalties run concurrently.

The date of last increment was 1-6-1997 and pay was Rs 5,100 in the scale of pay of Rs 4,000-100-6,000. As per the rules, pay will be restored on 24-1-2004 at Rs 5,100 and pay on the same date at Rs 5,400 as the first penalty is without cumulative effect. The date of next increment will be on 1-9-2004 raising the pay to Rs 5,500. Kindly confirm.

The fixation of pay in the case referred by you will be as follows:-

1-6-1997	-	Rs 5,100 (Rs 4,000-100-6,000)
Date of penalty	-	26-8-1997
<u>Date</u>	<u>Normal pay</u>	<u>Reduced due to penalty</u>
<u>First Penalty:</u>	Withholding of 2 increments for 2 years without cumulative effect	
1-6-1998	Rs 5,200	Rs 5,100 (1st increment withheld)
1-6-1999	Rs 5,300	Rs 5,100 (2 <sup>nd</sup> increment withheld)
*7-10-2000	Rs 5,400	Rs 5,200 (1 <sup>st</sup> increment restored)
*Increment postponed due to suspension from 2-9-1999 to 8-1-2000.		
1-10-2001	Rs 5,500	Rs 5,500 (2 <sup>nd</sup> increment restored and penalty ends).
<u>Second Penalty:</u>	Reduction for a period of 2 years from Rs 5,100 to Rs 4,900 with cumulative effect. Date of penalty-24-1-2002.	

The above penalty is defective as the pay of the individual is Rs 5,500 and not Rs 5,100 on 24-1-2002.

Further, as per Govt. of India Instruction No.19 below Rule 11 of *Swamy's Compilation of CCS(CCA) Rules*", when series of penalties on reduction of pay are imposed, the effect of first punishment order will continue for a period specified in the punishment order. Thereafter, the pay of the official will be raised to the stage of what he would have drawn for the punishment. Then only the second order of punishment will be made effective.

35. • **Official under punishment can be allowed to appear in departmental examination.**

As called by Circle Office, Chennai, I applied to appear in Group `B' examination held for the year 1998, 1999 and 2000 vacancies under ST quota. As minor penalty was current from September, 2000 to November, 2001, I was not allowed to sit for the examination. Thereafter the punishment was modified as "Censured" by the Circle Office, Chennai.

Kindly clarify whether I am eligible to sit for the examination during currency of punishment.

You may refer to Govt. of India's Instruction No. (20) below Rule 11 of CCS(CCA) Rules, 1965 in "*Swamy's Compilation of CCS(CCA) Rules*" according to which you are eligible to appear for the departmental examination.

\*-\*-\*-\*-\*

**( 6 ) LTC/JOINING TIME**

1.
  - LTC to visit any place in India is admissible on completion of one year's continuous service

I am in Central Govt. service from 2-2-1995 and I performed journey in December, 1998 to visit a station availing the LTC to visit any place in India for the block year 1994-1997. I had given advanced intimation about the place of visit. I had not availed LTC to visit Home town ever since my appointment. My office has refused to entertain my claim to visit any place in India for the four year block 1994-97 and informed me that I am eligible to avail Home town LTC for 1996-1997 in December, 1998.

Kindly clarify as to whether the contention of my office is in order.

LTC is admissible to a Govt. servant if he has completed one year's continuous service under the Central Govt. on the date of journey performed by him or his family, as the case may be. On 2-2-1995, you have completed one year's continuous service and on or after this date, you are entitled to avail the LTC for home town for the block year 1996-97 or to visit any place in India for the block year 1994-97. The contention that you are eligible to avail hometown LTC only and not LTC to visit any place in India in December, 1998 is not in order.

[ Rule 7 ]

2.
  - Performing LTC journey during holidays

An employee performed journey on LTC with his family on Saturday(Holiday) and reached Chennai from Hyderabad on the next day (Sunday). Availing leave from Monday to Friday, he left Chennai on Saturday (Holiday) and reached Hyderabad on Sunday. The LTC claim was disallowed by his office on the ground that the LTC journey was performed on a holiday and not on leave day.

The intention of the order is that a Govt. servant cannot avail LTC utilizing holidays alone. In the instant case, he had availed leave. The denial of LTC in this case is not correct.

[ Rule 7 ]

3. • Admissibility of LTC to visit any place in India.

My native place is Bhopal and working at Bhopal in Central Ground Water Board, North Central Region, Govt. of India, Ministry of Water Resources. I have not claimed LTC to visit home town since my native place and station of posting are one and the same.

I applied for LTC to visit any place in India for the block years 1994-97 during the extended period up to 31<sup>st</sup> December, 1998. My office is not allowing me to avail the said LTC during the grace period. Kindly guide me as to whether I am entitled to avail the LTC during the grace period.

A Govt. servant who is unable to avail of the LTC within a particular block of two years or four years may avail of the same within the first year of the next block of two years or four years. The LTC to visit any place in India relating to the four years block 1994-97 can be availed of by you before 31-12-1998. The denial of the grace period in your case is not correct.

[ Rule 10]

4. • Admissibility of Home town LTC every year.

I joined as Technical Officer in a Central Govt. dept. under the Ministry of Agriculture during August, 1993. Since I was bachelor, I had availed hometown LTC benefits for self during March, 1977, against the year 1997 and again during February, 1998, against the year 1997. But during Audit of the records in November, 1998, Auditor objected that both the concessions availed are not in accordance with LTC Rules and has asked the Head of Office to recover the whole amount. Further, he clarified 'Hometown LTC' for self (for unmarried persons) have no grace period and should be availed during the same year.

Kindly clarify.

The facility of LTC to home town every year to an employee, whose family lives away from him, is in lieu of all the concessions under the Scheme. Hence, there is no facility of grace period. The objection of the Audit is correct.

However, the concessions availed in 1997 and 1998 can very well, be adjusted against the respective years. There is no necessity for recovery of the amounts paid by you.

[ Rule 8 (c) ]

5. • Availing of Home Town LTC every year.

I am employed as JE(Civil) under the Central Govt. Undertaking of Dadra and Nagar Haveli. My hometown is Trivandrum. My wife is also employed as JE(Electrical) under the Central Govt. Undertaking of Dadra & Nagar Haveli. Her declared hometown is Palghat. Both are now residing at one place. Can my wife avail LTC every year to visit her home town separately? Can I also avail every year to visit my hometown separately?

The concession to avail LTC every year in lieu of all concession under the LTC Scheme is not admissible either to you or to your wife. The main condition to avail LTC every year is that the Govt. servant should have his family at the home town and not at the headquarters station.

[ Rule 8 ]

6. • All India LTC is not entitled for family members of a person who is availing every year LTC

A Govt. servant whose family lives away from his headquarters and who has opted to avail every year home town LTC has applied for other than home town LTC for his family members. Can his family members are entitled to avail All India LTC? Please clarify.

The Govt. servant as well as his family are not repeat not eligible for LTC to anywhere in India in the four year block.

[ Rule 8 (c) ]

7. • No grace period for yearly LTC

I have been availing yearly LTC in lieu of block year LTCs as my family including dependents reside at my home town. I did not avail LTC for the year 1998 and availed it in 1999. But the AO during Audit has observed that the grace period is not allowed in the case of yearly LTCs. Kindly clarify whether this is correct.

The observation of the Accounts Officer is correct. Grace period is admissible under LTC Rules only in the case of LTC against two year/four year blocks.

[Rule 10]

8. • LTC for spouse not admissible if married during grace period.

I am a Central Govt. Class I officer. I joined the service in 1995. I had availed my LTC for 1994-97 block in the extended period, i.e., 1998 with my wife, as I married in April, 1998. Now, the problem came with the office administration that they did not give the LTC of 1994-97 block for my wife in 1998 as they say that I should have got married in 1994-97 block to avail the LTC for my wife in the year 1998. I had gone through all your books but could not get any clarification in this regard. Kindly clarify this problem.

The LTC Rules says that "a Govt. servant who is unable to avail of the LTC within a particular block of two years or four years may avail of the same within the first year of the next block of two years or four years". It is, therefore, clear that the entitlement is determined with reference to the facts prevailing during the relevant block for the purpose of availing the concession within the grace period. In your case, since you have acquired family only during the grace period, the concession availed for your wife is not supported by rules and hence the decision taken by your office is correct.

[Rule 10]

9. • LTC entitlement for ad hoc employees

Kindly clarify whether a person, who is in *ad hoc* service and has completed continuous three years of *ad hoc* service is entitled to Home Town LTC if he has not availed it before. I have not been able to get a clear clarification on this point from our office. Kindly reply quoting relevant rules.

LTC is admissible to the employees on completion of one year's continuous service under the Central Govt. if it is certified by the appropriate administrative authority that the employee is likely to continue in service for at least two years in the case of Home Town LTC and at least four years in the case of All India LTC.

[Rule 2]

10. • Admissibility of LTC during the year of retirement.

I am due to retire from service on superannuation on 30-4-2002. I applied for LTC for the block year 2002-2005 for self and family to visit Mumbai in January, 2002. However, this was denied to me with the observation "the Govt. servant is not eligible for LTC for the block years 2002-2005 as he has to complete one year". Kindly clarify.

The condition of one year's continuous service for availing LTC is applicable only to those who enter into Govt. service for the first time. In the instant case, you are entitled to LTC for 2002-2005 either to visit any place in India or Home town. However, the return journey should be completed before the date of your retirement.

11. • LTC during the year of retirement

Kindly clarify as to whether an employee who is retiring on 31-1-1998 and has only one month's service during the block year 1998-2001 is eligible to avail 4 year LTC 1998-2001.

In the given case the Govt. servant is entitled to LTC either to visit any place in India or hometown. However, the return journey should be completed before the date of his retirement.

[ Rule 7 ]

12. • LTC can be availed during any kind of leave.

Kindly clarify whether LTC to Home town/Anywhere in India is admissible during EOL (without medical certificate).

LTC can be availed during any kind of leave including CL and Spl.CL.

[ Rule 7 (2) ]

13. • No age limit to dependent son for availing LTC

Is there any age-limit for unmarried dependent son for LTC purpose or dependency is the only criteria? If so under what rules?

There is no age-limit for availing LTC for the son so long as he satisfies the other conditions.

[ Rule 4 ]

14. • Unmarried dependent children are eligible to avail LTC irrespective of their age.

I have applied for LTC advance for my elder son running 26 years who is wholly dependent on me in all corner. But my Department is reluctant to sanction LTC advance for him due to overage. My Department is of the view that two unmarried surviving children wholly dependent on the Govt. servant referred to under Rule 4 (d) of CCS(LTC) Rules is applicable only for female case. Kindly clarify.

According to Rule 4(d) of CCS(LTC) Rules, 1988, "Family" means two surviving unmarried children wholly dependent on the Govt. servant. Hence you are eligible to avail LTC in respect of your unmarried dependent son, irrespective of his age.

15. • Date of outward journey is the criteria for counting the block year

I intend to avail LTC for self for the year 2000 and proposed to undertake outward journey during the month of December, 2000 and return journey during January, 2001. When I submitted my application, it has been turned down on the grounds that no grace period will be admissible for those availing every year LTC as I will be performing my return journey during January, 2001. Kindly clarify.

When you are availing LTC for the year 2000, it is enough if your outward journey starts before the midnight of 31<sup>st</sup> December, 2000.

[ Rule 9 ]

16. • LTC can be availed separately for family members when both husband and wife are Central Government Servants

Myself and my husband are Central Govt. employees working in the same office. All our personal claims, viz., LTC, Medical, etc., are preferred by my husband.

My mother is solely dependent on me and is residing with me. Myself, my husband and mother visited Madras availing LTC claim. We had given previous intimation to the office and also drew the advance for the three. When the claim was preferred for my husband, the claim for my mother was disallowed, and the claim for myself and husband was only allowed. Kindly clarify whether LTC to my dependent mother who is residing with me is admissible or not.

Your mother cannot be treated as a member of your husband's family and he cannot claim LTC for your mother as the term "family" does not include 'mother-in-law'. When both husband and wife are Central Govt. servants, they can avail LTC separately in respect of the members of their respective families subject to the condition that if husband or wife avails concession as a member of the family of the other, he or she will not be entitled to claim the LTC for self independently. For this purpose necessary declaration has to be furnished by you and your husband to the Head of the Office.

[ O.M.No. 31011/8/89-Estt. (A), dated 8-5-1990 ]

17. • LTC facility is not applicable to "in-laws"

I along with my family (including my father-in-law and mother-in-law) travelled from Madurai to Andaman by availing All India LTC. My husband is unemployed and wholly dependent on me. As my husband is the only son to his parents, they naturally become my dependents. But the office restricted my claim only to my husband and children. I would be grateful to you, if you could kindly clarify whether the facility is also extended to my parents-in-law who are wholly dependent on me.

The term family does not include "in-laws" as the member of the family. Hence, the restriction of your LTC

claim only to your husband and children is in order.

[ Rule 4]

18. • Parents of the spouse not eligible for LTC

A Govt servant surrendered medical and LTC facilities with his employer as his wife is also a Govt. servant and opted to claim such facilities from her office. His wife declared her husband and his mother as dependants for medical and LTC purposes which has been accepted by her employer but allowing only medical facilities to his mother and not LTC because in "Swamy's Handbook", female employees have the option to include her husband's mother for medical purposes but in case of LTC it is silent.

If husband avails LTC as a member of the family of the spouse, his parents are automatically become entitled for the same. Please Clarify.

The rules applicable for medical reimbursement under CS(MA) Rules, 1944 are not applicable for CCS(LTC) Rules, 1988. Hence these rules cannot be compared with each other.

In case of LTC, the Govt. servant can claim only for the spouse and parents. What we have stated in our Handbook is correct.

19. • Self and family may avail LTC for different blocks and to different places.

I have availed LTC to home town for self in December, 1996 against the block 1994-95; and for my family (i) in November, 1995 to Bombay (Anywhere in India) against 1994-95 and (ii) in December, 96 to Home Town against 1996-97. My office is not allowing me now to avail LTC to any place in India for self for the block year 1996-97 stating that while availing LTC for family for the block year 1996-97, LTC for self also should have been availed for 1996-97 and not against 1994-95 that though self and family can avail LTC in different periods, the block year for both should not be changed and that I should not have availed LTC for 1994-95. Kindly clarify whether I can avail LTC to any place in India for 1996-97 before 31<sup>st</sup> December, 1998.

The concessions availed by you and for your family are in order. The Govt. servant and his family may visit different places in the same block. You were entitled to avail the concession to any place in India against the block year 1996-97 before the end of December, 1998, and the refusal by your office to this is not correct.

[Rule 11]

20. • Home town LTC is only from Headquarters to Home town and NOT vice versa.

During 2001, my son (18 years) who resided with me has gone to hometown and has been staying there with grandparents. Now he desires to come over here. I have applied for LTC for the block year 2000-01 (within the grace period) in respect of my son from hometown to headquarter and back. But my office has rejected my application and offered for return journey only during the current block year of 2002-03. Kindly advice.

The Hometown LTC is only for going from Headquarters to Hometown and back and not vice versa.

21. • Regulation of LTC claim when family resides at a place other than the headquarters of the employee.

One of our Officer's headquarters is Hyderabad and his Hometown is Panna. His family is residing at his hometown. He has applied for 4 years LTC for his family indicating the place of visit as Hyderabad from Panna.

Kindly clarify whether he can be allowed to avail 4-years LTC from Panna to Hyderabad and back for his family when his headquarters is Hyderabad where the restriction of "whichever is less" cannot be imposed as per Rules.

The claim will be limited to the fare between the headquarters of the Govt. servant and the place of visit.

[ Rule 4 ]

22. • LTC to an official whose family stays at a place other than his headquarters.

My Home town is Trichur. I have been working at Doordarshan, Ahmedabad, since 1981 and was posted at Delhi on promotion in 1997. My family still resides at Ahmedabad. In 1999, I got transferred to AIR, Bangalore. Now my family wants to avail LTC for block years 1998-2001 anywhere in India, from Ahmedabad to Bangalore. Kindly advise whether I can avail the LTC for my family members to visit Bangalore (my present headquarter).

Where a Govt. servant has left his spouse and the dependent children at a place other than his headquarters, he may be allowed LTC in respect of them from the place of their residence to home town or any place in India; but the reimbursement should in no case should exceed the actual distance travelled by the family OR the distance between the headquarters of the Govt. servant and the place visited/home town, whichever is less. Accordingly, if your family visits your home town, viz., Trichur, the claim will be restricted as for journey from Bangalore to Trichur and if the family visits Bangalore, there will be no reimbursement of claim.

[ Rule 4 and DPT OM, dated 8-5-1987]

23. **D.O.T., Lr. No. 22/5/88-PAT, dated 27-4-1988**

- Married daughter, unless residing with and wholly dependent on the parent, is not a member of the family of the Govt. Servant.

Govt. of India decision No. (1) under SR 2 (8) provides that the term "Children" (in the family) includes major sons, married daughters, etc., so long as they are residing with and are wholly dependent upon the parents. A doubt has arisen whether the married daughter of a Govt. servant can be treated as dependent on him and he is entitled to claim the LTC in her case.

2. The Dept. of Expenditure, Ministry of Finance, have clarified that the married daughter can be said to be wholly dependent on the father/mother only in case of special and exceptional circumstances, such as where she has been divorced, abandoned or separated from the husband, and is financially dependent on the parent. The financial status of the husband of the married daughter,

therefore, is not and should not be criterion to decide dependency on parents. A married daughter of a Govt. servant, therefore, shall not be treated as a member of the Govt. servant's family under SR 2 (8) unless she is residing with and is wholly dependent on the parent under the circumstances mentioned above.

24. • ***If parents are not dependent, unmarried sisters cannot be treated as dependent on Government Servant.***

I availed LTCs for the block years 1990-93 and 1994-97 for my three unmarried and unemployed sisters who are residing with me and exclusively dependent upon me as my father supports my mother and self with his monthly pension of Rs 758 (now revised after V CPC). I availed all these LTCs on the basis of 'definition of family' mentioned in your Handbook from 1994 to 1998 which states that 'Unmarried sisters residing with the Govt. servant and whose income does not exceed Rs 500 per month can be dependent upon the Govt. servant even if their father is alive and self-dependent'. However, dependency of the unmarried sisters have been objected to by my Department as per SR 2(8). Kindly clarify.

Your contention that the Handbook states 'Unmarried sisters are residing with the Govt. servant and whose income does not exceed Rs 500 per month can be dependent upon the Govt. servant even if their father is alive and self-dependent', is a false one and it is not like that in our Handbook. DO NOT mislead anybody by false statements.

[Rule 4]

25. • ***Reimbursement of LTC for return journey alone from Home town to headquarter admissible***

My mother is dependent on me. She left for hometown early this year when LTC was suspended and could not claim her onward journey. Now, I have brought her back in July, 2003, but LTC claim of her return journey has been denied by Administration of our office. Kindly clarify whether the claim is admissible or not.

Since the onward journey was performed during the period in which LTC had been banned and the return journey during the admissible period, LTC should be admissible for

the return journey, provided the return journey was performed within the stipulated time-limit.

26. • Claim of LTC availed from a place other than headquarters is to be restricted to the fare admissible from headquarters to the place of visit.

An official was granted 60 days medical leave on the recommendation of treating doctor. Now the concerned official has applied for LTC to visit Mt. Abu from his duty place, i.e. Secundrabad. He has also requested LTC for his wife from Chennai (Home town) to Mt. Abu and for his unmarried daughter from Mumbai (other than hometown/duty place of Govt. servant) to Mt. Abu. Kindly clarify the following:-

(i) Whether the above official is entitled to LTC even on medical leave/hospital leave.

(ii) Whether his unmarried daughter can avail LTC from a place other than his duty place/hometown to visit Mt Abu subject to limitation of amount of fare admissible from Govt. servant's headquarters to the declared place of visit.

In the instant case, the official is entitled to avail LTC during Medical Leave vide Rule 7 (2) of CCS(LTC) Rules, 1988.

The Govt. servant's wife and daughter are entitled to visit Mt. Abu by availing LTC subject to conditions mentioned by you.

27. • Entitlement of LTC claim for family residing at Home town to the Headquarters of the Employee

I have been serving in this organization at Mumbai and my family is residing at Trichur. Our organization is following TA, LTC, Leave Rules, etc as admissible to Central Govt. employees. Since the condition of 'residing with' has been dispensed with in the case of wife/husband and children for the purpose of LTC, vide OM No. 31011/14-86-Estt(A), dated 8-5-1987, I preferred LTC for my family members from Trichur to Mumbai for the Block years 1998-99. However, my office refused to admit my claim on the plea that my family is not entitled to claim LTC from

Trichur to Mumbai as Mumbai is my Headquarters.

In view of this, I request you to kindly enlighten me whether my family is entitled to claim LTC from Trichur to Mumbai and back.

LTC is only for visiting Hometown or any place in India from Govt servant's Headquarters and NOT vice versa. Refusal by your office is correct.

[ Rule 8 read with OM, dated 11-6-1985]

28. • *If father is not dependent, mother, sisters and brothers cannot be dependent on the employee for LTC/TA*

My father is earning a pension of more than Rs 1,500. Kindly clarify whether I can claim LTC for my mother, minor sister and unmarried sister, aged 25 years.

Since your father is getting a pension of more than Rs 1,500 p.m. and hence not dependent on you, your mother, brother and sister cannot be treated as members of your family for TA/LTC purposes.

[ Rule 4]

29. • *Mother cannot be treated as dependent if father's income exceeds the prescribed limit.*

The parents of the Govt. servant are not treated as dependents if the father of the official earns income more than Rs 1,500 or Rs 500 per month for the purpose of LTC and medical reimbursement respectively, nevertheless the mother is not an earning member. Hence, a doubt has arisen as to why the mother of the official should not be treated as dependant (as she is a separate individual) for LTC/medical reimbursement). Kindly clarify.

For treating as a 'family member', income alone is NOT the criterion but the member should be WHOLLY DEPENDENT on the Govt. servant. When the father is having income of more than the prescribed limit, mother cannot be treated as WHOLLY DEPENDENT on her son/daughter.

[ Rule 4]

30. • LTC not admissible to the spouses of employees serving in Railways/Airlines.

As per OM No. 31011/7/97-Estt. (A), dated 20-10-1997, Govt. servant and their spouses who are working in Indian Railways are not entitled for the facility of LTC. One of our Sr. Officer whose wife is working in Railway Board intends to visit Lakshadweep availing LTC facility. The said circular was brought to his notice and was advised accordingly. The officer is entitled for Air Travel. The officer argues that Lakshadweep is not connected by Train and even if he was to travel up to the nearest point by train, he has to waste 3 days in one way journey and in total six days for a stay of 3 days at Lakshadweep. If he is permitted to avail LTC by air for which he is entitled, he argues that he can gainfully utilize his leave period.

It is felt that there is a valid point in the argument of the officer. Since the extant rules are silent on this point, kindly advise.

LTC is not admissible to the spouses of employees employed in Railways and Airlines irrespective of the fact whether the places are connected by rail/air or not.

31. • Documentary proof of travel in respect of LTC is mandatory

As per Clause 21 of Chapter XVIII of Swamy's LTC Rules, serial numbers of tickets should be produced with the claims. This may be relaxed by the Controlling Officer. However, I understand that a Govt. servant, while submitting LTC claim should produce (a) Serial number of Railway tickets and (b) bus tickets. I would like to mention that nobody could produce serial number of a ticket without producing that ticket or Photostat of that ticket. If the Controlling Officer is to relax this, the meaning of keeping this provision in the rule is not understood. Kindly clarify.

There is no difficulty in getting serial numbers of ticket - Rail or Bus. Every rule has got a clause giving discretion to the Controlling Officer to relax/waive the conditions in deserving cases based on merit. Because of this provision, the rule cannot be deleted.

32. • Production of tickets/furnishing ticket numbers in LTC claims

I am working as Section Officer at Malaria Research Centre which functions under the auspices of ICMR, New Delhi. I had availed LTC for the block of two years 1992-93 in respect of my family during 1994. While submitting my LTC claim, I had mentioned ticket numbers on LTC bill and had also shown the tickets for outward journey to the concerned officer. My office has rejected my claim with the remarks that, the railway tickets were not attached with the claim. Kindly clarify.

In case where a Govt. servant draws LTC advance, he should produce the Railway tickets within ten days of the drawal of the advance. Where no advance has been drawn, it will be sufficient if a Govt. servant indicates the ticket numbers in his claim, as already provided in the existing instructions.

Railway tickets are to be surrendered to the Railway authorities on completion of the journey. As per the existing orders, it is enough if Railway ticket number is indicated in the LTC claim.

[ Rule 15 and MHA O.M., dated 6-3-1981]

33. • Purchase of tickets with credit cards after drawal of advance, not misappropriation of Government money.

One of our employees who has drawn LTC advance has purchased ticket by utilizing the credit card facility issued by Nationalized Bank and produced the ticket for verification. In my opinion, LTC advance drawn by the employee has not been utilized for the purpose for which it was drawn; hence it amounts to temporary misappropriation of LTC advance. Kindly clarify the correct position.

LTC advance is granted subject to the condition that the employee should produce tickets within ten days of the drawal of the advance. Once the employee has fulfilled this condition by producing the tickets within the stipulated time, he cannot be questioned as to how he purchased the tickets. This is not a case of misappropriation of Govt. money on the part of the employee.

34. • **Tours conducted by ITDC/State Tourism Development Corporations either in their own buses or buses hired/chartered from outside qualify for LTC**

I performed my LTC journey to Badrinath (Uttranchal) in May, 2003 in the vehicle provided by Garhwal Vikas Mandal Nigam. When I submitted my detailed LTC bill, my office rejected my claim on the ground that LTC is not admissible for tours conducted by Govt. Tourism Departments in vehicles not owned by them. Kindly guide.

As per OM, dated 30-7-2002, tours conducted by ITDC/State Tourism development Corporations either in their own buses or buses hired or chartered by them from outside will qualify for LTC. Hence you are entitled to get reimbursement for the journey performed by the vehicles provided by Garhwal Vikas Mandal Nigam.

You may refer to the order incorporated in Page 86 of "Swamy's Compilation of CCS(LTC) Rules" (35<sup>th</sup> Edition, 2003) in this regard.

35. • **Regulation of LTC claim when the journey is performed partly by Rajdhani Express and partly by other trains;**

I am working in Department of Revenue, Ministry of Finance. I had availed LTC for self and my family for travel from Delhi to Madurai and back. We left Hazrat Nizamuddin on 16-5-2008 (Friday) by Chennai Rajdhani Express and left Chennai on 18-5-2008 for Madurai. While returning, my family came back by Tamil Nadu Sampark Kranti Express from Madurai to Hazrat Nizamuddin. My office administration says that for travel from Delhi to Madurai, I should take direct train only viz., Tamil Nadi Sampark Kranti Express and cannot break journey at Chennai. Is it correct? Because we left Hazrat Nizamuddin on Friday, the day the Tamil Nadu Sampark Kranti Express is not running. May I request clarification?

The contention of your office is not in order. You are entitled for both types of journey by entitled class - vide Clarification Nos. 7 and 9 in GID 8 under Rule 12 in Swamy's Compilation of CCS(LTC) Rules, 1988.

36. • LTC to Home town during study leave

An Officer on study leave away from headquarters performs onward journey to home town from his study station on LTC and return to the same place. Kindly clarify whether LTC may be allowed in this case restricting the reimbursement to the entitlement as for journey from place of duty to home town and back.

As per CCS (LTC) Rules, 1988, LTC is admissible during any period of leave, including Casual Leave and Special Casual Leave. Para (3) of O.M. No. 43/1/55-Ests.(A)-Part-II, dated 11-10-1956 states that the journey to the home town and back need not necessarily commence from or end at the headquarters of the official, but the reimbursement will be limited as admissible for journey from duty station to home town and back. Hence, LTC in the case cited is clearly admissible.

37. D.P.T.O.M. Mo. 31011/1/88-Ests.(A) dated 30-3-1988

• Admissibility of LTC to the employees while on 'Study Leave'

The undersigned is directed to say that a large number of references are being received in this department raising the question whether the LTC could be allowed to the Central Govt. employees while on study leave. It is clarified that the LTC is admissible to the Central Govt. employees while on study leave. In such cases the claims are to be regulated as under:-

**(a) For Self:-**

Govt. servant can avail LTC from the place of study leave to any place in India/home town subject to the condition that the reimbursement of fare should be restricted to the fare admissible for travel between his headquarters station to any place in India/home town or actual expenditure, whichever is less.

**(b) For the Family members:**

(i) *When the family members are staying with the Govt. servant at the place of his Study Leave:*

The reimbursement will be as indicated at (a) above.

(ii) *When not staying at the place of study leave:*

The reimbursement will be as under the normal terms and conditions of the LTC scheme.

2. Ministry of Agriculture, etc are requested to bring the above clarification to the notice of all their attached and subordinate offices etc.

38. • LTC to an employee whose suspension period is treated as non-duty for all purposes consequent on his reinstatement.

An employee was placed under suspension from 9-6-1998 to 9-2-1999 and reinstated w.e.f. 10-2-1999. The entire period of suspension was treated as 'Non-Duty' for all purposes. Consequent on his joining the duty on 10-2-1999, the employee availed LTC for the block year 1994-97 to visit Bombay along with his family members.

Our Internal Audit objected for granting the LTC to the concerned employee and recommended for the recovery of the entire amount, as the entire period of suspension was treated as 'Non-Duty' for all purposes.

Kindly clarify whether the employee is required to render one year of continuous service on his reinstatement to avail LTC.

Though the period of suspension is treated as Non-Duty for all purposes, the past service will not be forfeited. Hence, the question of break in service does not arise. The objection taken by the Audit is contrary to the orders.

[ FR 54 and GIO (3) thereunder]

39. • Joining Time can be combined with vacation

I was serving in Jawahar Navodaya Vidyalaya in Jammu & Kashmir Hard station winter zone where the summer break starts from 1<sup>st</sup> June and ends on 30<sup>th</sup> June. I was transferred to Navodaya Vidyalaya, Moradabad in public interest and relieved on 30-5-2003. The Navodaya Vidyalaya, Moradabad observes summer vacation from 1<sup>st</sup> May

to 30<sup>th</sup> June. I joined my new place of posting on 28-6-2003 as directed by the authorities. I request your goodself to kindly let me know whether unavailed transit period can be credited in EL account in such types of cases.

As per Rule 6(2) of JT Rules (Appendix-10 of Swamy's Compilation of FR & SR-Part.I-General Rules), JT may be combined with vacation.

Since you were asked to report for duty before the end of the vacation in the new place of posting, you are eligible for crediting of full JT admissible to your EL account, subject to the condition the total credit does not exceed 300 days.

40. • **Suffixing of closed holidays with Joining Time**

I was transferred from Dehradum to Ajmer. Having entitlement of 10 days of JT, I have consumed 7 days up to Friday and joined the next Monday, since Saturday and Sunday were closed holidays. When it was claimed for transferring the unutilized JT of 3 days to EL account, it was informed that Saturday and Sunday should also be counted along with 7 days JT amounting to the total of 9 days. It appears that closed holidays when suffixed should not be calculated as JT as because JT could have been totally exhausted on Friday itself. I would request your confirmation or otherwise.

Sundays and holidays are also included in the JT and only when holiday(s) follow(s) JT, the normal JT is deemed to have been extended to cover such holiday(s). In your case, Saturday and Sunday falling within the admissible period of JT will also be included as JT and the question of suffixing them does not arise.

[ Rule 5 ]

41. • **Joining Time Pay on appointment from one Ministry to another**

I was serving at CLW (Railways) Chittranjan from 5-7-1968 to 12-1-1981. On selection for appointment as Assistant Foreman/CQA (FFE), Aundh Camp, Pune, an establishment under the Ministry of Defence (DGQA), I was relieved on 12-1-1981 AN and joined in the new appointment on 15-1-1981 availing transit time for two days. I was not paid JT pay for these two days. My request for payment of the JT pay has been turned down by CDA(SC) for reasons not

known. Kindly intimate whether I am entitled for JT pay for 2 days and whether non-payment of the same will affect my total service with Govt/pensionary benefits in any way.

Central Govt. employees and permanent/provisionally permanent State Govt. employees who are selected for appointment under Central Govt. on the results of a competitive examination and/or interview open to Govt. servants and others will be entitled to JT and joining time pay. However, temporary employees of the Central Govt. who have not completed 3 years of regular continuous service, though entitled to JT, would not be entitled to JT pay.

You may examine your case in the light of the above rule and bring the same to the notice of CDA(SC) who has rejected your claim for payment of JT pay.

[ Rule 4 (4) of CCS(JT)Rules]

42. • (i) If an official on transfer is relieved on the forenoon of a day, the Joining Time starts from that day onwards.  
(ii) If relieved on the afternoon of a day, the Joining Time commences from the next day (even if it happens to be a holiday)

(1) An official of our department who is serving in Srinagar and whose headquarter is Shivapuri (MP) is transferred to Jammu, headquarter of which is Bhopal(MP). The distance between Shivapuri (MP) and Bhopal (MP) is 400 kms. and the concerned employee was entitled to 10 days JT as per rules. He was relieved from his Srinagar Office on 4-11-2003 (FN) and reported to our office on 5-11-2003(FN) as he was ordered to join our office without availing JT. Now the individual has requested for crediting of his unavailed JT for 10 days as he availed only the actual transit time from Srinagar to Jammu.

(2) An official working in a office having 5 working days in a week was transferred to another office having six working days in a week and entitled to 10 days JT. He was relieved from his old office on Friday (AN) with direction to join the new office without availing JT. The individual joined duties in the new office on Monday (FN). His office credited 10 days EL in his leave account as unavailed JT.

Kindly clarify.

(1) As per Rule 5(1) of CCS(JT) Rules, as the official was relieved on the forenoon of 4-11-2003, that day has to be taken into account while calculating JT. Hence he is eligible for credit of 9 days only.

(2) As per Rule 5(1) of CCS(JT) Rules, the JT commences from the date following the date of relinquishment of charge of the old post, if the charge is made over in the afternoon. Holidays, if any, following the date of relinquishment should be included in the JT period. Hence in the instant case, Saturday and Sunday are to be included in the JT period and the official is eligible to credit of 8 days only.

43. • Joining Time commences from the next day of relief even if such day happens to be holiday.

I was transferred and relieved from my previous office on 1-4-2005 (AN) with the direction to report to my new office without availing the admissible 10 days JT. As directed, I left my old station on 2-4-2005 and reached Port Blair on the same day and availed helicopter service to Car Nicobar on 4-4-2005 and reported for duty at new office on 4-4-2005 (FN). Since 2-4-2005 and 3-4-2005 being Saturday and Sunday respectively, I could report for my duty at the new station only of 4-4-2005 (FN). Accordingly, my contention is that, I am entitled to get 10 day unavailed JT period credited to my EL account since 2-4-2005 and 3-4-2005 being holidays could be suffixed to JT. However, our Head Office allowed me only 8 days EL to be credited to my leave account by treating the holidays on 2-4-2005 and 3-4-2005 as part of JT.

Kindly guide me.

As per Rule 5(4) of CCS(JT) Rules in Swamy's compilation of FR & SR-Part.I-General Rules, when the holidays follow JT, normal JT may be deemed to have been extended to cover such holidays. In your case, your JT began on the holiday since you have been relieved on 1-4-2005 (AN) and the action of your office is correct.

44. • Joining Time on deputation/tour to another office beyond 8 kms.

As per JT Rules the JT is admissible during

transfer in public interest. But in some offices the officials are availing one day JT for the journey beyond 8 kms. on their deputation/tour to another sub-post office to work in a leave vacancy. Kindly clarify whether JT is admissible in such cases.

One day's JT is admissible only in cases where a person is transferred to join a new post within the same station or which does not involve a change of residence from one station to another. JT is not admissible if the person is deputed on tour in a leave vacancy, or in the case of a temporary transfer. Actual time taken in journey only is allowed and the period of journey in these cases will be covered by the TA as admissible, and is treated as duty.

[ Rule 5(3) ]

45. • Holidays falling during joining time should be treated as part of joining time.

One of our officers has been transferred from our headquarters at Faridabad to Neyveli and relieved on 8-11-2004 AN. He has availed two days JT on 9-11-2004 and 10-11-2004, closed holiday on 11-11-2004, RH on 12-11-2004, weekly holidays on 13 & 14-11-2004 and closed holiday on 15-11-2004 and joined duty on 16-11-2004. In the said case, how many days the said officer is entitled for crediting unavailed JT in his EL account? Whether the closed holidays/weekly holidays/RH availed by the officer could be treated as suffix to JT or part of JT? Kindly clarify.

In the instant case, the entire period from 9-11-2004 to 15-11-2004 should be treated as spend on JT. For crediting unavailed JT, please refer to Rule 6 of CCS(JT) Rules, 1979 and ensure the conditions prescribed thereon are fulfilled.

46. • Availing intervening Sunday before joining new post, if transfer is on own request.

Swamy's handbook says that in the case of transfer on own request, the intervening holidays(s) may be availed as holidays and the employees need not take any leave for such period. In our case we had availed Sunday on 14-4-after relief on 13-4- and joined new post on 15-4-. But the authorities insist on our applying for leave, on the

interpretation that the concession is admissible only to holidays and not Sundays. Your guidance is requested on the subject.

The concession is admissible in your case, as Sunday also is a holiday.

[ GIO No.6 below Rule 10]

47. • Increment due during Joining Time could be drawn only on assumption of charge.

A JAO of Port Blair proceeded on 30 days EL from 17-5- and returned to duty on 20-6-. He was allowed the usual JT admissible from 15-6- to 19-6-. His date of increment was 17-6-. But this was allowed only from 20-6- on his return to duty. Kindly clarify whether this is correct.

The action taken is correct. During JT, pay will be equal to the pay drawn before relinquishment of charge in the old post. Increment falling due during JT can be drawn only on return to duty.

[ Rule 7 of CCS(JT) Rules]

48. • Family should be brought within the permissible time limit for crediting unavailed Joining Time.

I have been transferred from Srikanpur (Rajasthan) to Jaisalmer (Rajasthan). Since the distance between the two places is less than 1000 kms., 10 days JT is admissible. I was relieved from my old headquarter 7-6-2004 and joined in the new headquarter on 8-6-2004 FN without availing JT.

In the new headquarter, I am living alone without my family and I shall not bring my family due to family problem. When I claimed transfer TA for my single journey and also crediting of unavailed JT in my leave account, the Head of Office has replied that he would sanction JT as soon as I bring the family within prescribed time as per JT Rule 6(1)(b). Kindly clarify.

The CCS(JT) Rules, 1979 of 6 (1) (b) of "Swamy's Compilation of FR & SR-Part.I(Appendix-10)" quoted by your Head of Office is correct. The unavailed JT will be credited to your leave account only if you bring the family to the new headquarters within the prescribed time. His credit is not a bonus for leaving the family behind.

49. • Credit of unavailed Joining Time to EL account, when family is not shifted on transfer.

I was transferred in public interest. I left old office on 2-8- AN and joined the new office on 5-8- FN, availing the intervening closed holidays. When I requested my present office they say that since I had proceeded to the new station without family, the credit of unavailed JT does not arise under Rule 6 (1)(b). I have asked for further extension of six months time to bring the family. They say that the rule is silent about the permissible period of extension, even in case if I get the family. You are requested to clarify the correct position.

In cases other than those when ordered to join the new station without availing full JT, the question of crediting unavailed JT will arise only after the family is taken to the new station.

Permissible period of time for claiming family TA should include extended period as well, when TA to family is allowed under the rules.

[ Rule 6 (1)(b) ]

50. • Credit of unavailed Joining Time to EL Account when the employee proceeds alone to the new place and shifts the family within the permissible period.

I was transferred from Ahmedabad to Nagpur and I reported for duty after availing 7 days JT. On my request the unavailed portion of the JT of 3 days was credited to my EL account as my family was in Hyderabad. Later on, my family came to Nagpur. I retired on superannuation and got encashment of EL for 240 days. Now the office has intimated that the credit of EL for 3 days is irregular on the ground that I did not myself bring the family to the headquarters, and recovered the leave salary for 3 days from the balance of DCRG.

The unavailed portion of JT shall be credited to EL account when the employee proceeds alone to a new place of posting and takes his family later within the permissible period of time for claiming TA for the family. There is no stipulation that the employee should himself proceed to the old station and bring his family to the new headquarters.

Therefore, the objection to the credit of EL of 3 days and the recovery of leave salary for the period are not in order.

[ Rule 6(1)(b) ]

51. C & AG, Lr No. 948-Audit.I/III-88/7-88(143), dated  
5-10-1988

- Unavailed Joining Time available under Rule 5(3) of the CCS (Joining Time) Rules cannot be credited to EL account.

Reference is invited to Rule 6 (1) of CCS(JT) Rules, 1979. When a Govt. servant joins the new post without availing of the full JT, the number of days of JT as admissible under sub-rule (4) of Rule 5 subject to a maximum of 15 days reduced by the number of days actually availed of shall be credited to his leave account as EL.

2. In sub-rule (3) of Rule 5 of the CCS(JT) Rules, 1979, it has been mentioned that not more than one day's JT shall be allowed to a Govt. servant to join a new post within the same station or which does not involve a change of residence from one station to another. In this case, a question arises that in case an officer is transferred within the same station and does not avail of one day's JT on relief from the old post, is he entitled for getting one day's EL to his credit in his leave account subject to the ceiling of 240 days. The doubt has arisen due to the existing provisions in the CCS (JT) Rules, 1979, being silent of this aspect. However, it is presumed that EL for 1 day for not availing one day's JT on transfer at the same station shall be admissible as in the case of transfer covered under Rule 6(1) of CCS(JT) Rules, 1979. It would appear that Dept. of Perl. & Trg. has been allowing such credit in regard to individual cases specially referred to them. If so, kindly confirm the presumption and also consider the desirability of issuing general orders in this regard.

Sd/- (R.S. Ramanujam)

Administrative Officer(Audit-I)

Min. of Perl. & PG & Pensions(Dept. of Perl. & Trg.), New  
Delhi

C&AG's U.O.761-Audit.I/7-88, dated 21-7-1988.

**Department of Personnel and Training  
Establishment (Allowance) Section**

Office of the Comptroller and Auditor-General of India may kindly refer to their U.O.Note No. 761-Audit.I/7-88, dated 21-7-1988, on the above subject.

2. In this connection it is observed that unavailed portion of JT as admissible under Rule 5 (4) can only be credited to the EL account of the Govt. servant in terms of Rule 6 (1) of the CCS(JT) Rules, 1979. The JT available under Rule 5(3) cannot be so credited.

3. Office of the Comptroller and Auditor-General may kindly see.

Sd/- (E.K.Sreedharan)  
Under Secy to the GOI

O/o the C&AG, New Delhi-110002(Shri Ramanujam, AO)  
DP & T U.O.No.19011/2/88-Estt.(allcs), dated 29-8-1988.

52. • **Maximum eligible days of Joining Time can be credited to EL account if not availed.**

Consequent on my transfer from PAO, Central Excise Visakhapatnam, I was relieved on 3-4- AN and joined at PAO, Central Excise, Guntur, on the forenoon of 4-4- without availing full JT. Though the unavailed JT can be credited to my leave account as per JT Rules, PAO, Central Excise, Guntur, refused to credit the full unavailed JT saying that only a balance of unavailed JT can be credited to leave account but not the full admissible JT.

If the conditions stipulated are fulfilled, the admissible JT less than the days availed (if any), subject to a maximum of 15 days will be credited to the EL account. There is no condition that the Govt. servant should necessarily avail a portion of JT and the balance alone can be credited.

Refusal to credit the unavailed JT to your leave account is not in order.

[ Rule 6(1) ]

53. • Credit of unavailed Joining Time to EL Account, in case of joining the same post at the new place.

When I was transferred from one place to another, my relieving office ordered me to join the new place without availing full JT due to exigencies of service, and I did so.

During Audit the unavailed portion of JT was disallowed by the authorities on the pretext that since I have joined the same post (not new post), I am not eligible for the credit of unavailed portion into my leave account.

Kindly clarify whether the stand taken by the Audit is correct.

If you were entitled to JT under Rule 5 (4) of CCS(JT) Rules, the unavailed portion of JT should be credited to your leave account. The term 'new post' means the post at the new station and it may be the same grade or even designation. The objection of the Audit is not correct.

[ Rule 6(1) ]

54. • Holiday during Joining Time cannot be treated as unavailed Joining Time, for credit to EL account

I was transferred in public interest from Trichur to Ernakulam involving change of headquarters. I was relieved on 19-10- AN, at the old station and joined duty at the new station on 21-10- FN, 20<sup>th</sup> being a closed holiday. I ought to get 10 days unavailed JT credited to my EL account. But the authorities have credited only 9 days treating the closed holiday on 20<sup>th</sup> as JT availed. Will not the Perl. & Trg., OM.No.19011/16/88-Estt.(A), dated 15-12-1988, be applicable in this case?

The credit of 9 days unavailed JT to your EL account is in order. The holidays can only be suffixed to the JT. Hence, the holiday on the 20<sup>th</sup> would be treated as part of JT. The OM referred does not apply in your case.

[ Rule 5(1) ]

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**( 7 ) PENSION**

1. • No pensionary benefits on resignation

Kindly clarify whether an employee who is confirmed, has resigned from service permanently, after the completion of ten or fifteen years of continuous service, is eligible to get the pensionary benefit or not?

A Govt. servant who resigns from Govt. service (whether he is permanent or temporary) his past service is forfeited and he is not entitled for any pension, gratuity or family pension. He will be entitled to encashment of EL up to 50% of EL at credit.

2. • Voluntary retirement should be only after a qualifying service of 20 years

I am working as Assistant Deputy Director in the Department of Health under UT Administration of Daman and Diu. I have given a notice for voluntary retirement after completing 19 years 9 months in service. As per Rule 49 (3) of Pension Rules, fraction of a year equal to 3 months and above shall be treated as completed half year and reckoned as qualifying service. In the light of the aforesaid rule, have I not completed 20 years of qualifying service?

I shall be greatly obliged if you kindly enlighten whether a Govt. employee who has completed 19 year 9 months service can give 3 months notice for voluntary retirement or he will have to wait for full 20 years service to give another 3 months notice to retire under 20 years voluntary retirement plan.

Notice of voluntary retirement can be given at any time. The only condition is that, the intended date of retirement should be after a qualifying service of 20 years.

3. • Notice for Voluntary retirement under Rule 48-A can be given before completing 20 years of Qualifying Service.

I had joined Central Govt. service on 14-7-1983 and going to complete 20 years of qualifying service on 14-7-2003. I have not availed any EOL or leave without pay. If I intend to take voluntary retirement under Rule 48-A of CCS (Pension) Rules, 1972 soon after my completion of 20

years of qualifying service, i.e., from 1-8-2003, can I give notice for Voluntary retirement on 1-5-2003, i.e., prior to three months before my intended date of retirement and before completion of 20 years qualifying service?

You may refer to sub-clause 8 in Clause-II under Order No.1 in Appendix-9 of "Swamy's Pension Compilation, according to which notice of retirement under Rule 48 of the CCS (Pension) Rules, 1972 could be given by the Govt. before the Govt. servant actually completes 30 years of service. On the same analogy under Rule 48-A also, notice can be given before actually completing 20 years of service. But the date of retirement should be effective only on completion of the 20 years.

4. • Notice for voluntary retirement during EL

A Govt. servant has served a notice of three months for voluntary retirement under Rule 48-A of CCS(Pension) Rules and has simultaneously applied for EL for 3 months to run con-currently with notice period and requested to relieve him on retirement on the expiry of notice period. The notice of voluntary retirement has been accepted by the competent authority. In this connection, kindly give your opinion on the following points:-

(a) Whether he can be relieved with a prospective date during the notice period for which he has applied for EL to run concurrently with the notice period without insisting on his resumption to duty after expiry of leave?

(b) Whether he should necessarily be on duty on the last working day?

The leave which is standing to his credit applied for by the Govt. servant may be granted to him to run concurrently with notice period. There is no rule or order stipulating that the Govt. servant should be on duty on the date of retirement.

It may, however, be noted that no HRA and CCA will be admissible, as he retires without returning to duty, as such leave will be treated as terminal leave. However, EOL cannot be granted to run concurrently.

[ GID(1) below Rule 48-A]

5. • Even a single day less than 9 years and 9 months cannot be condoned for eligibility of pension

I am going to retire of 31-1-2003 and my total service will be 9 years 8 months and 20 days. As per GID (2) below Rule 49 of Swamy's Compilation of CCS (Pension) Rules, 1972, an official completing 9 years 9 months is eligible for pension. I fall short of 10 days to become eligible for pension. Will you please clarify whether this shortfall of 10 days could be condoned by the Competent Authority so that I become eligible for pension.

There is no provision to condone in such cases even if the required period is short by a single day, i.e., 9 years 8 months and 29 days.

6. • EOL and notice period for Voluntary Retirement cannot run concurrently

On completion of more than 20 years of service as per Rule 48-A of CCS (Pension) Rules, 1972, I opted for Voluntary Retirement by giving 3 months advance notice on 10-12-2001. I was allowed to retire on 9-3-2002. Accordingly I have submitted my notice and retired from service while I was on duty. During the notice period, I have availed EOL on medical grounds due to acute health problems. It is learnt that the same was accepted by the Department and the Competent Authority has sanctioned the leave. Even though three months period has lapsed the Department has neither settled my pensionary benefits nor communicated any decision.

However it is learnt that the GOI decision under Rule 48-A states that "Extraordinary leave of any kind cannot be termed as leave standing in credit of Govt. servant". It is not clear as to whether the EOL on medical grounds is coming within the meaning of this terminology or not.

Since the department is keeping my case still pending, I request you to kindly clarify the matter.

EOL of any kind cannot be termed as leave standing to the credit of Govt. servant. Hence, such EOL with or without Medical Certificate cannot run concurrently with the period of notice for seeking voluntary retirement as clarified under GID (v) below Rule 48-A of CCS(Pension) Rules, 1972.

Hence the notice given by you cannot be considered as proper one under the statutory rules.

7. • **Family Pension cannot be transferred**

One Postal Assistant who was having two wives and minor son (age 1 year) died while in service. The first wife's name was entered in the Service Book. Later on, the second's wife name (who is a Govt. servant) was entered in the family particulars omitting the name of the first wife. At the time of the settlement of family pension, the second wife gave a consent to sanction family pension and other benefits in favour of the first wife, i.e., in January, 1989. Accordingly, the first wife was sanctioned family pension from January, 1989 to December, 2002. The first wife died on 15-1-2003 and the second wife has applied for Family Pension. Kindly clarify whether the second wife who is a Govt. servant and her son aged 14 years are eligible for Family Pension.

First of all, it is illegal for a Govt. servant to have more than one wife vide Rule 21 of CCS(Conduct) Rules.

Substituting second wife's name in place of the first wife is not supported by any rule.

Family Pension cannot be authorized to anybody by the widow. Hence getting the consent of the second wife and giving it to the legally wedded wife, i.e., first wife does not arise.

On the demise of the first wife, the family pension will be payable to the son through the second wife subject to fulfillment of conditions vide GID 19 below Rule 54 of CCS (Pension) Rules.

The second wife is not eligible for the family pension since her marriage itself is illegal vide GID 13 below Rule 54 of CCS (Pension) Rules.

8. • **Ad hoc service also qualifies for pension**

(A)

After putting 20 years of service, an employee got voluntary retirement after giving three months notice to the appointing authority. The notice was accepted by the authority and he was relieved from duty accordingly. But he has been denied pension as his service on *ad hoc* basis

for three years has not been taken into account as qualifying service by pension sanctioning authority.

Kindly clarify whether the employee can draw his notice or appointing authority can quash their voluntary retirement order.

A permanent Govt. servant after completion of 20 years qualifying service can retire from service with pensionary benefits under Rule 48-A of CCS(Pension) Rules, 1972. A temporary Govt. servant after completion of 20 years continuous service is also eligible to avail voluntary retirement with pensionary benefits like permanent Govt. servant.

Pension Rules do not stipulate that `ad hoc' service will not count as qualifying service. We are unable to understand under what circumstances the pension sanctioning authority refused counting of ad hoc service as qualifying service for pension.

Before accepting the request for voluntary retirement, the appointing authority should satisfy himself that the Govt. servant seeking voluntary retirement fulfils the condition attached to the voluntary retirement. If, by mistake, the concerned employee has not completed the requisite minimum qualifying service prescribed for voluntary retirement, then the acceptance of the notice is wrong and can be rectified by canceling the voluntary retirement order.

[ Rule 13]

(B)

An Assistant Engineer was promoted on ad hoc basis as Executive Engineer in 1993, against the existing/regular vacancy. But knowingly or unknowingly the service has not been regularized by a DPC up to this date. It is over five years passed and the officer has already retired. Whether he is entitled to pension benefits as per his ten months average basic pay drawn by him or not?

Though the officer has got regular service of 30 years and permanent in the earlier post prior to Executive Engineer, the A.G., Assam has not authorized his pension, being on ad hoc service. Please clarify the ruling provisions.

From the contents of your letter we are able to

gather that the particular officer has put in thirty years service, qualifying for pension and that the Accounts Department had not authorized pension (presumably on superannuation) on the ground that service in the post held at the time of retirement to which he was promoted on an *ad hoc* basis had not been regularized. If the facts of the case as understood by us are correct, they indeed reflect a sorry state of affairs.

The Pension Rules nowhere enjoin that *ad hoc* service rendered in the post held at the time of retirement should have been regularized. Average emoluments must be calculated on the basis of the last ten months, even if the last portion of the service is *ad hoc* in nature.

The action of A.G., Assam in not authorizing the pension is not in order.

[ Rule 33]

9. • Method for calculation of Qualifying Service

One of our employee who was appointed on 19-12-1966 will be retiring on superannuation w.e.f. 28-2-2006(AN). While initiating his pension claim, we worked out his total qualifying service in the following manner:

	Year	Month	Days
19-12-1966 to 31-12-1966	0	0	13
1-1-1967 to 28-2-2006	39	02	0
Total	39	02	13

Restricted to 33 years.

But our Accounts Office differs and their contention is that, total qualifying service he worked out straightaway by subtracting date of appointment from the date of retirement, i.e. (2006-02-28) - (1966-12-19) which comes to 39 years 02 months and 09 days. Though in either of the calculations there will be no effect on the quantum of pension as he has put in more than 33 years of service, yet the method being adopted by our Accounts Office will definitely affect and the employee will be losing benefits of half year, when one has put in less than 33 years of service. The effect will be more if the total qualifying service happens to be 2 months 29 days or 8 months and 29 days.

Kindly confirm whether the contention of our Accounts Office is in order.

Your office's method of computing qualifying service is perfectly in order. The contention of your Accounts Office is wrong. You may ask your Accounts Office to refer to Audit Instructions below FR 9 (18) in Swamy's Compilation of FR & SR-Part-I-General Rules.

10. • Validity of nominations under GPF and DCRG without any contingency provisions.

One of our employee has nominated his brother and mother in GPF and DCRG nomination forms, when he had no family. Consequent upon acquiring a family, he did not revise the nomination in favour of his wife/children. The employee had died while in service. The wife of the deceased employee has obtained 'Legal Heir' certificate from the Tahsildar in which the wife and children of the employee have been shown as legal heirs.

Please clarify if the GPF balance and DCRG, etc., can be paid to the wife of the employee, under the above situation.

Both under CCS(Pension)Rules, 1972 and GPF(CS) Rules, 1960, mother and brother (who is below the age of 18 years at the time of making the nominations) fall under the definition of 'Family'. If the deceased employee had not made any contingency provision, i.e., "in the event of the marriage the nomination will be invalid", the nomination made by him subsists.

As per the above rules, where a nomination subsists, the amount due shall be paid to the nominees [Refer to Rule 51 of CCS(Pension) Rules, 1972 and Rule 33 of GPF (CS) Rules, 1960.]

11. • Nominations made for CGEGIS and Death Gratuity in favour of parents are valid even after marriage of Govt. Servant

A Govt. servant at the time of joining gave nominations for CGEGIS and Gratuity in favour of his parents. Subsequently, he got married and also got confirmed. He did not change the nominations subsequent to

his marriage and unfortunately died recently.

Regarding payment of Insurance amount under CGEGIS, it is seen that as per Paras. 19.3 and 19.4 of OM, dated 27-10-1986, the nomination made by an employee before his marriage becomes invalid after his marriage. But in 1987, the definition of `family' was widened and now it includes parents and minor brothers and unmarried sisters also. Thus we feel the nomination made by the employee is valid and the amount is to be paid to the parents.

Secondly, according to Chapter 72 of "Swamy's Establishment and Administration", every Govt. servant on his initial appointment shall make a nomination regarding Death Gratuity. Since parents are also included as `family members' for the purpose of Death Gratuity, the nomination holds good even after the marriage and the Death Gratuity is payable to the parents. But as per "Swamy's Compilation of Pension Rules", a Govt. servant on his initial confirmation in a service of post shall make a nomination for Gratuity. If we follow this rule, the nomination made in the present case becomes invalid as it was made before confirmation. As such, the amount is payable to the wife and children.

Correct position may kindly be clarified.

Parents are included as members of the family for the purpose of CGEGIS and Pension as per Para 19.3 of CGEGIS, 1980 and Rule 50 of CCS (Pension) Rules. Hence the nomination made in favour of parents is valid even after marriage.

Chapter 72 (Para 2) of "Swamy's Establishment and Administration Manual" states "On his initial confirmation" only and has cited Rule 50 (c) and Rule 53 of CCS (Pension) Rules as authority. Hence your statement that the para. mentions as "on his initial appointment" is NOT correct.

12. • Lumpsum under Central Govt. Employees Insurance Scheme, 1977 should be paid on attaining the age of 58 years;

The Central Govt. servants, who are the members of old CGEIS, 1977 were contributing Rs 5 for every month towards membership. Now as Para 4 of GI, MF, OM.No. 7(1)-

E.V/80, dated 7-10-1980, no contribution will be recoverable from Govt. servant on his attaining the age of 58 years. Insurance cover will accordingly be available only up to the age of 58 years and not thereafter. In view of the above provisions, please clarify "The cash sum payable @ Rs 8.75 for each month for the period employee was covered by the scheme" can be paid to him on attaining the age of 58 years or contribution can be recovered up to the age of 60, i.e., till superannuation and maturity amount will be payable thereafter.

Under this Scheme, the contribution of Rs 5 p.m. has to be paid from the month the Govt. servant attains the age of 28 years till the month preceding the month in which he attains the age of 58 years and Rs 5,000 should be paid on attainment of age of 58 years. In this scheme, the age of superannuation has no relevance. Even though the superannuation age is raised to 60 years during May, 1998, Govt. have not issued any corresponding amendment to this scheme. According to the scheme, no contribution should be recovered beyond the age of 58 years. If any amount was recovered, the same should be refunded in full.

13. • Child adopted even after retirement is entitled to get family pension

I retired from service on 30-4-1994 on superannuation and received all pensionary benefits. Since my wife expired in January, 1993, I nominated my two sons for Family Pension. But both of them expired in January, 1996 and June, 1998 respectively. In December, 1998, I legally adopted one of my grandsons aged about 11 years. In this connection, I have submitted the adoption deed to the Pension Sanctioning Authority with the request to add the name of my legally adopted son in the list of my family members so that he could received family pension in case of my death. But the Pension Sanctioning Authority is not clear on the rules position. Hence, I request you to kindly enlighten me by giving the latest position in the matter.

The stipulation that adoption should be "before retirement" has been deleted vide Notification No.1(66) P & PW/89-E, dated 18-1-1993. Hence as per Rule 54 (14)(b)(ii) of CCS (Pension) Rules, 1972, child adopted legally is entitled to Family Pension even if the adoption is after retirement.

[ Rule 54(14)]

14. • Family Pension admissible to legally adopted child after retirement/post-retiral spouse.

One of our retired employees, who has no sons, has approached me for clarification as to whether in case he adopts his grandson (aged about 8 and son of his divorced daughter who is dependent on him), he would be eligible for family pension.

Also kindly clarify as to whether the children of post-retiral spouse born to the retired employee are eligible for family pension.

Son/daughter legally adopted after retirement and post-retiral spouse are eligible for the grant of family pension vide Rule 54 (14) of CCS(Pension) Rules and GIDs (18) to (20) thereunder in Swamy's Pension Compilation.

15. • Retirement benefits in the case of a Govt. Servant absorbed in PSU after getting pro rata pension and again re-appointed in Govt. service after getting retirement benefits in PSU.

Mr `A' was a Central Govt. employee from 8-10-1964, deputed to Public Sector Undertaking in June 1974 and got permanently absorbed in PSU from 1-5-1977. He was paid all retirement/terminal benefits including commutation of full pro rata pension as admissible under rules by his parent organization.

After 13 year of service in PSU, Mr `A' again joined Central Govt. on deputation from PSU and was absorbed permanently from 9-7-1990 through selection process. As per terms and conditions of permanent absorption in Central Govt., Mr `A' is entitled for pension, service gratuity, leave etc., as per rules.

Mr `A' was granted lumpsum amount (pro rata pension commuted in full) at the time of his permanent absorption in PSU. He is in receipt of Pension of Rs 194 from June, 1993 and Rs 595 per month from 1-1-1996 for life consequent to restoration of one third commuted portion of pension after 15 years from the date of commutation.

Mr `A' is due for superannuation from 30-11-2003 from Central Govt. after putting 13 years 4 months and 21 days service. He would be entitled for pension, retirement gratuity for 13 years of qualifying service and also

encashment of EL for 300 days.

Kindly advise me how the restoration of one third pro rata pension which Mr `A' is receiving now (Rs 595) for life will be dealt with. Whether EL encashed in PSU before joining Central Govt. (which is not tax free) should be deducted from maximum of 300 days EL allowed for tax free encashment.

As per Rule 7(1) of CCS (Pension) Rules, 1972, a Govt. servant shall not earn two pensions in the same service or post at the same time or by the same continuous service.

When a Govt. servant is absorbed in a PSU, and retires finally from the PSU, the total gratuity admissible in respect of the service rendered under both the organizations shall not exceed the amount that would have been admissible had he continued in Govt. service and retired on the same pay which he drew on retirement from the PSU (refer Formats in Appendix-11 of Swamy's Pension Compilation-16<sup>th</sup> Edition).

We are of the opinion on the same analogy, the retirement benefits admissible in this case also, should be limited to the combined qualifying service in the Central Govt. (two spells) and PSU subject to the maximum qualifying service admissible as per rules and that the leave encashment also should be limited to a total of 300 days only.

However, since this case is a typical one and not covered by any existing order, you may make a reference to the Department of Personnel & Training for a ruling.

16. • Share of family pension being paid to the children of the first wife, shall pass on to the second wife on their becoming ineligible

My husband expired while he was serving in a Central Govt. Department. Consequently, I applied for Family Pension to the Pension Sanctioning Authority of his Department. However, I have been intimated that Family Pension shall be granted in equal shares to me as well as to two minor children of my husband who were born through his previous deceased wife.

In this connection, I would request you to kindly clarify whether I will get the Family Pension share of these two minor children on their attaining the age of 25

years or they start their earnings, whichever is earlier or it will lapse.

The family pension, in the instant case, is payable in equal share to (i) to you and (ii) the eldest child of the deceased wife of the Govt. servant. On the eldest child becoming ineligible for that share, due to attaining of age of 25 years, getting married or getting employment that share will pass on to the next child of the deceased wife. When the next child becomes ineligible for the grant of family pension due to the reasons stated above, that share of the family pension shall not lapse but will be payable to you, i.e., you will get full family pension.

[ Rule 54(7)

17. • Family Pension to second wife while the first wife has been divorced and monthly compensation is being paid.

An official who died while in service has not submitted any nomination for GPF/DCRG/CGEIS. During September, 1988, he submitted a Court order that his marriage was dissolved by way of decree through Family Court. The Court order says he has to pay a monthly compensation of Rs 500 to his divorced wife. She does not have any children nor she married again. During, March, 1999 he gave the family particulars that he has married again a widow having five children.

Now, after his death, the second wife submitted a succession certificate and claims the death benefits of the official. The divorced first wife also claims for benefits since she was receiving monthly compensation from the official till his death as per Court's order.

Kindly clarify whether the admissible family pension is to be made seven equal shares and to paid in the ratio of 1:6 (one for first divorced wife and 6 for the second wife and her minor children) OR to be paid equally 50% each to the first wife and to the second wife OR the entire family pension to be paid to the second wife only since divorced wife will not get any share as per rules.

There is no question of nomination for "Family Pension" . In the instant case, since the first marriage has been dissolved by way of decree through Family Court, the family pension should be paid only to the subsequently married widow and the divorced first wife is NOT eligible. The second wife's five children can NOT be treated as the

Govt. servant's children unless he had during his lifetime legally adopted these children.

[Rule 54 (11-A)]

18. • **No family pension to the parents, if the deceased employee had left behind a widow or a child.**

One individual of this unit died and family pension to his widow was sanctioned. Later on, the widow of the deceased has got re-married with other person. As the widow of the deceased has no children, family pension was stopped from the date of re-marriage. You are requested to confirm whether the mother/father of the deceased is entitled to family pension.

As per Para 7.2 of the OM, dated 27-10-1997, parents are eligible for Family Pension only if the deceased employee had left behind neither a widow nor a child. Hence, in the case referred to by you, the parents are not entitled to Family Pension.

[ GID(21) below Rule 54]

19. • **Unmarried daughters are entitled to Family Pension till the date of their marriage or on attaining the age of 25, whichever is earlier.**

While going through Swamy's Handbook, 2001 under the head 'Family Pension', it is seen that the Family Pension is payable to unmarried daughter till the date of marriage/re-marriage or on attaining on the age of 25 years, etc. Whereas as per Department of Pension & P.W., O.M. No. 1/2/86-P&W, dated 21-5-1986, the age of unmarried daughters has been raised to 30 years for the purpose of entitlement of Family Pension. Kindly intimate the correct age.

The OM. Dated 21-5-1986 referred to in your letter has been modified from time to time. Finally as per OM, dated 21-7-1999, Family Pension in respect of daughter (widow/divorced) is admissible up to her getting married/re-married or on earning a monthly income exceeding Rs 2,550 or on attaining the age of 25 years, whichever is earlier. What we have given in our Handbook, 2001 is correct.

[ Rule 54(6)]

20. • **Admissibility of Family Pension to the widow on the demise of the pensioner by committing suicide**

An employee retired from Ahmedabad Telecom District and drawing his pension, committed suicide leaving behind his wife. When the widow approached the pension paying

bank and also Ahmedabad Telecom Authorities for the grant of Family Pension, her request was turned down on the grounds that the Pension Rule permits sanction of Family Pension only if a serving employee commits suicide and not by a pensioner. Kindly clarify.

The Govt. of India's Decision No.2 below Rule 54 of CCS(Pension) Rules, 1972 (Swamy's Pension Compilation) is equally applicable in the case of a pensioner who dies by committing suicide. The Rule 54 of CCS(Pension) Rules, 1972 stipulates that on the death of the Govt. servant or Pensioner, the family will be entitled for the grant of family pension. The said rule does not differentiate normal death and suicide death. The contention of the Telecom Authority is totally wrong.

You may write to Telecom Authorities concerned quoting the above observations.

[ GID (2) below Rule 54]

21. • **Admissibility of Family Pension to a widow in the absence of family particulars.**

An employee, on his marriage nominated his wife for all purposes. After few years, he sent his wife and five children to his native place for education purpose and maintained well. After some time, he contacted plural marriage. He stayed with his second wife till his retirement. During his service, he has manipulated the nomination and changed in favour of second wife. He left his second wife due to quarrels and then went to his native place and stayed with his first wife for 10 years. He passed away during the first week of August due to prolonged illness. His second wife died before 3 years of his death. Children of both the wives are over 25 years and doing their jobs and daughters are married. Now only his first wife is alive.

Kindly intimate the action to be taken by the widow to receive the family pension.

There is no question of nomination for family pension. It should be paid to the widow or widower. In the instant case, if the surviving first wife produces any documentary proof that she is the widow of the deceased pensioner, she will be eligible for family pension.

[ Rule 54]

22. • Pension cannot be stopped, even though pensioner acquires foreign citizenship

My father is a retired Central Govt. Employee and is in receipt of pension. Some time back he has emigrated to Canada with Non-Resident Indian status and have been getting his pension continuously since then. But now he opts to take the citizenship of that country and as such it may be clarified whether he may continue to get his monthly pension as usual or will it be stopped after his acquiring citizenship of a foreign country.

There is no provision in the Rules, viz., CCS(Pension) Rules, Central Treasury Rules for the stoppage of pension drawn by a Govt. pensioner on his acquiring the citizenship of a foreign country. As such your father will continue to get his monthly pension as usual even after his getting foreign citizenship.

23. • Admissibility of Family Pension in respect of re-employed Ex-Servicemen

One of the military pensioner who was re-employed in a civil post expired on 9-2-1999, after serving 8 years 11 months and 27 days. As his military services were not counted in his civil service, he was drawing his military pension. In view of this, it may kindly be confirmed whether the family of the deceased re-employed military pensioner is entitled to two family pensions, i.e., for military and for civil services or not.

Family Pension is admissible only for one source, i.e., family pension authorized for military service or family pension for Civil Service, whichever is advantageous vide Rule 54 (13-A) of CCS (Pension) Rules, 1972.

[ Rule 54 (13-A) ]

24. • Date of death while in service, treated as 'working day'

An official went of EL without medical certificate had expired on a particular date without resuming duty. It may kindly be clarified whether the day of death is to be treated as "on duty" or leave.

Date of death is to be treated as part of the EL and leave salary drawn vide Director-General, Dept. of Posts, No.4-14/93-Pen., dated 24-8-1993, reproduced as GID No. (1) below Rule 5 of the Swamy's Pension Compilation.

[ GID(1) below Rule 5 ]

25. • Half Pay Leave during the last ten months of service will have no effect on pension

Kindly clarify whether HPL availed during last ten months of service will have an effect on pension since the 'average emoluments' of last ten months of service is being taken into account for computing pension.

If the official had been on leave with pay for any period during the last ten months, the emoluments that he would have drawn but for such leave should be taken for average emoluments. Hence there will NOT be reduction in average emoluments due to the official being on HPL.

[ Rule 34]

26. • Admissibility of Family Pension to the dependent mother of a missing Govt. employee prior to O.M. dated 21-7-1999

An employee of this Organization was missing from 21-10-1995 and his father filed FIR to that effect on 8-1-1996. The Police authorities issued a certificate on 28-2-1997 that the whereabouts of the missing employee were not known. Accordingly, the name of the missing employee was struck off from the office strength. Since the mother is included in the definition of family for grant of family pension as per OM, dated 21-7-1999. Kindly clarify the applicability of this OM in the present case and entitlement of Family Pension to the mother of the missing employee.

As per GID (10) below Rule 54 of CCS (Pension) Rules, 1972, unless a period of seven years has elapsed from the date of disappearance of the missing employee, he cannot be deemed to be dead.

As per Para. 2 thereof, the family of the missing employee can be paid retirement or death gratuity/family pension after the lapse of one year from the date of lodging FIR subject to furnishing an Indemnity Bond by the nominee/dependant of the concerned missing employee.

On the same analogy, we are of the opinion that in the case referred to by you, the mother of the missing employee is entitled to family pension (if otherwise eligible), from 1-1-1998 even though the employee was missing from a date prior to 1-1-1996.

[ GIDs (10) & (21) below Rule 54]

27. • Revision of pension in the case of pre-86 pensioners.

Mr `A', our Ex.President retired on superannuation on 29-2-1976 with 38 years of service. He was drawing a pay of Rs 750 from 2-1-1975 in the scale of Rs 550-750 and his pension was revised to Rs 3,308 from 1-1-1996. This seems to be incorrect. As per latest orders, it should be Rs 3,403 as he was drawing maximum pay of Rs 750 more than a year, i.e, from 2-1-1975 to 29-2-1976 and eligible to get one increment for notational fixation. Kindly confirm.

Your contention that the revised pension of Mr `A' should be Rs 3,403 is correct. We are furnishing below the calculation for your reference. You may advise your Ex. President to represent.

The pay fixation (notational) on 1-1-1986 will be :-

Pay	-	Rs 750.00
DA plus ADA	-	Rs 1,128.80
IR I and II	-	Rs 145.00
Add 20% of basic pay	-	<u>Rs 150.00</u>
		<u>Rs 2,173.80</u>
Pay to be fixed in the scale of Rs 1,600-50-2,300-60-2,660	-	Rs 2,200.00
Add: One increment as per third proviso to Rule 8	-	Rs 50.00
Pay (NOTATIONAL) on 1-1-1986	-	Rs 2,250.00
Pension - 50% of Rs 2,250	-	Rs 1,125.00

Corresponding updated pension from 1-1-1996- Rs 3,403 plus usual Dearness Relief as admissible from time to time starting from 1-7-1996.

28. • Fresh application not required for payment of arrears of commutation due to revision of pension.

My husband retired on 31-7-1997 and received all the retirement benefits including 1/3<sup>rd</sup> commuted value of pension. He expired on 5-11-1997. Consequent on the revision of his pay retrospectively from 1-1-1996, arrears of pay, pension, gratuity, etc., were paid to me. But the arrears of the additional commuted value of pension which has become due based on the quantum of 1/3<sup>rd</sup> revised pension was not paid to me on the grounds that the concerned applicant need to apply afresh for such payment. My plea is, when my husband was alive, he had applied for 1/3<sup>rd</sup> commutation of pension and received the amount. Any

revision which may become due subsequent to his death but has retrospective effect should be paid to me.

Kindly enlighten me.

Your contention is correct. As per Rule 10 of CCS(Commutation of Pension) Rules, 1981, you are entitled to the difference between the commutation amount received by your husband for the original pension and the commutation amount admissible on the revised increased pension. For this purpose, no fresh application is necessary.

[Rule 10]

29. • Date of restoration of commuted pension when commuted value is paid in two installments due to retrospective revision of pension

One of senior officer retired on 1-1-1987. His pension was fixed at Rs 1,552. After deducting the commuted portion of pension of Rs 517, the officer was paid reduced pension of Rs 1,035. After the recommendation of IV Pay Commission was accepted, the officer's pension was refixed at Rs 2,161. From 12-5-1988, he was sanctioned a revised commutation and after deducting Rs 720 for this purpose, the officer was paid Rs 1,441. He completed 15 years after retirement and approached his Pension Disbursing Officer, i.e. State Bank of Mysore for restoration of commuted portion of the pension. Since the officer had been paid commutation amount at two different point of time, it is understood that restoration of commuted portion has to be done after completion of 15 years from the respective dates. However, the Pension Disbursing Officer has not accepted this contention and the pensioner is still receiving the pension at old rates.

Kindly communicate the order position and your views on this point.

If the pensioner referred to in your letter who retired on 31-12-1986 had his pension commuted and received the commutation amount on or before 31-1-1987, his commuted portion of pension shall be restored from 1-1-2002 (15 years reckoned from 1-1-1987). If he had commuted later, the portion of 15 years will be reckoned from the date of commutation, i.e. the date on which he got commuted money.

As per Rule 10 of CCS(Commutation of Pension) Rules, 1981, if after commutation the pension is enhanced retrospectively as a result of Govt.'s decision (i.e. due

to retrospective revision of pay, re-fixation of pay, etc), the pensioner shall be paid the difference between the commuted value determined with reference to enhanced pension and the commuted value already authorized. In such cases, the restoration of the whole commuted portion of pension will be made after fifteen years reckoned from the date of original commutation.

These orders are incorporated in Appendix-1, "Swamy's Pension Compilation", Sixteenth Edition, 2002 which you may refer.

30. • **Attachment of pension towards maintenance, impermissible**

The Pensions Act, 1871 (Act No.23 of 1871) mentions under Para 11 as under:-

"Exemption of Pension from attachment - No pension granted or continued by Govt. on political considerations or on account of past services or present infirmities or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizures, attachment or sequestration by process of any Court at the instance of a Creditor, for any demand against the pensioners, or in satisfaction of a decree or order of any such Court".

Kindly clarify whether the wife of a retired employee can seek attachment of pension of her husband towards her maintenance.

Para 11 of the Pension Act itself is captioned as "Exemption of Pension from attachment". For a clear understanding of the Para., we may split up the compound sentence into convenient clauses as under:-

"No pension granted or continued by Govt. on political considerations, or on account of past services or present infirmities or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court.

(i) at the instance of a creditor for any demand against the pensioners, or

(ii) in satisfaction of a decree or order of any such Court.

31. • **Validity of nomination for death/retirement benefits**

I seek your decision in one peculiar case of

deceased female P & T employee. Briefs of the case are as under:-

- (1) She committed suicide within 7 months of her marriage due to dowry demand and torture of husband.
- (2) Case was registered by the Police against her husband. He remained in Police custody and was on bail. He also committed suicide after 3 months fearing punishment in the case.
- (3) She had no child.
- (4) Nomination is in her father's name.
- (5) Father of the girl has submitted claim of her DCRG and other departmental dues payable to her under Rule 50(6) and sub rule (1)(a) of Rule 51 (Chapter VII) of your Pension Compilation.

My interpretation is that payment is to be made according to Departmental Rules and Hindu Succession Act will come into picture only when there is no claimant under the Departmental Rules. In this case father of girl is entitled to DCRG and other dues payable to her as the girl had no child and her husband also committed suicide.

I approach your goodself to convey your decision with Rule on Govt. decision.

Death Gratuity, GPF and Group Insurance are different and distinct from one another. Facility for furnishing nomination separately for each item is available. You have not mentioned whether the deceased female Govt. servant has furnished nominations for all the above three items. If nomination is available, the amount due MUST be paid ONLY to the nominee and the right of the nominee is absolute.

If she had furnished nomination only for one or two items, for example only for DCRG but not for GPF and Insurance, the claim for payment of Death Gratuity alone could be settled on the basis of nomination on the lines mentioned in Para 1. In respect of claims for payment of moneys in GPF and Insurance, payment has to be made to the members of her family in equal shares. Please refer to the following rules to understand who are all included in the term 'family':-

Death Gratuity	Rule 50(6)
Group Insurance & General Provident Fund	Para 19.3 of Group Insurance Scheme read with Rule (1)(C) of GPF Rules.

`Father/mother' is included as member of family for all the three items. Parents-in-laws are NOT included.

You may advise the girl's father to prefer claims after verifying the fact regarding availability of nominations for all the items and going through the definition of the term `family'.

[ Rule 50(6) ]

32. • **GPF amount has to be disbursed equally among the valid nominees**

A GPF subscriber furnished nomination in favour of his wife, son and daughter without mentioning the share payable to each. At the time of death, his son has attained majority and daughter remains unmarried. All the three have preferred claim equally. Total amount is Rs 2,000. It is presumed that his son is not entitled to the benefits as per proviso to Rule 33 (i) (b) of Swamy's GPF (CS) Rules, 1960. The other two nominees, viz., wife and unmarried daughter are entitled to the benefits equally, i.e., Rs 1,000 each. Kindly confirm.

In the instant case, there exist `Valid Nomination' and Clause (i)(a) of Rule 33 of GPF(CS) Rules has to be applied. Rs 2,000 should be paid in equal share to wife, son and daughter. Clause (i)(b) applies to cases where there is no valid nomination.

33. • **Gratuity to be distributed equally among the survivors of the family, if the nominee also dies before receiving the gratuity**

One deceased female employee (date of death 18-4-1994) had nominated her mother to receive the amount of gratuity in the event of her death which stands valid even after her marriage as she did not change the nomination. Unfortunately, within one week from the date of death of the employee the mother also expired on 25-4-1994. Now the husband of the female employee applied for payment of gratuity and the brother of the female employee also applied. On the date of death of female employee, the nominee was alive. Therefore, the brother of the employee will be entitled to get the amount of gratuity in his capacity as legal heir of nominee (i.e., mother who expired on 25-4-1994).

Is the above contention is correct? Can husband take his claim stating, the mother expired before putting up her claim?

As the nominee of the deceased Govt. servant expired before receiving the actual payment of Death Gratuity, it should be distributed equally among the surviving members of the family of the deceased Govt. servant.

[ GID(1) below Rule 51]

34. • Change in marital status by itself cannot make the nomination invalid, otherwise mentioned in 'contingency clause'

It has rightly been said that family includes married and unmarried daughter under Rule 50 to 53 of CCS(Pension) Rules, but at the time of making nomination, the daughter of the Govt. servant was unmarried and subsequently married when the Govt. servant was alive. Change in marital status is also one of the happenings of the contingency as per Clause (ii) of sub-rule (3) of Rule 53 ibid.

In the absence of fresh nomination and consequent on change of contingency, the nomination shall become invalid. Kindly confirm.

Change in marital status by itself cannot make the nomination invalid automatically. If the Govt. servant has given this as one of the happenings in the "contingency clause" of his nomination, then only the married daughter loses her right.

[ Rule 53]

35. • Nomination made in favour of unmarried daughter who subsequently married is valid

A widow lady employee had nominated her eldest unmarried daughter to receive the amount of gratuity in the event of her death. She had two sons also. The official did not make any subsequent fresh nomination after the marriage of the eldest daughter and died few months after the marriage of the eldest daughter. Now, two major sons of the deceased lady employee as well as the eldest daughter put up their claims. Kindly clarify:-

(a) whether nomination made in favour of unmarried

daughter, but subsequently married before the death of the employee subsists or not?

- (b) Can sons argue that since the martial status of their sister is changed, fresh nomination was required to be made and in the absence of such nomination favouring married daughter, the case has to be treated as "No Nomination subsists" and the amount may be equally distributed to sons only?

In the instant case referred to by you, the nomination made by the deceased Govt. servant in favour of her unmarried daughter who subsequently got married is valid and subsists. Inasmuch as both "Unmarried daughter" and "Married daughter" fall within the definition of the term family used in Rules 50, 51, 52 and 53 of CCS(Pension) Rules, 1972, there is no need for fresh nomination when the unmarried daughter gets married.

[Rule 53]

36. • **Procedure for reconstruction of a lost Service Book**

SRs 198-203 and Rule 59 (a) (i) of CCS (Pension) Rules speak about custody and maintenance of Service Book of a Govt. employee but are silent for preparation of a duplicate Service Book, if the original one has been lost or destroyed. Kindly guide the procedure to be adopted for preparing a duplicate Service Book in such circumstances.

No specific procedure is prescribed for reconstruction of Service Book which is lost. The concerned official may be asked to produce original certificates of educational qualifications, age, etc., and also all available copies of letters relating to his service career. He may also be asked to file a statement indicating the date of entry into service, post, office, etc., and also various promotions in his career. Since Pay Bill Register and related schedules are to be preserved for 35 years as per Sl.No.8 of Appendix -13 in "Swamy's Compilation of General Financial Rules, the details furnished by the concerned official can be got verified with the offices in which he was working from time to time. Based on the particulars so verified, the Service Book of the concerned official may be reconstructed.

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**( 8 ) NORTH -EASTERN REGION**

1.
  - Production Of receipts for transportation of personal effects on transfer back from N-E Region, not necessary;

One of the employees of our Dept. has been transferred from North-Eastern Region to Bhubaneswar. He has submitted his transfer TA claim along with a copy of challan which does not possess any name in respect of whom the goods have been transported. Secondly, money receipt from the owner of the concerned Transport Agency has also not been attached with the claim. However, the claim has been passed taking recourse to the Special Concession available for North-Eastern Region. i.e. "If the family accompanies him, he can draw the cost of transportation of personal effects to his maximum entitlement irrespective of the actual weight carried".

But the Audit Section raises objections saying that the Govt. servant is entitled to get full cost of transportation only when he produces authentic money receipt. Kindly Clarify.

The Contention of your Audit is not in order. As per Para VII under GIO (1) below SR 116 in "Swamy's Compilation of FR & SR - Part.II - T.A. Rules", when the family accompanies the Govt. Servant on transfer to North-Eastern Region, he is entitled to existing Traveling Allowance including cost of transportation of admissible weight of personal effects according to his grade irrespective of the weight actually carried and such concession is also apply for the return journey on transfer back from North-Eastern Region. Hence in the case referred to by you, the employee is entitled to full luggage charges for transportation of personal effects on his transfer from North-Eastern Region even without producing money receipt irrespective of the weight actually transported.

2.
  - Emergency Passage Concession is admissible irrespective of whether Transfer TA availed for the family members;

Under the head Leave Travel Concession in "Swamy's Handbook 2003" Page 279, Para 1 states that:-

(b) In addition, Govt. servants and their families posted in the Region will be entitled to LTC on two additional occasions during their entire service career ad "Emergency Passage Concession" and intended to enable them

and their families (spouse and two dependent children) to travel to their home town or station of posting in an emergency. These additional passages will be admissible by the entitled mode and class of travel as for normal LTC.

As such, my wife and son have traveled to the station of posting from their home town. However, my office says that I am not entitled to avail EPC for my family from home town to station of posting since I have taken transfer benefits for my family. Kindly clarify.

The Emergency Passage Concession is an additional concession and is admissible irrespective of whether the Govt. servant availed Transfer TA for his family or not.

3.
  - Emergency Passage Concession is admissible even to those employees who reside with their family members at N-E Region;

One of the officers of this headquarters who is posted in the North-Eastern Region and who resides with his family has submitted his claim for advance to avail Emergency Passage Concession to visit his home town for self and family from duty station. But our Audit Authorities have not admitted the claim stating that as per O.M., dated 22-7-1998, Emergency Passage Concession is admissible only to the Govt. Servants who leaves behind his family at the old duty station to another selected place of residence and who has not availed Transfer TA for the family. This office is of the view that the officer is entitled to Emergency Passage Concession. Kindly clarify.

According to OM dated 22-7-1998 (Clause-vii) - Para.3:-

"Central Govt. employees *and their families* posted in these territories shall be entitled to avail of the Leave Travel Concession in emergencies, on two additional occasions during the entire service career..... and is intended to enable the Central Govt. employees and/ or their families (spouse and two dependent children) to travel either to the home town or to the station of posting in an emergency. This shall be over and above the normal LTC entitlement".

Hence the above concession is available to employee as well as their families, posted at North-Eastern Region.

4. • LTC availed by family members and employees separately under Emergency Passage concession has to be treated as 'one occasion';

Under the provisions of Ministry of Finance OM dated 22-7-1998, my family had availed the Emergency Passage Concession (first occasion) during July, 2005. I have also availed the concession (first occasion) during August, 2005 on medical grounds. The bill for my above journey preferred to PAO, CRPF, New Delhi was received back with the remarks that since my family members has already availed the concession, the concession I availed would be deemed as 'second occasion' and therefore directed to make amendment in the sanction order as 'second occasion' in place of 'first occasion'.

As LTC can be availed separately by family and employee on a particular block, it may kindly be clarified whether the concession under 'Emergency Passage Concession' availed by my family and myself on different occasions could be treated as 'first occasion' or not.

The stand taken by your PAO is not in order.

The OM dated 22-7-1998 clearly says that 'Employees and their families... shall be entitled to avail LTC on two additional occasions under 'Emergency Passage Concession'. Rules do not say employees and family put together. Hence general rule of LTC applies to the special concession also unless it is specified otherwise. Accordingly, in this case the LTCs availed by the employee and his family have to be treated as only 'one occasion'.

5. • When the accommodation at the last station of posting is not put to bona fide use of family members, two HRAs not permissible;

I have been transferred from Coimbatore to Port Blair. I have shifted my family together with my parents. However I have retained the residence at Coimbatore with the idea of sending my parents back to Coimbatore. Double HRA (second HRA) drawn at Coimbatore rates has been withdrawn on the plea that some of the family member should live at Coimbatore. I can claim second HRA at Coimbatore rates, provided my parents should stay at Coimbatore or can claim Transfer TA for entire family. If transfer TA is claimed for my parents, it amounts to the fact that they

have moved away from Coimbatore and hence cannot claim second HRA. However as per, "Swamy's Compilation of FR & SR - Part-V -HRA & CCA", double HRA can be claimed irrespective of whether Transfer TA is claimed for all the family members. Please Clarify

One of the conditions for drawal of double HRA is that, the private accommodation or owned house at the last station of posting is put to bona fide use of the members of the family irrespective of whether Transfer TA for the family members has been claimed or not. Since none of your family member is residing at your last station of posting, you are not entitled to two HRAs. You may refer to clarification to point No. I at page No. 113 in "Swamy's Compilation of FR & SR - Part-V -HRA & CCA", in this regard.

6. • When the family does not stay at the last station of posting, additional HRA for the last station of posting not admissible;

I was transferred from Gaziabad to Gwalior in June, 2003. I did not shift my family to Gwalior and not availed Transfer TA for my family. Again I was transferred to Tinsukia (Assam) and joined there on 12-1-2004. I have not availed transfer TA for my family on my transfer from Gwalior to Tinsukia also. My Department is denying double HRA (one for the old station and the other for the present place of posting) admissible to those serving in N-E Region stating that my family is not staying at my last place of posting. But I am to state that Gaziabad is the last place of posting from HRA point of view as my family was there since 2001. Please clarify

Your last station of posting is Gwalior and not Gaziabad. Since you have not left your family at Gwalior - the last place of posting, you are not entitled for drawal of double HRA.

7. • Husband and Wife should be treated as separate entities for the drawal of HRA;

In our department HRA was allowed to both Husband and Wife while posted in Group Centre, Avadi. They stayed in their own house. When they were posted to Group Centre, CRPF, Khatkari (Assam) and leaving behind their children and legal dependants at last place of posting for education

of their children, they were denied HRA as admissible under N-E Region concession with reference to last place of posting on the pretext that for the purpose of HRA both husband and wife should be treated as SINGLE UNIT. Upon representation, the husband was permitted to draw HRA and wife was denied for the same. Kindly clarify.

In as much as both husband and wife were drawing HRA while working at Avadi, they are entitled to draw double HRA separately on their posting to N-E Region. Treating them as a Single Unit is only for allotment of quarters and it cannot be applied for drawal of HRA. You may appeal.

8. • Additional HRA is for keeping the family in old Headquarters and not for keeping household items;

Previously I worked at Guwahati in N-E Region from 6-11-1987 to 30-6-1991. Again I have been transferred to Guwahati on 11-3-2005 and I came with my wife and two sons. My sons are studying at Guwahati in Class-VIII and Class-V respectively.

I have not bought all household materials from Varanasi to Guwahati and that is why I have still occupied the accommodation at Varanasi for bona fide use, i.e. household materials. Though I am paying House Rent at Guwahati as well as at previous place of duty, i.e. Varanasi, I am not receiving Double HRA facility. Please guide me whether I am eligible for Double HRA.

Bona fide use of the family means some of the dependent family members should reside at the residence at the old headquarters. Once you have brought the family along with you to the new Headquarters, you are not eligible for additional HRA for keeping the unused household goods at the old Headquarters.

9. • When the official on transfer to N-E Region is forced to vacate the quarters, he should be granted the benefit of two HRAs;

On my transfer from Berhampore to Guwahati, I was permitted to retain the staff quarters at my last place of posting, i.e. Berhampore where I left my family members. I was allowed to retain the staff quarters till November, 2002. On 1-12-2002, I was forced to vacate the quarters and as such I shifted my family to a private house on rent at

Berhampore itself. Accordingly I submitted my claim for double HRA from the date of vacation of the staff quarters at Berhampur. My office rejected my case for double HRA quoting that double HRA is admissible only if the employee was getting HRA at his last place of posting. In this connection, I am to inform that when I was in occupation of quarters at my last place of posting how I could get HRA until I vacate the quarters. Kindly clarify

When you are forced to vacate the quarters and take a rented house to accommodate your family members, you are entitled to HRA at the rate that would have been admissible had you not occupied the Govt. quarters on the date of your transfer from Berhampur. You may appeal.

10. • **Additional HRA from 1-8-1997 in the case of those serving in N-E Region;**

Some staff of this office who have been transferred to this zone prior to 1-8-1997 and are entitled for double HRA as applicable for the N-E Region have represented for calculating the revised rate/amount of additional HRA by taking the revised equivalent basic pay at the time of transfer. However, the authority has allowed the corresponding revised rate of additional HRA as applicable for the last place of posting by taking the existing basic pay at the time of transfer. Please Clarify.

Though as per OM, dated 12-8-1999, additional HRA for the last station of posting is to be calculated as per revised rates of HRA applicable from 1-8-1997 based on the actual pay drawn at the time of transfer at the old station, we are of the opinion that the employees claim for calculating additional HRA by taking the revised equivalent basic pay in V Pay Commission Scale is justified.

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