

GOVERNMENT OF RAJASTHAN

(FINANCE DEPARTMENT)

Jaipur, dated the 23rd March, 1951

RAJASTHAN SERVICE RULES

In exercise of the powers vested in him under the proviso to Article 309 of the Constitution, the Rajpramukh of Rajasthan is pleased to make the following rules regarding the conditions of service of persons appointed to services and posts in connection with the affairs of Rajasthan.

PART I

CHAPTER I

Extent of Application

1. *Short title and commencement.*—These rules may be called "The Rajasthan Service Rules". They shall come into force with effect from 1st April, 1951.

NOTE

* In the case of a person, who may be on leave on 1-4-1951, these rules shall apply with effect from the date of his return from leave.

2. *Extent of application.*—These rules apply—

- (i) to all persons appointed by the Government of Rajasthan to posts or services under its administrative control or in connection with the affairs of the State of Rajasthan on or after the seventh day of April, 1949.
- (ii) to all persons appointed on or after the said day to such posts or services as a result of integration of the services of the Covenanted States, and
- ^{@(iii)}(a) to all persons appointed to such posts or services on the basis of contracts entered into by the Government of

* Inserted by F. D. Order No. F. 35(2) R/52, dated 11-3-1953

@ Substituted vide F.D. Notification No. F.1(42)FD (Gr.-2)/89 dated 15-2-90 for

⁽ⁱⁱⁱ⁾ to all persons #[appointed] to such posts or services on the basis of contracts entered into by the Government of Rajasthan or by the Government of a Convenanted State in respect of such matters covered by these Rules as are not specially provided for in their contracts for appointment :

Rajasthan or by the Government of a Covenanting State in respect of such matters covered by these Rules as are not specially provided for in their contracts for appointment.

- (b) Notwithstanding anything contained in sub clause (a) these rules shall also apply to the persons initially appointed to such posts or services on the basis of contracts entered into but subsequently appointed in regular manner in respect of counting of contract service as qualifying service for the purpose of pension. The contract service followed by regular appointment shall count as qualifying service for the purpose of pension if no contribution towards Contributory Provident Fund for the period of contract service has been paid by the Government. In cases where contribution towards Contributory Provident Fund has been paid by the Government, contract service would count for the purpose of pension if the concerned employee deposits in the general revenues of the State, the entire amount of contributions paid by the Government together with interest thereon @7% per annum for the period from the date of payment of contribution to the date of deposit in the general revenues of the State.

Provided that persons of the category specified in clause (ii) may, within two months of the commencement of these Rules or of their appointment as a result of the said integration, whichever may be later, apply for retirement and shall be granted pension or gratuity in accordance with the rules by which they were governed previously to such commencement or appointment :

Provided further that these Rules shall not apply—

- (a) to officers on deputation from the Government of India or from the Government of any State in India, other than Rajasthan who will be governed by the rules applicable to them in their substantive appointments,
- (b) to the Judges of the High Court of Judicature for Rajasthan,
- (c) to the officers and servants of the said High Courts, who will be governed by rules made under clause (2) of Article 229 read with Article 238 of the Constitution of India, or
- (d) to the Chairman and Members of the Rajasthan Public Service Commission, who will be governed by regulations made under Article 318 of the Constitution of India,
- * (e) to members of the All India Services in matters covered by the Rules made by the Union Government,

Substituted vide F.D. Notification No. F.I (104) F.D. (Exp-Rules)/66, dated 20-4-67 for "holding appointments".)

* Inserted by F.D. Order No.286/58 F.7A(30)F.D.(A)Rules/57, dated 11-3-1958.

- ** (f) to persons paid from contingencies,
- (g) to work charged employees, that is, persons who are not on regular establishment and are paid out of provision for expenditure on works, maintenance of works, or State trading schemes and similar other provision for funds, other than provisions under budget unit of appropriation 'Pay of Officers' and 'Pay of Establishment',
- (h) to persons for whom special or specific provision in respect of any matter covered by these rules has been made in the rules regulating their recruitment and conditions of service framed under proviso to Article 309 of the Constitution or under any Law or rules for the time being in force applicable to such persons,
- (i) to persons paid out of the Consolidated Fund of the State under budget unit of appropriation "Pay of Officers" and "Pay of Establishment" and who are at the same time Workmen as defined in section 2(s) of the Industrial Disputes Act 1947, except to the extent provided in case of persons covered by clause (h) above, in respect of the following of these Rules :—

(1) Rules 43 (c) and (d) regarding grant of honorarium.

(2) Chapter VI-Combination of Appointments

(3) Chapter X and XI-Leave.

(4) Chapter XIII-Foreign service.

(5) Chapter XIV-service under Local Fund .

NOTE

%If any person to whom clause (ii) is applicable makes a representation to Government in respect of his appointment to an integrated service, Government may, when the representation is finally disposed of, direct that the period of two months specified in the proviso should run from the date of final disposal of his representation or such date as may be specified by Government by a General or Special order.

INSTRUCTION

@Attention is invited to the Finance Department Notification No. F.1(84)/FD(Rules)/71, dated 17th January, 1972 which provides that certain class of Government servants who are also workmen as defined in section 2(s) of the Industrial Disputes Act, 1947 and generally referred to as Industrial Employees of the Government shall not be governed by certain provision of Rajasthan Service Rules specially in the matter of entitlement under Rajasthan Service Rules of leave according by the Govt. servants covered by clause (i) of the second proviso to Rule 2 of Rajasthan

** Added vide F.D. Notification No.F.1(84)F.D.(Rules)/71 dated 17-1-1972,

They shall come into force with effect from 1-2-72, except that in case of persons referred to in clause (h) they shall be deemed to be effective from the date from which special or specific provisions in respect of any matter covered by Rajasthan service Rules, have been made in the respective rules regulating their recruitment and conditions of service framed under proviso to Article 309 of the Constitution or under any law or rules for the time being in force applicable' to such persons.

% Inserted vide F.D. Order No. F. 35 (8)R/51, dated 22-8-1951.

@ Added vide F. D. Circular No. F. 1 (84) F.D. (Rules)/71, dated 17-1-1972.

Service Rules shall get leave with wages in accordance with the provisions contained in Chapter VIII of Factories Act, 1948. The State Government have framed Rajasthan Factories Rules, 1951 to give effect to the purpose of the aforesaid Act, and Chapter VIII of these rules which deals with leave with wages lays down detailed procedure for grant of leave and maintenance of Register of leave with wages etc. in the prescribed forms.

The Heads of Department and Heads of Offices entrusted with the responsibility of managing certain industrial establishment of Government like Rajasthan State Chemical Works, Deedwana, Woollen Mills. Bikaner, Government Presses, Ayurvedic Pharmacies, Government Workshops in P.W.D., Buildings, Roads and Public Health Engineering, Ground Water Board, Agriculture and Motor Garage Department, Irrigation projects including Rajasthan Canal Project, Chambal Project etc. or other similar Government industrial establishments are 'Occupier' or 'Manager' of the Factory under the Factories Act respectively. They are requested to take prompt action for implementation of provisions, regarding leave with wages contained in the Rajasthan Factories Rules, 1951 so that the Government servants who shall get leave entitlements under Factories Act are not put to hardship. In cases where a Head of Department or Head of Office managing a Government Industrial establishment has not been declared as 'Occupier' or 'Manager' of the Factory respectively for the purpose of the Factories Act, they may move their Administrative Department in this regard immediately.

In the Departments which have a full time Labour Welfare Officer or Personnel Officer, this task can be entrusted to him with a view to expedite switching over to the new system. If any difficulty or problem arises in respect of carrying out the provisions of the Factories Act and rules made thereunder, assistance and guidance from Chief Inspector of Factories and Boilers. Rajasthan, Jaipur or Inspector of Factories or Labour Commissioner as the case may be, may be obtained.

Government of Rajasthan's Order

*The Rajasthan Service Rules have been made applicable to the Officers and servants of the High Court with effect from 1st April 1951. This has reference to Article 229(2) read with Article 238 of the Constitution of India.

Government of Rajasthan's Decision

⁺¹. Some doubts have been expressed regarding the scope of clause (ii) of Rule 2, Rajasthan Service Rules and of the proviso thereunder, read with Finance Department No. F. 35(8) R/51, dated the 22nd August, 1951 (Note below Rule 2). The matter has been considered by Government and it has been held that clause (ii) includes provisional appointment to (or continued holding of) a post under the administrative control, or in connection with the affairs of the Rajasthan State after the date of integration of Rajasthan in consequence of such integration whether such post was

* Inserted vide Jud. Department letter No. F. 34(2) Jud. /51, dated 29-5-1951

⁺ Inserted by F. D. Memo. No. F. 35 (2) R/52 .dated 12-2-1952.

created by the issue of an integrated set-up for a department or service, or otherwise, or was continued from the pre-Rajasthan set-up.

The option contained in the proviso is confined to retirement and does not relate to other aspects of the service Rules. This option could be exercised within two months of the commencement of the Rajasthan service Rules or within a similar period of substantive appointment to a post, cadre or service in the integrated set-up whichever may be later. If a Government servant opts to retire, his pension will be determined as if it was a case of compensation pension (or corresponding category of pension) under the rules by which the Government servant was governed previously.

@2. Finance Department Memo No. F. 35 (2) R/52, dated 12th February 1952 (Government of Rajasthan's decision No. 1) which clarified the position regarding the scope of clause (ii) of Rule 2 -Rajasthan service Rules and the proviso thereunder does not cancel the Note inserted under the said rule by Finance Department No. F. 35 (8)-R/51, dated 22-8-1951 (Note below Rule2 regarding those making a representation to Government in respect of their appointment to an integrated service).

*3. Some further doubts have been expressed with regard to the operation of the option contained in the proviso relating to clause (ii) of Rule2 of the Rajasthan Service Rules. The matter has been considered by Government. It has been held that the proviso is intended to ensure that the Rajasthan Service Rules apply compulsorily to all those who accept substantive appointment in the integrated set-up of State services. Any one, who does not wish to accept these rules, would be entitled to seek retirement by exercising, the option provided for in the proviso.

The option under the proviso could be availed of at any time within 2 months of the commencement of the Rajasthan Service Rules, or of substantive appointment in the integrated set-up whichever may be later. In the context of para 1 above, this means that in cases in which substantive appointment may have already taken place before the issue of the Rajasthan Service Rules, the option was available only until two months after the issue of rules. In other cases, the option would be exercisable at any time until the expiry of 2 months after substantive appointment. There is no bar to the option to retire being exercised even before a substantive appointment has taken place, if a Government servant does not wish to come under the operation of these Rules.

In case of those who make a representation to Government in respect of their appointment in an integrated set-up, the period of two months specified in the proviso will, of course, run from the date of the final disposal of the representation or such date as may be specified by Government by special order as already laid down in Finance Department Order No. F. 35 (8) R/51, dated 22-8-1951 (Note below Rule 2).

%4. It was laid down in Finance Department Memorandum No. F. 35 (2)-R/52, dated 12-2-1952 (Government of Rajasthan's decision No. 1 above

@ Inserted by F. D. Memo. No. F. 35 (2) -R/52, date 29-2-1952.

* Inserted by F. D, Memo No, F, 35 (2)-R/51, .dated 17-9-1952,

% Inserted by F.D. Memo. No. D. 9412 F. 10 (2 8) R/53, dated 25-11-1955.

that if a Government servant opts to retire under Rule 2 of the Rajasthan Service Rules, his pension will be determined as it were a case of compensation pension (or corresponding category of pension) under the rules by which the Government servant was governed previously. A question has arisen regarding the treatment, in similar circumstances of Government servants governed by the Contributory Provident Fund Rules of Jodhpur instead of pension.

The matter has been considered and it has been held that such cases would be dealt with under the rules governing the Contributory Provident Fund on the same basis as if they were cases of retirement or discharge due to reduction of establishment.

*5. Certain Government servants belonging to the former State of Jodhpur retired from service on attaining the age of superannuation etc. (not under the option admissible in accordance with the proviso to R. S.R. 2 on or after 1-4-51, the date of issue of Rajasthan Service Rules but before the final integration of the department. Doubts have been, raised as to whether the claims of such persons to pension should be regulated under the unit rules or under the R.S.R. It has been held that as the Government servants did not exercise the option for retirement under the Unit rules, their case should be regulated under the R.S.R.

3. **Concurrence of the Finance Department to be taken:**—No powers may be exercised or delegated under these Rules except after consultation with the Finance Department. It shall be open to that department to prescribe, by general or special order, cases in which its consent may be presumed to have been given, and to require that its opinion on any matter on which it has been consulted shall be submitted to the Governor by the consulting department.

Government of Rajasthan's Instructions.

%It has been observed that generally Administrative Departments refer cases to Finance Department without proper examination at their end. Normally following types of cases should only be referred to Finance (Rules) Department:—

1. Cases requiring Finance Department's concurrence.
2. Cases in which interpretation of Rules is involved.

Cases other than those referred to above should be scrutinized by the Administrative Department under the provisions of Rajasthan Service Rules and decided by them as per powers vested to them. It is not necessary to refer such cases to Finance Department. But this is not being followed, with the result that large number of cases are unnecessarily referred to Finance Department seeking advice. Not only this, while referring the cases the Administrative Department neither gives a self contained-note indicating the point on which Finance Department's advice is required nor their comments

* Inserted by F. D. Memo. No. D. 718 F, 11/53, dated 15-5-1953.

% Added vide Finance Department (Rules) Circular No. F.1(48)/ Rules 72 dated 30-10-1972.

thereon. Finance Department thus has to devote considerable time in finding the factual position of the case before tendering advice.

Henceforth Finance Department will not deal or tender its advice on any case unless the Administrative Department gives following information invariably:—

1. A self-contained note explaining full facts and the point requiring Finance Department's action.
2. Administrative Department's comments with reference to the relevant Provisions of Rules, quoting precedents, if any.
3. Justification for referring cases to Finance Department where Administrative Department is competent to dispose of cases at their level under powers delegated to them.
4. **Power to alter or amend.**—Government may, subject to the limits of its powers to make such rules or orders, relax the provisions of these rules in such manner as may appear to it to be just and equitable.

Government of Rajasthan's Decision

*1. In exercise of the powers conferred by Rule 4 of Rajasthan Service Rules, it is ordered that the Government servants, who attain the age of 55 years or more and are retired with effect from the 1st July, 1967, consequent upon the change in the age of retirement on superannuation from 58 to 55 years shall be allowed retirement benefits calculated in accordance with the Rules existing on 1st July, 1967, after taking into account the additional years of notional service as mentioned below:—

- (1) The service qualifying for retirement benefits should be enhanced by the addition of 3 years of the notional service.
- (2) The resultant length of service after taking into account the said addition of notional service shall in no case be more than the service the Government servant concerned could have counted had he retired on the attainment of the age of 58.

**Where the service qualifying for retirement benefits is enhanced under paragraph 1 above the emoluments as defined in Rule 250 read with Rule 250A of Rajasthan service Rules which the Government servant was receiving immediately before 1-7-1967, shall be deemed to have been received by him (though not actually drawn) during the period of the additional notional service and average emoluments under Rule 251 *ibid* shall be calculated on the basis of such notional emoluments.

Notwithstanding anything contained in paragraph 2 above, the pension of a Government servant shall be determined on the basis of the 'emoluments' actually drawn by him during the last three years of his service before 1- 7-

* Inserted vide F.D. Order No. F. 1 (42) F.D. (Exp-Rules)/67-III dated 13-06-1967.

** Substituted vide F. D. Order No. F. 1(42) F.D. (Exp-Rule /67-I, dated 30-9-1967 for (The average emoluments for this purpose shall be the pay and allowances drawn on or before 30th June, 1967).

1967 if the same works out to be more than the emoluments calculated under paragraph 2 above.

These orders take effect from 1-7-1967. Claims decided otherwise may be re-opened and decided under these orders.

@2. It is ordered that Government servants who retire/have retired after 1-7-1967 but before 30-6-1970 on attaining the age of 55 years and in whose case the pension and/or gratuity payable under the normal provisions of Rajasthan Service Rules works out to be less than the amount of pensionary benefits which would have been admissible under Finance Department Order dated 13-6-1967 as amended vide Order dated 30-9-1967 (appearing as Government of Rajasthan's Decision No. 1 above) had they retired on 1-7-1967 be paid pension/gratuity calculated in terms of the aforesaid orders.

Pension claims decided otherwise before the issue of these orders may be re-opened and settled in accordance with these orders.

**3. Deleted.

@ Inserted vide F. D. Order No. F. 1(42) F.D. (Exp-Rules)/67-II, dated 30-9-1967.

** Inserted vide F.D. Order No. F. 1(99) F.D. /Rules/66, dated 27-12-1969 and deleted vide F.D. Noti. No. F. 1 (50) F.D. /Gr. 2/75 dt-27-9-1975 with effect from 2-9-75, the following:—

"3. It is ordered that Government servants who seek voluntary retirement under Rule 244(1) of the Rajasthan Service Rules may be allowed retirement benefits calculated in accordance with rules existing on the date of his retirement after taking into account the additional years of notional service as mentioned below:—

I. *For Government servants governed by pension Rules.*

- (i) The Service Qualifying for retirement benefits should be enhanced by the addition of five years in such a case.
- (ii) The resultant length of service after taking into account the said addition of notional service shall in no case be more than 30 years qualifying service or the service the Government servants concerned could have counted had he retired on attainment of superannuation age, whichever is less.
- (iii) Where the service qualifying for retirement benefits is enhanced under(i)and(ii) above the emoluments as defined in Rule 250-B of the Rajasthan Service Rules which the Government servant was receiving immediately before his retirement, shall be deemed to have been received by him (though not actually drawn during the period of the additional notional service and average emoluments under Rule 251 *ibid* shall be calculated on the basis of such notional emoluments).
- (iv) Notwithstanding anything contained in (iii) above the pension of the Government servant concerned shall be determined on the basis of emoluments actually drawn by him during the last three years of his service before retirement if the same works out to be more than that admissible under(iii) above.

II. *For Government servants governed by the Contributory Provident Fund Scheme.*

The Government servant may be allowed Provident Fund benefits calculated in accordance with Jodhpur Provident Fund and Gratuity Rules existing as on the date of his retirement after taking into account the additional years of notional service as mentioned below: —

- (i) Government contribution (bonus and special contribution) should be enhanced by the amount which would have accrued by the addition of five years notional service.
- (ii) The resultant increase in the aforesaid manner in no case shall be more than the contribution (bonus and special contribution) which could have been credited in his Provident Fund Account had he retired on completing 30 years qualifying service or on attainment of the age of superannuation, whichever is less.
- (iii) The notional contribution will be added on basis of the amount of subscription made immediately before retirement without subscribing to the fund on or after the date of his retirement.

@4 It is Ordered that a Government servant in Class IV service, who retires on or after 1-12-1969 but upto 31-12-1971 on attaining the age of superannuation, shall be allowed retirement benefits calculated in accordance with rules existing at the time of retirement, after taking into account the additional years of notional service, as mentioned below: —

I For a Government servant in Class IV service governed by Pension Rules.

(i) The service qualifying for retirement benefits should be enhanced by the addition of two years.

(ii) The resultant length of service after taking into account the said addition of notional service shall in no case be more than the service the Government servant concerned could have counted had he retired on the attainment of the age of 60 years.

(iii) Where the service qualifying for retirement benefits is enhanced under (i) and (ii) above the emoluments as defined in Rule 250-B of the Rajasthan service Rules which the Government servant was receiving immediately before his retirement, shall be deemed to have been received by him (though not actually drawn) during the period of additional notional service and average emoluments under Rule 251 *ibid* shall be calculated on the basis of such notional emoluments.

(iv) Notwithstanding anything contained in (iii) above, the pension of the Government servant concerned shall be determined on the basis of the emoluments actually drawn by him during the last three years of his service before retirement if the same works out to be more than the emoluments calculated under (iii) above.

II. For a Government servant in Class IV service governed by the Contributory Provident Fund Scheme.

The Government servant may be allowed Provident Fund benefits calculated in accordance with Jodhpur Provident Fund and Gratuity Rules existing as stood on the date of retirement after taking into account the additional years of notional service as mentioned below:—

(i) Government contribution (bonus and special contribution) should be enhanced by the amount which would have accrued by the addition of two years notional service.

(ii) The resultant in the aforesaid manner in no case shall be more than the contribution (bonus and special contribution) which could have been credited in his Provident Fund Account on the attainment of age of 60 years.

(iii) The notional contribution will be added on the basis of the amount of subscription made immediately before retirement without his subscribing to the fund on or after the date of retirement.

NOTIFICATION

* In exercise of the powers conferred by the proviso to Article 309 of the Constitution, His Highness the Rajpramukh has been pleased to make the following rule :—

Where the Government is satisfied that the operation of any rule regulating the conditions of service of Rajasthan Government servants, of any class of such Government servants, causes undue hardship in any particular case, it may by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner.

In this rule, the expression "Rajasthan Government servants" means all persons whose conditions of service may be regulated by rules made by the Rajprarmukh of Rajasthan under the proviso to Article 309 of the Constitution.

@Explanation of the rule relating to the power of the Central Government to dispense with or relax the requirements of any rule regulating conditions of service of Union Government servants for dealing with any case in a just and equitable manner.

Under the proviso to Article 309 of the Constitution the power to make rules regulating the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of Rajasthan vests in the Governor or such persons as he may direct. It is axiomatic that the authority which is competent to make rules is competent also to amend or interpret them. The highest Governmental authority has also enherent power to relax the provisions of any service rule in individual cases of hardship etc. where some allowance or concession, not permissible under the strict terms of the rule, is justified. Sub-section (5) of section 241 of Government of India Act, 1935 contained specific provision to this effect.

The absence of a similar provision in the Constitution created some doubts as to whether such inherent power is not enjoyed by the Governor. In order, therefore, to remove any doubts and to make the position in this respect clear, a rule has been promulgated in the Finance Department Notification No. F. 7 (5)-R/55-A, dated 16-7-1955 making express provision in this regard.

This rule does not introduce a new principle or procedure which was not already in vogue, but merely serves to make explicit the position which was assumed to have prevailed heretofore. The power of Government to relax a rule as and when considered necessary to deal with any particular case in a just and equitable manner is intended as in the past, to be invoked only in rare and exceptional cases. Such action should only be taken in accordance with the accepted procedure hitherto followed in dealing with such cases. Before an order of relaxation is passed in any case the department which made the rule proposed to be relaxed, and other department e.g., Appointments/G.A.D. and/or Finance Department as may be appropriate with reference to the facts and circumstances and subject matter of each case should be consulted and

* Inserted by F,D- Notification No. F. 7(2) R/55-A-, dated 16-7-1955

@ Inserted by F. D. Office Memorandum No. F. 7(5)R/55-B, dated 16-7-1955

any existing rule of business or procedure of the Government secretariat having a bearing on the subject should be complied with.

In any case in which it is agreed by the departments concerned that it is a fit case in which the power to relax any rule should be exercised by the Government the reasons for such relaxation should be placed on record on the appropriate file, but these should not form part of the formal order itself to be issued by the Government in this behalf.

It should be noted that any order of the Government which may be issued dispensing with or relaxing the requirements of any rule in any particular case should be authenticated as an order of the Governor in accordance with the requirement of Article 166 read with Article 238 of the Constitution

At the beginning of each new set of regulations relating to the terms and condition of service of Government servants which may be issued hereafter a general rule should be provided empowering the Governor to relax the provisions of the various rules contained therein in any particular case provided that the case shall not be dealt with in a manner less favourable than that provided in the rules.

Government of Rajasthan's Decision.

%It was decided that the above Notification will apply only to the Rajasthan Service Rules and other set of rules such as Travelling Allowance Rules, Unification of Pay Scale Rules and Rationalisation of Pay Scale Rules etc., issued under Article 309 of the Constitution of India from the Finance Department and it will not apply to the rules governing recruitment promotion etc., of various services issued by the Appointments and Administrative Departments of the Government under Article 309 of the Constitution of India.

***4A. The Government reserve to themselves the right of changing the rules regarding pay and acting allowance and leave and pension from time to time at their discretion.** An Officer's claim to pay and allowances is regulated by the rules in force at the time in respect of which the pay and allowances are earned, to leave by the rules in force at the time the leave is applied for and granted; and to pension by the rules in force at the time when the officer resigns or is discharged from the service of Government.

Government of Rajasthan's Decision.

*The question whether service in a particular office or department qualifies for pension or not is determined by rules which were in force at the time such service rendered and orders subsequently issued declaring service to be non-qualifying are not applied with retrospective effect.

Employees of former Covenanting States who have been integrated into Rajasthan Service will have all their permanent and/or temporary service rendered in the Covenanting State prior to integration treated as permanent and/or temporary service rendered under the R.S.R. separate orders of

% Inserted by F.D. Order No.F.7a(7)FD,R/57, dated 1-7-1957

* Inserted by F.D. Order No, 4068/F.1 {99} R/56, dated 31-8-1956,

Government will regulate cases of employees taken over from the Thikanas by Rajasthan Government.

Clarification.

Where a period of service was specifically treated as non-qualifying under a particular set of unit rules and if the same has been declared as qualifying under any specific orders of the Government the service would be qualifying,

- (i) that where a post was non-pensionable under the particular set of unit rules and if the same has now been declared pensionable under R.S.R. the service before 1-4-1951 shall remain nonqualifying for determining pension under R.S.R.
- (ii) that where a service was pensionable under the unit rules and then became non-pensionable under MATSYA or former Rajasthan Civil Service Rules and again became pensionable under R.S.R., the service sandwiched between spells of two pensionable periods should count for pension as it was never the intention of the intermediary Governments to deprive the Government servants in those case of their pensionary status.

"4B. Power to Review -

(a) The Government reserve to themselves the power to review any action taken or any order passed under these rules and to direct its subordinate authorities in this regard in public interest. Ordinarily, the review shall be done within 90 days from the date of the facts coming to the notice of the Government.

(b) The review shall be done on some new/important fact(s)/evidence(s), which were not in the notice of the Government at the time of taking such action or passing such order, coming to notice or when such action/order was taken/passed on erroneous facts or there are any other sufficient reasons to make such review.

Government of Rajasthan's Decision

It has come to our notice that many a times a benefit granted to a Government employee is subsequently ordered to be withdrawn on account of some change in legal position or policy or erroneous application of provisions of relevant rules. Many a times such benefits, are withdrawn with retrospective effect. Such action gives rise to grievance to the effected employee on several grounds. But one most common ground, which has emerged from number of court decisions and Tribunal decisions, relates to arbitrary manner in which benefits are withdrawn. Courts have observed that employee is neither given a notice nor any opportunity to put across his point before such withdrawal is ordered.

¹Inserted vide FD Notification No.F1(5)FD/Rules/96 dated 26.02.2002

²Inserted vide FD Circular No. F.9(11)FD/Rules/2002 dt. 3.9.2002

Therefore, it is enjoined upon all controlling officers to ensure that any benefit, rightly or wrongly granted to an employee, is withdrawn only after giving him an opportunity of hearing which principles of natural justice also demand. It will include even withdrawal of such benefits which might be ordered on account of audit objection or ordered by the Government on account of new circular or amendment in a policy decision.

If Government suffers any financial loss on account of any lapse, on the part of controlling officer, such officer will be held personally answerable.

5. Power to delegate :— Government may delegate, to any of its officers subject to any conditions which it may think fit to impose, any power conferred upon or taken under these rules with the following exceptions :—

- (a) all powers to make rules,
- (b) the other powers conferred by Rules 5,42,56(a) 81, * [] ' + () + (), 148, 151 and 157 (c).

Government of Rajasthan's Decision.

@Powers have recently been delegated to the Administrative Departments of the Government and Heads of Departments to extend joining time, to treat the period of awaiting posting orders as duty; to sanction re-employment; to waive restriction of age limit, and in similar other matters relating to service rules. A question has been raised whether the powers delegated to them are to be exercised from the date of order or the pending cases can also be disposed of in pursuance of powers delegated to them. The question has been examined and it has been ordered that the powers in question can be exercised in cases which occurred prior to the date of delegation except those which had been rejected by or had already been submitted to and were pending consideration with the authority in whom the powers previously vested .

6. Interpretation:—The powers of interpreting these rules is reserved to the Governor.

• Figure"99" deleted vide F.D.Order No. 16 (4) F.D.-A(Rules)/60 and F.I. (37) FD-A (Rules/61, dated 31-3-1961 and 18-12-1961 effective from 21-4-1960.

+ Deleted vide F.D. Notification No. F.1(66)F.D, /Gr.-2/85 dated 30-12-85 effective from 1-4-81

@ Inserted vide F.D. No. 4512/59 F.6 (26) FD-A (Rules)/ 59, dated 14-9-1959

CHAPTER II

Definitions.

7. Unless there be something repugnant in the subject or context the terms defined in this Chapter are used in the rules in the sense here explained:—

(1) **Age:**—When a Government servant is required to retire, revert or cease to be on leave, on attaining a specified age, the day on which he attains that age is reckoned as a non-working day, and the Government servant must retire, revert, or cease to be on leave (as the case may be) with effect from and including that day.

NOTES

1. In the case of a Government servant whose exact date of birth is not known the procedure prescribed in para 63 of the General Financial and Account Rules reproduced below should be followed:—

(1) If a Government servant is unable to State his exact date of birth but can State the year, or year and month of birth the 1st July or the 16th of the month, respectively, may be treated as date of his birth.

(2) If he is only able to State his approximate age, his date of birth may be assumed to be the corresponding date after deducting the number of years representing his age from his date of appointment.

Cases in which the date of birth has been deducted from the age at appointment or attestation by any other matter need not be reopened.

*2 Deleted.

Government of Rajasthan's Decisions.

@1. It has been noticed that in a large number of cases Government servants put in claims with regard to their pay fixation, condonation of breaks, dual charge allowance, retrospective confirmation etc. just before they are due to retire or even after they have retired. These claims are quite often with regard to the matters in which decision have already been conveyed earlier.

* Inserted by Appointments 'A' Department Circular No. F. 8 (33) Appts. (A)/55, dated 28-4-1958, and deleted vide F.D. Noti. No. F. 1 (27) FD/Gr. 2/78 dated 24-1-1979, the following:—

"2. It has come to the notice of the Government that one officer accepted the entry given in respect of the date of birth in the Patwari school Certificate as the correct date of birth of a Patwari as against the entry made in the Service Book of the official, The correct procedure is, that so far as the date of birth is concerned, the entry given in the Service Book of a Government servant should be adhered to, failing which date of birth given in the Personal File should be accepted. If there is no Service book or Personal File or no entry is available in either them, of the date of birth given in the School Certificate may be taken as the authentic date of birth. If this is also not available, the date of birth given in the Municipal Birth Certificate may be accepted, If by chance there is no mention in the Municipal Records either, reliance may be placed on the date of birth given in the Horoscope provided it was prepared soon after the alleged date of birth."

@ Substituted vide F.D. Memo No. F. 1 (18) FD/A (Rules)61, dated 28-4-1961 for, "It has been brought to notice that in a large number of cases, officers apply for changing their recorded date of birth. The matter has been examined and it has been held that normally no officer can change his recorded date of birth less than 5 years prior to the date of superannuation. In view of various factors present in Rajasthan such permission has been allowed in 1954-55 to officers retiring in 1957-58 or later. In the same way, permission may be accorded to change the recorded date of birth in 1955-56 to officers in 1958-59 or later".