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GOVERNMENT OF uTTAR PRADESH

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NOTIFICATION

MISC ELLAN EMS

No. 1060/V11-Ny32:a -2-2013- 176(1-1010

Lucknow. Dated July 4, 2013

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The First National Judicial Pay Commission. on improvement of service conditions of non judicial staff in Subordinate Courts. presided by Justice K.J. Shetty. Former Judge. Supreme Court of India (Shetty Commission) in All India Judges' Association Vs. Union of India, (1993) 4 SCC 28S. recommended for uniform service conditions and pay scales applicable to non judicial staff in subordinate courts. The report was accepted by the Supreme Coun. In order to implement the recommendations of the She Commission as accepted by the Supreme Coun. the High Court has made recommendations for framing uniform, and comprehensive rules for retulating service condition of the non- judicial sta fro f the subordinate courts.

In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India the Governor is pleased to order the publication of the following English translation of notification of no. 1060/V11-nyayn -2-2013- 176&2010 . dared July 04, 2013.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and all powers enabling him in this behalf , the Governor of Uttar Pradesh is pleased to make the following rules in consultation with the High Coun regulating the recruitment and other conditions of service of staff of the subordinate courts:

THE UrfAR PRADESH STATE DISTRICT COURT SERVICE RULES. 2013

CHAPTER-1

PRELIMINARY

1. Short Title and Corn meneement:-

(i) These rules ma be called The Uttar Pradesh State District Court Service Rules, 2013;

(ii) They shall come into force from the date of their publication in the Official *Gazette*.

2. Definitions:

In these rules, unless the context requires otherwise.-

- (1) 'Appointing Authority' means the District and Sessions Judge of the District;
- (2) 'equivalent qualification' means a qualification notified by the High Court as equivalent to a qualification prescribed in these rules in respect of any category of post;
- (3) 'Government' means the State Government of Uttar Pradesh;
- (4) 'High Court' means the High Court of Judicature at Allahabad;
- (5) 'Official Gazette' means Uttar Pradesh Government's Gazette;
- (6) 'Selecting Authority' means.-
 - (a) District and Sessions Judge -*Chairmen*
 - (b) the Senior-most Additional District and Sessions Judge - *Member*
 - (c) the Civil Judge (Senior Division) -*Member*

Provided that Chief Justice may in addition to above nominate one or more member in the 'Selecting Authority'.

- (7) "Schedule" means schedule appended in these rules;
- (8) "Service" means the Uttar Pradesh State District Court Service;
- (9) "State" means the State of Uttar Pradesh.
- (10) "Constitution" means the Constitution of India;
- (11) "Departmental Inquiry" means inquiry conducted under Rule 23 of these Rules;
- (12) "Disciplinary Authority" means an Authority empowered under Rules 23 to impose the penalty
- (13) "Governor" means the Governor of Uttar Pradesh;
- (14) "Member of Service" means a person appointed on a post provided under the Uttar Pradesh State District Court Service Rules, 2013;
- (15) "Year of recruitment" means during the course of year commencing on 1st July to 30th June;
- (16) 'Misconduct' for the purposes of these Rules shall mean as defined in Rule 3 of the Uttar Pradesh Government Servants Conduct Rules, 1956.

CHAPTER-11

CONSTITUTION OF SERVICE

3. Constitution of Service,-

- (1) On and from the date of commencement of these rules there shall be constituted a State Civil Service known as 'the Uttar Pradesh State District Court Service'.
- (2) The Service shall consist of the category of posts or cadres specified in column (2) of the Schedule 'A'. The character and number of posts in each of these cadres and their scale of pay shall be as specified in the corresponding entries in column (3) to (6) thereof.
- (3) With effect from the date of commencement of these rules the existing category of posts shall stand designated as the category of post, specified in column 920 (2) of Schedule 'W'.

CHAPTER-11

RECRUITMENT

4. Method of recruitment, qualifications etc:

In respect of each category of posts of the Service specified in column (2) of Schedule 'A' the method of recruitment and minimum qualification, shall be as specified in the corresponding entries in columns (3) and (4) thereof.

5. Procedure of appointment.-

Subject to the provisions of these rules, recruitment to any category of post in the service shall be made by the Selecting Authority.-

- (1) In the case of recruitment by direct recruitment, after giving wide publicity in at least two newspapers. one in Hindi and one in English or State level having wide circulation in the district concerned
- (2) In the case of recruitment by promotion. by the Selecting Authority on the basis of criteria laid down in Schedule '13' subject to fitness of the candidate to discharge the duties of the post, from among the persons eligible for promotion.

6. Disqualification for appointment.-

- (1) No person shall be eligible for appointment unless he is a citizen of India,
- (2) No person who has more than one wife living and no woman who has married a man already having another wife. shall be eligible for appointment.
- (3) No person who attempts to obtain extraneous support by any means for his candidature from official or non-officials, shall be eligible for appointment.
- (4) No person shall be eligible for appointment if he or she-
 - (a) is or has been a member of: or has associated himself or herself with, any body or association after such body or association is declared as an unlawful body or association: or
 - (b) has participated in or is associated with, any activity or programme-
 - (I) aimed at subversion of the Constitution of India;
 - (II) aimed at organized breach or defiance of law involving violence;
 - (III) Which is prejudicial to the interests of the sovereignty and integrity of India or the security of the State; or
 - (IV) Which promotes on grounds of religion. race, language, caste or community. feelings of enmity or hatred between different sections of the people; or
 - (c) is dismissed from service under the Government of India or any State Government or any High Court:
 - (d) is or has been debarred or disqualified by the Union or any State Public Service Commission or any High Court from appearing for any examination or selection conducted by it; and
 - (e) is or has been convicted of an offense involving moral turpitude.

7. Age limit for appointment.-

- (1) Every candidate for appointment by direct recruitment must have attained the age of eighteen years and not have crossed the age of forty years on the first day of the year of recruitment.
- (2) Maximum age limit applicable to a candidate of Scheduled Castes and Scheduled Tribes and other reserved categories shall be . as per the Government Orders. issued in this behalf, as adopted by the High Court.

8. Provision for reservation of appointment:-

- (1) Appointment shall be reserved for the members of the Scheduled Castes Scheduled Tribes. Other Backward Classes and other categories to such extent and in such manner as may be specified by the Government Orders issued in this behalf from time to time as adopted by the High Court.

9. Direct Recruitment:-

- (1) The appointing Authority shall intimate the Selecting Authority in the month of July every year the number of vacancies existing and likely to occur during the year of recruitment for direct recruitment in different category of posts. The Selecting Authority shall invite applications by giving wide publicity indicating the total number of vacancies notified for recruitment and the number of vacancies reserved for different reserved categories.
- (2) The Selecting Authority may short- list the candidates to be called for the written examination equal to twenty five times the number of vacancies notified on the basis of the marks obtained in the qualifying examination given in Schedule 'B' or by a preliminary objective test.
- (3) Notwithstanding anything to the contrary in these Rules, the Appointing Authority and the Selecting Authority with regard to conduct of examination and selection shall act in accordance with general or special orders issued by Honable Chief Justice of the High Court, from time to time.

10. Eligibility of candidates for the interview-

(1) For the purpose of selection of the candidates for the interview, the appointing authority shall prepare a list of names of candidates on the basis of percentage of the total marks secured in the written examination in the order of merit and if two or more candidates have secured equal percentage of total marks in the written examination, the order of merit in respect of such candidates shall be fixed on the basis of their age, the person or persons older in age being placed higher in order of merit. From among the candidates whose names are included in such list, as far as may be, such number of candidates as is equal to five times the number of vacancies notified, selected in the order of merit shall be eligible for the interview:

(2) For the purpose of this rule.-

'Written examination' means the competitive examination held by the Selecting Authority as per syllabus given in Schedule 'C'

H. Interview.-

Selecting authority shall interview the eligible candidates selected under Rule 10 and award marks on the basis of their performance in the interview. The object of such interview is to assess the suitability of the candidates for appointment to the cadre or the post applied for by them and their calibre including intellectual and social traits of personality.

12. List of Selected candidates,-

(1) The Selecting Authority shall on the basis of the aggregate of the percentage of the total marks secured in the written examination as determined under Rule 11 and of the marks secured at the interview under Rule 11 and taking into consideration the order in force relating to reservation of posts for Scheduled Castes, Scheduled Tribes, Other Backward Classes and other prepare in the order of merit a list of the candidates eligible for appointment to the category of post and if the aggregate of the percentage of total marks secured in the written examinations as determined under rule 10. and of the marks secured at the interview under 11. of two or more candidates is equal, the order of merit in respect of such candidates shall be fixed on the basis of their age, the person or persons older in age being placed higher in the order of merit. The number of names of the candidates to be included in such list shall be equal to the number of the vacancies notified for the recruitment.

(2) The Selecting Authority shall in accordance with the provisions of sub- rule (1) also prepare an additional list of names of the candidates not included in the list prepared under sub-rule (1) in which the number of candidates to be included shall, as far as possible, be ten percent of the number of vacancies notified.

(3) The lists so prepared under sub-rule (1) and (2) shall be pasted on the notice board of the Judgeship on the same day on which interview is held or on the next working day and a copy of the same shall be forwarded to the High Court.

13. Appointment of candidates,-

(1) Subject to rules 15 and 16 candidates whose names are included in the list prepared under sub-rule (1) and published under sub-rule (3) of Rule 12 may be appointed by the appointing authority in the vacancies in the particular cadre in the order in which the names are found in the list after satisfying itself, after such inquiry as may be considered necessary that each such candidate is suitable in all respects for appointment to a post in the cadre. Candidates whose names are included in the list prepared under sub-rule (2) and published under sub-rule (3) of rule 12 may be similarly appointed after the candidates whose names are included in the list prepared under sub-rule (1) of Rule 12 have been appointed.

(2) The inclusion of the name of a candidate in any list published under Rule 12, shall not confer any right of appointment.

14. Duration of operation of the lists--

the list of names of the candidates published by the Selecting Authority under Rule 12 in respect of any cadre shall cease to be operative on appointment of the last advertised vacancy or one year whichever is earlier.

IS. Conditions relating to suitability and certificates of characters,-

No person shall be appointed unless the appointing authority is satisfied that he is of good character and is in all respect suitable for appointment to the service. Every candidate selected for direct recruitment shall furnish to the appointing authority certificates given not more than six months prior to the

date of selection, by two respectable persons unconnected with his school, college or university, and not related to him, testifying to his character. In addition to the certificate or certificates which may be required to be furnished from the educational institution last attended by the candidate. If any doubt arises regarding the suitability of a candidate for appointment the decision of the High Court shall be final.

16. Conditions relating to Physical fitness,-

(1) No candidate selected for appointment shall be appointed to any post unless he satisfies the appointing authority that he is physically fit to discharge the duties that he may be called upon to perform. The appointing authority may, by order, prescribe the physical standards required to be satisfied by a person for appointment and specify the medical authority which may grant the certificate of physical fitness and provide such other incidental matters as may be necessary. The opinion of the medical Authority, regarding the physical fitness or otherwise of the candidate shall be binding on the candidates.

(2) A candidate selected for appointment who fails to appear before the Medical Authority specified by the appointing authority under sub-rule (1) shall be given one more opportunity to appear before such authority. If the candidate fails to appear before Medical Authority even on second occasion, his name shall be deleted from the list of selected candidates and he shall cease to be eligible for appointment.

17. Fees,-

Every candidate for direct recruitment to any category of post may be required to pay such fees, as may be specified by the Appointing Authority in respect of his applications:

Provided that in the case of a candidate belonging to a Scheduled Caste or a Scheduled Tribe the fees payable shall be half of the fee specified under this rule.

18. Joining time for appointments--

(1) A candidate appointed by direct recruitment shall assume charge of the post specified by the appointing authority as soon as possible after the date of the order of appointment, but not later than thirty days from the date.

Explanation,- For the purpose of this sub-rule 'the date of the order of appointment' means the date of dispatch of order of appointment by registered post to the address given by the candidate.

(2) Notwithstanding anything contained in sub-rule (1) the appointing authority may, on the application of the candidate and if satisfied that there are good and sufficient reasons for doing so, by order in writing, grant such further time but not exceeding fifteen days as it may deem necessary.

(3) The name of the candidate who fails to assume charge of the post within the time specified in sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and the candidate concerned shall cease to be eligible for appointment.

**CHAPTER-IV
PROBATION**

19. Probation-

(1) All appointments to the Service by direct recruitment shall be on probation for the period of two years.

(2) All Appointments by promotion shall be on probation basis for a period of two years.

(3) The period of probation for reasons to be recorded in writing, may be extended by the appointing authority by such period not exceeding the period of probation specified in sub-rule (1) or (2).

(4) At the end of period of probation or the extended period of probation the appointing authority shall consider the suitability of the person so appointed or promoted to hold the post to which he was appointed or promoted, and

(I) If it is decided that he is suitable to hold the post to which he was appointed or promoted and has passed the examinations or tests, if any, required to be passed during the period of probation, it shall, as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation and such an order shall have effect from the date of expiry of the period of probation, including extended period, if any, as the case may be.

(H) if the appointing authority considers that the person is not suitable to hold the post to which he was appointed or promoted, as the case may be, he shall by order-

- (a) If he is a promotee, revert him to the post which he held prior to his promotion.
- (b) if he is probationer, discharge him from service.

(5) A person shall not be considered to have satisfactorily completed the period of probation unless a specific order to that effect is passed. Any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of probation.

20. Discharge of a probationer during the period of probation:-

(1) Notwithstanding anything contained in rule 19, the appointing authority may, at any time during the period of probation, discharge from service, a probationer on account of his unsuitability for the service.

(2) An order under sub-rule (1) shall indicate the grounds for the discharge but no disciplinary inquiry shall be necessary.

21. Increment during the period of probation:-

(1) A probationer or promotee may draw the increments that fall due during the period of probation. He shall not, however, draw any increment of or the expiry of the period of probation unless and until he is declared to have satisfactorily completed his probation.

(2) When a probationer or promotee is declared to have satisfactorily completed his probation, he shall draw, as from the date such order takes effect, the pay he would have drawn had he been allowed the increments for the whole of his service from the date of his appointment or probation.

CHAPTER-V

DETERMINATION OF SENIORITY

22. Seniority.

(1) Seniority, where appointments by direct recruitment only:- Where according to the rules appointments are to be made only by the direct recruitments, the seniority inter-se of the persons appointed on the result of any one selection, shall be the same as it is shown in the merit list prepared:

Provided that a candidate recruited directly may lose his seniority, if he fails to join without valid reasons when vacancy is offered to him. The decision of the appointing authority as to the validity of reasons, shall be final:

Provided further that persons appointed on the result of subsequent selection shall be Junior to the persons appointed on the result of a previous selection.

Explanation- Where in the same year separate selection for regular and emergency recruitment are made, the selection for regular recruitment shall be deemed to be previous selection.

(2) Seniority where appointments by promotion only from the Single feeding cadre:- Where according to the service rules, appointments are to be made only by promotion from a single feeding cadre, the seniority inter-se of person so appointed shall be the same as it was in the feeding cadre.

Explanation- A person senior in the feeding cadre shall, even though promoted after the promotion of a person junior to him in the feeding cadre shall, in the cadre to which they are promoted, regain the seniority as it was in the feeding cadre.

(3) Seniority where appointments by promotion only from several feeding cadre:- Where according to service rules, appointments are to be made only by promotion but from more than one feeding cadre, the seniority inter-se of persons appointed on the result of any one selection shall be determined according to the date of the order of their substantive appointment in their respective feeding cadre,

Explanation:- Where the order of the substantive appointments in the feeding cadre specifies a particular back date with effect from which, a person is substantively appointed, that date will be deemed to be the date of the order of substantive appointment and, in other cases it will mean the date of issuance of the order:

Provided that where the pay scales of the feeding cadre are different, the persons promoted from the feeding cadre having higher pay scale shall be senior to the persons promoted from the feeding cadre having lower pay scale:

Provided further that the person appointed on the result of subsequent selection shall be junior to the person appointed on the result of a previous selection.

(4) Seniority where appointments made by promotion and direct recruitments-

(i) where according to service rules appointments are made from both by the promotion and by Direct recruitment, the seniority of persons appointed shall, subject to the provision of following sub-rules be determined from the date of the order of their substantive appointments. and if two or more persons are appointed together. in the order in which, their names are arranged in the appointment orders:

Provided that if the appointment order specifies a particular back date. with effect from which a person is substantively appointed, that date will be deemed to be the date of order of substantive appointment and, in other cases, it will mean the date of issuance of the order:

Further provided that a candidate recruited directly may lose his seniority, if he fails to join without valid reasons, when vacancy is offered to him and the decision of the appointing authority as to the validity of reasons, shall be final.

(i) The seniority inter-se of the persons appointed on the result of any one selection-

(a) Through direct recruitment, shall be the same as it shown in the merit list prepared:

(b) By promotion, shall be determined in accordance with the principles laid down in Rule 22(2) or Rule 22 (3) , as the case may be . accordingly as the promotions are to be made from a single feeding cadre or several feeding cadre.

(ii) Where appointments are made by promotion and direct recruitment on the result of any one selection, the seniority of promotees vis-vis Direct Recruits shall be determined in cyclic order (The first being a promotee) so far as may be, in accordance with the quota prescribed for the two sources.

Illustration- Where the quota of promotees and direct

recruits is in proportion of 1: 4 seniority shall be in the following order:-

F i r s t - - - p r o m o t e e .

Second to Fifth -----direct recruits.

And so on:

Provided that-

(a) Where appointments from any source are made in excess of the prescribed quota, the persons appointed in excess of the quota shall be pushed down, for seniority. to subsequent year or years in which there are vacancies in accordance with the quota:

(b) Where appointments from any source fall short of the prescribed quota and appointment against such unfilled vacancies are made in subsequent year or years. the persons so appointed shall not get seniority of any earlier year but shall get the seniority of the year in which there appointments are made, so that their name shall be placed at the top followed by the names. in the cyclic order of the other appointees.

(c) Where in accordance with the service rules the untitled vacancies from any source could, in the circumstances mentioned in the relevant service rules, be filled from other source, and appointment in excess of quota are so made, the persons so appointed shall get the seniority of that very year as if they are appointed against the vacancies of their quota.

(5) Preparation of seniority list:- (i) As soon as may be, after appointments are made to the service, the appointing authority shall prepare a tentative seniority list of persons appointed substantively to the service in accordance with the provisions of these rules.

(ii) the tentative seniority list shall be circulated among the persons concerned inviting objections, by a notice of reasonable period, which shall not be less than 7 days from the date of circulation of the tentative seniority list.

(iii) No objection against the vires or validity of these rules shall be entertainable.

(iv) The appointing authority after disposing of the objection by a reasoned order issue a final seniority list.

(v) It shall not be necessary to prepare a seniority list of the cadre to which appointments are made only by promotion from a single feeding cadre.

(6) Every year in the month of juti; seniority list of officials in all cadres in a District shall be prepared and published by the appointing authority and the lists so published shall be used for the purpose of making promotions to the next higher cadre in the District.

CHAPTER-VI DISCIPLINE AND APPEAL

23. (1) Penalties.-

One or more of the following penalties for good and sufficient reasons may be imposed on a member of the Service, namely:

Minor Penalties

- (i) Censure;
- (ii) Withholding of increment for a specified period;
- (iii) Stoppage of an efficiency bar;
- (iv) Recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders, to the Government or the High Court;
- (v) *Fine* in case of persons holding Group 'D' posts: Provided that the amount of such fine shall in no case exceed twenty five percent of the month's pay in which the fine is imposed.

Major Penalties

- (i) Withholding of increments with cumulative effect,
- (ii) Reduction to a lower post or grade or time scale or to a lower stage in time scale;
- (iii) Removal from service which does not disqualify from future employment;
- (iv) Dismissal from the service which disqualifies from future employment.

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

- (i) Withholding of increment of a member of the service for failure to pass a department examination or for failure to fulfil any other condition in accordance with the rules or orders governing the service;
- (ii) Stoppage of the efficiency bar in the time scale of pay on account of ones not being found fit to cross the efficiency bar;
- (iii) Reversion of a person appointed on probation to the service during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probation;
- (iv) Termination of the service of a person appointed on probation during or at the end of period of probation in accordance with the terms of the service or the rules and orders governing such probation.

(2) Suspension-

(i) A member of the service against whose conduct an enquiry is contemplated, or is proceeding, may be placed under suspension pending the conclusion of the enquiry in the discretion of the appointing authority:

Provided that suspension should not be resorted to unless the allegation against the employee are so serious that in the event of their being established, may ordinarily warrant major penalty:

Provided further that the head of the department by an order in this behalf may place an employee under suspension under this rule:

Provided also that the appointing authority may delegate its power under this rule to the next lower authority.

(ii) An employee in respect of or against whom, an investigation, enquiry or trial relating to a criminal charge, which is connected with his position as an employee of Court or which is likely to be embarrassing in discharge of his duties or which involves moral turpitude: is pending, may, at the discretion of the appointing authority or the authority to whom, the power of suspension has been delegated under these rules, be placed under suspension until the termination of all proceedings relating to the charge.

(iii) (a) An employee shall be deemed to have been placed or, as the case may be, continued to be placed, under suspension by an order of the authority competent to suspend, with the date of his detention, if he is detained in custody, whether detention is on Criminal charge or otherwise, for a period exceeding forty eight hours.

(b) The aforesaid employee shall, after release from the custody, inform in writing to the competent authority about his detention and may also make representation against the deemed suspension. The competent authority shall, after considering the representation in the light of the facts and circumstances of the case as well as the provision contained in rule pass appropriate order continuing the deemed suspension from the date of release from custody or revoking or mollifying it,

(iv) The employee shall be deemed to have been placed, as the case may be, or continued to be placed under suspension by an order of the authority competent to suspend under these rules, with effect from the date of his conviction if in the event of a conviction for an offence he is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed consequent to such conviction.

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

(iv) Where the penalty of dismissal or removal from service imposed upon an employee is set aside in appeal under these rules or under rules rescinded by these rules and the case is remitted for further enquiry or action or with any other directions:

(a) If he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any such directions as aforesaid, be deemed to have continued in force on or from the date of the original order of dismissal or removal:

(b) If he was not under suspension, he shall, if so directed by the appellate [authority, be](#) deemed to have been placed under suspension by an order of the appointing authority on or from the date of original order of dismissal or removal:

Provided that nothing in this sub rule shall be construed as affecting the power of disciplinary authority, in a case where a penalty of dismissal or removal from service imposed upon a Government servant is set aside in appeal under these rules on grounds other than the merits of the allegations on the basis of which, the said penalty was imposed and the case is remitted for further enquiry or action or for any other direction. to pass an order of suspension it being further enquiry against him on those allegations, however any such suspension shall not have retrospective effect.

(v) Where penalty of dismissal or removal from service imposed upon an employee is set aside or declared or rendered void in consequence of or by decision of a Court of law and the appointing authority on a consideration of circumstances of the case, decides of the case, decides to hold a further enquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, whether the allegations remain in their original form or are clarified their particulars better specified or any part thereof of a minor nature omitted:

(a) If he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any direction of the appointing authority, be deemed to have continued in force on or from the date of the original order of dismissal or removal:

(b) if he was as under suspension, he shall, if so directed by the appointing [authority, be](#) deemed to have been placed under suspension by an order of the competent authority on and from the date of the original order of dismissal or removal.

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

(viii) Any suspension ordered or deemed to have been ordered or to have continued in force under this rule shall continue to remain in force until it is modified or revoked by the competent authority.

(ix) An employee placed under suspension or deemed to have been placed under suspension under this rule shall be entitled to subsistence allowance in accordance with the provisions of Fundamental Rule 53 of the Financial Hand Book Volume II. Part II to IV.

(3) Pay and Allowance etc. of the suspension period-

After the order is passed in the departmental enquiry on the basis of criminal case, as the case may be, under these rules, the decision as to the pay and allowances of the suspension period of the concerned employee and also whether the said period shall be treated as spent on duty or not, shall be taken by the disciplinary authority after giving a notice to the said employee and calling for his explanation within a specified period under Rule 54 of the Financial Hand Book. Volume H. Part II to IV.

(4) Disciplinary Authority-The appointing authority of the member the service shall be the disciplinary authority, who. subject to the provisions of these rules. may impose any of the penalties specified in rule 23.

Provided that no person shall dismissed or removed by an authority subordinate to that by which he was actually appointed.

(5) Procedure of imposing major penalties: Before imposing any major penalty on an employee, an enquiry shall be held in the following manner:-

(i) The disciplinary authority may himself enquire into the charges or appoint any authority subordinate to him as enquiry officer to enquire into the charges.

(ii) The fact constituting the misconduct on which is proposed to take action shall be reduced in the form of definite charge or charge or charges to be called Charge-sheet.

The charge-sheet shall be approved by the disciplinary authority-

(iii) The charges framed shall be so precise and clear as to give sufficient indication to the charged employee of the facts and circumstances against him. The proposed documentary evidences and the name of the witnesses proposed to prove the same alongwith the oral evidences, if any. shall be mentioned in the charge-sheet.

(iv) the Charged employee shall be required to put in Written statement of his defence in person on a specified date which shall not be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross examine any witness mentioned in the charge-sheet and whether he desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file written statement on the specified date, it shall be presumed that he has none to furnish and enquiry officer shall proceed to complete the enquiry ex -parte.

(v) The charge-sheet alongwith the copy of documentary evidences mentioned therein and list of witnesses and their statements, if any, shall be served on the charged employee personally or by registered post at the address mentioned in the official record. In case the charge-sheet could not be served in the aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation:

Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged employee shall be permitted to inspect the same before the enquiry officer: