GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Fundamental Rules – Amendment to F.R. 54 (5) and FR 54-(B)(7), F.R. 26 (b)(ii) for counting EOL for sanction of notional increments and Pension – Orders – Issued.

FINANCE (FR.II) DEPARTMENT

G.O. Ms. No. 307 Dt. 03-12-2012

1. G.O. Ms. No.3, Finance (FR.II) Dept. dt. 4-1-2006
2. U.O. No. 37392/Vig.I(2)/2009, dt. 29-01-2011 from Revenue Dept.

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O R D E R:

In the G.O. 1st read above the discretion of the competent authority for counting the not-duty period for a specific purpose was withdrawn when the period of deemed suspension/suspension is regularized as "not duty". Hence, the Govt. servant would not be entitled for leave, increments and pension for suspension and dismissal period when it is treated as "not duty".

2. In the U.O. Note 2nd read above it has come to the notice of Finance Department that in many cases, the Hon'ble High Court of Andhra Pradesh/A.P. Administrative Tribunal while acquitting the Public Servant in Criminal Appeals from the Criminal Charge ordered to regularize the suspension period and dismissal period as not duty and to count the interregnum periods (suspension/dismissal) for the purpose of pensionary benefits and also to pay interest on certain issues. In such matters when consulted the Law Department, while citing the Apex Court judgements, advised that the suspension period and the interregnum period between the date of dismissal and reinstatement of a Public servant be counted for purpose of pensionary benefits. But, there is no provision in Fundamental Rules for such payments to the Public Servant for any pay and allowances for the above periods except the subsistence allowance, as per the rules in force now.

3. According to FR. 54 (5), and FR. 54-(B)(7) when period of deemed suspension/suspension is regularized as 'not duty' the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty and the authority competent may convert the above periods into leave of any kind due and admissible to the Govt. servant, if he so requests.

4. It is observed that in cases where there is long pendency of litigation, there is no benefit due to conversion of leave of any kind due and admissible to the Public servant, since the Public servant would not have such long period of leave at his credit. Hence, if such long periods are treated as Extra-ordinary leave, they will not count for increments and affecting pay and allowances culminating in the reduction of pension which will be a double jeopardy on the public servant. The long pendency of the trial in lower court and also in Appellate Court may not be attributable to the public servant. In such cases there is case for counting the Extra-ordinary Leave granted for regularizing the suspension/dismissal period for the purpose of pensionary benefits and notional increments on the request of the individuals.

5. As there is no provision now in Fundamental Rules for counting the 'not duty' period for purpose of leave, increments and pension, Government after careful examination have decided to amend the clauses under FR. 54 (5) and FR. 54-(B)(7) by adding the words "that the leave granted on EOL under the above clause, after exhaustion of other types of leave like Earned Leave, Half-pay Leave may be counted for purpose of notional increments and pension"

6. Further, a note may be added under FR. 26 (b)(ii) to the above effect.

7. Accordingly, the following notification shall be published in the Extraordinary issue of A.P. Gazettee.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Fundamental rules as subsequently amended from time to time.

AMENDMENT

In the said rules;

i) under the proviso to sub-rule (5) of FR. 54, the following shall be added as Note "(C)"

> "that the Extraordinary leave granted after exhaustion of all available leave under the above clause may be counted for the purpose of notional increments and pension"

ii) Under the proviso to sub-rule (7) of rule 54-(B) the following shall be added as Note "(C)"

"that the Extraordinary Leave granted after exhaustion of all available leave under the above clause may be counted for the purpose of notional increments and pension"

iii) Under the proviso to FR. 26 (b) (ii) after the existing Note, the following shall be added as Note-2;

"The Extraordinary Leave granted on the request of the individual for regularization of the dismissal/deemed suspension/suspension period, after exhausting all the available leave may also be counted for the purpose of notional increments and pension"

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR. D. SAMBASIVA RAO
PRINCIPAL. SECRETARY TO GOVT. (FP)

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