

Chapter VIII

Suspension and re-instatement

7 FRs, FR 50 – FR 56

7 SRs, SR 44 – SR 50

Even under suspension, a government servant still holds his own post. Eg. Executive Engineer (under suspension).

(1) Payment:-

During period of suspension a govt. servant is entitled to:-

I. Subsistence Allowance (S.A):

(a) during the first six months he would be entitled to

(i) S.A. half leave salary – FR. 51 (1)(ii)(a)

e.g.

leave salary = Basic pay ₹ 42,100(Pay Level 13),

full leave salary = ₹ 42100

half leave salary = ₹ 21050

(ii) Plus DA (base on ₹ 21050)

(iii) Plus compensatory allowance (not to be reduced)

(a) After 6 months

May be increased or decreased according to the reasons for the prolongation of the suspension.

(i) In case govt. servant is not directly responsible for the prolongation – may be increased by any amount not exceeding 50% of subsistence allowance.

FR. 51 (1)(ii)(a)(i)

e.g.

full leave salary = ₹ 42000

Half leave salary = ₹ 21000

Increase not more than ₹ 10500 (i.e. 50% of ₹ 21000)

Therefore, maximum SA = ₹ 31500 (DA based on SA)

(ii) If govt. servant is directly responsible for the prolongation- the subsistence allowance may be decreased by any amount not exceeding 50% of the subsistence allowance. FR. 51 (1)(a)(ii)

E.g. Min SA = ₹ 10,500. (DA based on SA.)

i.e (₹ 21000×50%)

(iii) DA based on subsistence allowance.

Deemed suspension :- e.g. Arrested on 18.08.2019, informed by police on 20.08.2019, suspension deemed w.e.f. 18.08.2019

SR. 46 – E.g. ROP rules order Nov. 2018 w.e.f. 01.01.2017

- (1) If put under suspension w.e.f. 17.08.2017 – (has material effect)
01.01.2017 to 17.08.2018 he was on duty, he will be allowed to exercise option.
Normally, 60 days of option given but if under suspension, option may be extended
- (2) if put under suspension w.e.f. 17.08.2016 (has no material effect)

SR 50 – during suspension, he will have to pay rent if it is rent free quarter. If suspension period is treated as on duty rent paid shall be refunded as treated as 'Rent Free'.

Recoveries from subsistence allowance

- (1) Compulsory Deduction ... FR 52(1)
- (2) Optional Deduction ... FR 52(2)
- (3) (others) should not be recovered.
 - (1) no subscription to GPF as per GPF rules.
 - (2) court attachment – no recovery from subsistence allowance for court attachment.

REINSTATEMENT

FR. 53 – on being reinstated he is again a full fledged govt. servant.

A govt. servant may be reinstated :-

- (1) when proceedings against him terminate.
- (2) after dismissal / removal / compulsory retired.

Reinstatement order is not complete if it does not point out how the period of suspension/dismissal /removal/compulsory retirement is treated and pay and allowances admissible.

Reinstatement order should show:-

- (1) How the interim period from the date of suspension to the date of reinstatement be treated
- (2) What pay and allowances will be admissible to him for this period. {'Dies – Non period cannot be treated as leave due and admissible except on request of the govt. servant}

FR. 56 :- Termination of suspension:

How suspension is terminated:-

- (1) Death of a govt. servant under suspension :- FR 56 (2)
 - (a) Whole period of suspension to be treated as on duty.
 - (b) Family will be entitled to his full pay and allowance for these periods.
- (2) Suspension found wholly unjustified ... FR. 56 (3) & (4)
 - (a) Whole period of suspension will be treated as on duty. FR. 56 (4).

- (b) Govt. servant will be entitled to full pay and allowances for those period subject to adjustments with SA ...FR 56 (3)
- (3) When the suspension is not wholly unjustified (i.e. partly justified & partly unjustified)
 - (a) Any pay that the authority may decide less than full pay but not less than the subsistence allowance ... FR 56 (5) and (9).
 - (b) The period of suspension is not to be treated as period spent on duty (Dies – Non period)... FR. 56 (7).

The authority cannot order Dies Non period as on leave due and admissible but it may be considered only on the request of the Govt. servant. The authority may agree or not agree as it is not binding on the authority to entertain the request.

FR. 53. Dismissal/ Removal/ Compulsory retirement.

Suspension → Departmental Proceedings → D/R/C/R → Review Appeal Reinstatement.

Dismissal – cannot be employed again in govt. service

Removal – may be employed again in govt. service.

A. Reinstatement on review / appeal to Departmental authority:

The order of the disciplinary authority is set aside

- (1) How the whole period from date of suspension to the date of reinstatement be treated.
- (2) What pay and allowances is admissible during this period.
 - (i) If the govt. servant is fully exonerated:
 - (a) Entitled to full pay and allowances from the date of suspension to the date of reinstatement and.... FR53 (2)
 - (b) the whole period treated as on duty FR 53 (3)
 - (ii) If the Govt. servant is not fully exonerated or if on grounds of defects in the procedure of the disciplinary authority
 - (a) Any pay less than full pay but not less than subsistence allowance... FR 53 (4)
 - (b) the period be treated as ‘Dies Non’ for all purposes ..FR 53(5)

Note :- review may be made by the same or higher authority. Appeal may be made to higher authority only.

FR. 54.

B. Reinstatement on court orders.

- (1) On merit of the case. - The order of dismissal etc. is set aside by the court
 - (a) On merit of the case :-
 - i. Entitled to full pay and allowances from the date of suspension to the date of reinstatement and the whole period be treated as on duty..... FR 54 (3)

(1) Not on merit but on procedural defects.

(a) Any pay less than full pay but not less than the subsistence allowance...

FR 54(2)(i)

(b) the period may be treated as 'Dies – Non'... FR 54 (2)(ii)

FR.55 – filling up vacancies caused by dismissal etc. of govt. servant.

(1) The resultant vacant permanent post should not be filled up substantively within a period of 1 year.


(2) after one year it may be substantively filled up.

A supernumerary post is to be created if the govt. servant so re-instated does not have a post to return to.

Note :- (i) If suspension period is converted to leave and if found that leave salary and allowances exceeds SA. & comp. allowance refund of excess is to be made.

(ii) Suspension period (if treated as 'Dies-Non') is not counted towards increment, pension and leave.

REINSTATEMENT

	I Termination of suspension FR-56	II On review/appeal FR-53	III On court order FR-54
(i) To be entitled to full pay and period to be treated as 'on duty'	(a) Charges must be wholly unjustified FR 56 (3) & (4)	(a) Fully exonerated of all charges FR. 53 (2) & (3)	Order set aside on merit FR. 54 (3)
			
	For the prolongation to finalize the proceedings if the govt. servant is directly responsible. Any pay less than full pay proviso to FR. 56 (3) & FR 53 (3)		
(ii) Not full pay and the period to be treated as 'Dies-Non'	(a) charges are not wholly unjustified. FR. 56 (5) & (9)	(a) not fully exonerated or on grounds of procedural defects of the original proceedings FR. 53 (4) & (5)	(a) not on merit but due to defect of the procedure of the departmental proceedings FR 54 (2) (i) & (ii)
(iii) The proposal to grant less than full pay can be given after giving the govt servant opportunity to represent	(a) FR. 56 (5)	(a) FR. 53 (4)	(a) FR. 54 (2) (i)
(iv) Supernumerary post to be created if the govt. servant so reinstated does not have a post to return to. Refer to administrative instruction below FR 32	-	FR.55 (Reinstatement after dismissal/removal or compulsory retirement)	FR.55 (Reinstatement after dismissal/removal or compulsory retirement)

Note

- EOL can exceed beyond 5 years –note below FR.53
- Pay admissible shall be paid only for a period of 3 years preceding court order/appellate authority for reinstatement was passed, so that burden will not be imposed on Govt. for payment.

(1) Court order – Proviso to FR. 54 (2)(ii)

(2) Appellate authority – Proviso to sub – rule 4 of FR 53
