

## 76. THE CENTRAL CIVIL SERVICES (TEMPORARY SERVICES) RULES, 1965

[G.I., M.H.A. Noti. No. F-59/8/63-Ests. (A), dated 1st May, 1965]

### (A) RULES WITH INSTRUCTIONS

In exercise of the powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution, and after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department, the President is pleased to make, in supersession of the Central Civil Services (Temporary Service) Rules, 1949, the following rules to regulate the conditions of service of temporary Government Servants, namely:

**1. Short title, commencement and application.**—(1) These rules may be called the **Central Civil Services (Temporary Service) Rules, 1965**.

(2) They shall come into force at once.

<sup>1</sup>[(3) Subject to the provisions of sub-rule (4), these rules shall apply to all persons,—

(i) who hold a civil post including all civilians paid from the Defence Services Estimates under the Government of India and who are under the rule-making control of the President, but who do not hold a lien or a suspended lien on any post under the Government of India or any State Government;

(ii) who are employed temporarily in work-charged establishments and who have opted for pensionary benefits.

(4) Nothing in these rules shall apply to,—

(a) Railway servants;

(b) Government Servants not in wholetime employment;

(c) Government Servant engaged on contract;

(d) Government Servants paid out of contingencies;

(e) Persons employed in extra-temporary establishments or in work-charged establishments (other than the persons employed temporarily and who have opted for pensionary benefits);

(f) non-departmental telegraphists and telegraphmen employed in the Posts and Telegraphs Department;

(g) such other categories of employees as may be specified by the Central Government by notification published in the Official Gazette.

**2. Definitions.**—In these rules, unless the context otherwise requires,—

(a) "*appointing authority*" means, in relation to a specified post, the authority declared as such under the Central Civil Services (C.C.& A.) Rules, 1965;

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1. Subs. by Noti. No. 12011/4/65-ESH (C), dated 18th December, 1975.

- (b) *Omitted.*
- (c) by Noti. No. GSR. 145, dated 22nd February, 1989, G.I. Min. of per P.G. & Pen. (Dept. of Per. & Trg.).
- (d) "*temporary service*" means the service of a temporary Government Servant in a temporary post or officiating service in a permanent post, under the Government of India.
- (e) "*defence service*" means service under the Government of India in the Ministry of Defence and in the Defence Accounts Departments under the control of the Ministry of Finance (Department of Expenditure) (Defence Division) paid out of the Defence Services Estimates and not permanently subject to the Air Force Act, 1950 (45 of 1950) or the Army Act, 1950 (45 of 1950) or the Navy Act, 1957 (62 of 1957)."

3. 1[\* \* \*]

4. 1[\* \* \*]

**5. Termination of temporary service.**—(1)(a) The services of a temporary Government Servant <sup>2</sup>[\* \* \*] shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant;

(b) the period of such notice shall be one month :

Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.

*Note.*—The following procedure shall be adopted by the appointing authority while serving notice on such Government Servant under clause (a)—

- (i) The notice shall be delivered or tendered to the Government Servant in person.
- (ii) Where personal service is not practicable, the notice shall be served on such Government Servant by registered post acknowledgment due at the address of the Government Servant available with the Appointing Authority.
- (iii) If the notice sent by registered post is returned unserved it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such Government Servant on the date it was published in the Official Gazette.

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- 1. Omitted by Noti. No. GSR 145, dated 22nd February, 1989, G.I. Min. of Per. PGN Per. (Dept. & Per. & Trg.
  - 2. Words "who is not in quasi-permanent service *omitted* by Noti. No. G.S.R. 145, dated 22nd February, 1989 of G.I. Min. of Per. P.G. & Per. (Dept. of Per. & Trg.).



(2)(a) Where a notice is given by the appointing authority terminating the services of a temporary Government Servant, or where the service of any such Government Servant is terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowances, the Central Government or any other authority specified by the Central Government in this behalf may, of its own motion or otherwise, re-open the case, and after calling for the records of the case and after making such enquiry it deems fit—

- (i) confirm the action taken by the appointing authority;
- (ii) withdraw the notice;
- (iii) reinstate the Government Servant in service; or
- (iv) make such other order in the case as it may consider proper:

Provided that except in special circumstances, which should be recorded in writing, no case shall be reopened under this sub-rule after the expiry of three months :

- (i) from the date of notice, in a case where notice is given;
- (ii) from the date of termination of service, in a case where no notice is given.

(b) Where a Government Servant is reinstated in service under sub-rule (2) the order of reinstatement shall specify :

- (i) the amount of proportion of pay and allowances, if any, to be paid to the Government Servant for the period of his absence between the date of termination of his services and the date of his reinstatement; and
- (ii) whether the said period shall be treated as a period spent on duty for any specified purpose or purposes.

### NOTES

**Defect in vision.**—It was the CRPF who got them medically examined and only after the petitioners were declared to be fit, they were issued a letter of appointment. The petitioners worked for more than three years at different posting. There was no complaint against their vision but only after receipt of a complaint from the Superintendent of Police, Central Bureau of Investigation, they were medically examined for a second time and the defect in their vision was detected for the first time. Notice was issued to them under Temporary Service Rules whereas another Constable namely 'A', who was appointed on the same day, was found to be Colour Blind on the same day but he was treated as a confirmed employees and is still continuing in service. The respondents have not been able to give any satisfactory reply and, therefore, this is a case of clear discrimination and violation of Article 14 of the Constitution of India.

Before I part, I can also not loose sight of the Circular issued by the Union of India granting benefits to such personnels who are suffering from Colour Blindness to continue in service as well as to grant promotion. Thus the petitioners cannot be said to be suffering from such a disability that they will not be able to work. Admittedly, they were working till the order of termination was passed without any complaint and therefore, they are liable to continue in service. [*Anil Kumar Das v. Union of India*, 2011 (131) FLR 181 (Jhar)].

**Enquiry.**—There is no doubt that no enquiry was held into the conduct of the respondent. There was also no allegation of any moral turpitude or any misconduct



against him. All that the employer concluded was that the respondent would not make an efficient officer since he appeared to be incapable of completing his training. This was fortified by the manner in which the respondent took his training, that is, by not participating in the training programme on several occasions in a span of less than a month and a half, the depression that he was going through, his inability to eat properly or perform any outdoor duties and his inability to sit the full duration of the class or concentrate on his studies. In fact, as noted above, the respondent himself informed the Additional Commissioner of Police (Training) on 15th July, 1995 that he could not cope with the training.

Under these circumstances, the Petitioner was fully justified in coming to a conclusion that the respondent would not be a person fit enough to remain in the police force. This assessment appears to have been made on the basis not of his conduct but on the basis of the manner in which he went about with the training, which he was apparently unable to cope with. That being the *bona fide* assessment made by the Petitioner, Court does not think that the Tribunal was right in coming to a conclusion that the services of the respondent were dispensed with by way of punishment. There was no necessity for the Petitioner to hold an enquiry into the conduct of the respondent, since that was not even the question before the Petitioner. The only question being whether the respondent could complete his training and whether he would be an efficient officer after completion of his training. [*Union of India v. Nand Kishor Aggarwal*, 2009 (120) FLR 573 (Del)].

**Order of termination.**—Even if the absence of the appellant may have been the reason for the termination, it was definitely not the foundation of the same. Here was a person who had just been inducted in the service and then absented himself within three months of his joining and the only explanation given is that he was under treatment as an OPD patient. There is no application for grant of leave. There is no material placed on record that he ever obtained leave. Therefore, we are clearly of the view that the High Court erred in setting aside the order of termination. The order of termination was not stigmatic but was a simpliciter order of termination. [*Union of India v. Anil Kumar*, AIR Online 2019 SC 1897].

**Pay and allowances.**—A perusal of the aforesaid rule makes it abundantly clear that a Government servant shall be entitled to claim a sum equivalent to his pay and allowances for the notice period but there is no requirement that the pay and allowances must be paid simultaneously or even forthwith along with the order of termination. Indeed, this is also the view taken by the Supreme Court in *Municipal Corporation of Delhi v. Prem Chand Gupta*, (2000) 10 SCC 115., (paragraph 9 of the Report). Of course, the Supreme Court has observed that the payment must be made within a reasonable period of time. [*Union of India v. Nand Kishor Aggarwal*, 2009 (120) FLR 573 (Del)].

**Suppression of factual information in Verification Roll.**—It is, therefore, clear that in the aforesaid case relied upon by Sri Ashok Khare, the candidate was not required to furnish information in the attestation form about any case pending against him and so it was held that he had not made any false declaration. In the present case, however, there is a specific clause, namely Clause 12(b), which required the appellant to categorically state whether any case was pending against him in the Court of law. The said decision, therefore, is of no benefit to the appellant. In fact, in view of the decision of the Supreme Court in *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav*, 2003 (97) FLR 117 (SC). and *A.P. Public Service Commission* (supra), it has to be held that the appellant had given false information/suppressed factual information in the Verification Roll as he did not disclose that a case was pending against him in the Court of law at the time of filling up of the Verification Roll.



There is, therefore, no infirmity in the order dated 28th February, 2004 by which the temporary services of the appellant was terminated under the provisions of Rules 5(1) of the CCS (Temporary) Rules as he had given false information/suppressed factual information in the Verification Roll. [*Sudhakar Mishra v. Union of India*, 2009 (121) FLR 1119 (All)].

**Reinstate in service after acquittal in temporary post.**—It is true that the respondent was acquitted by the Criminal Court but acquittal does not automatically give him the right to be reinstated into the service. It would still be open to the competent authority to take decision whether the delinquent Government servant can be taken into service or disciplinary action should be taken under the Central Services (Classification, Control & Appeal) Rules or under the temporary service rules. Admittedly, the respondent had been working as a temporary Government servant before he was kept under suspension. The termination order indicated the factum that he, by then was under suspension. It is only a way of describing him as being under suspension when the order came to be passed but that does not constitute any stigma. Mere acquittal of Government employee does not automatically entitle the Government servant to reinstatement. As stated earlier it would be open to the appropriate competent authority to take a decision whether the enquiry into the conduct is required to be done before directing reinstatement or appropriate action should be taken as per law, if otherwise available. Since the respondent is only a temporary Government servant, the power being available under Rule 5(1) of the Rules, it is always open to the competent authority to invoke the said power and terminate the services of the employee instead of conducting the enquiry or to continue in service a Government servant accused of defalcation of public money. Reinstatement would be a charter for him to indulge with impunity in misappropriation of public money. [*Union of India v. Bihari Lal*, 1997 (4) JT 541 : 1997 (3) Supreme 679].

**Confirmation—Probation.**—The probationer does not automatically become a full member of service, on the expiry of the period of probation, until and unless he is confirmed expressly or by necessary implication. [*Dr. N.G. Kulkarni v. Union of India*, 2000 (2) SLR 49 : 2000 (2) RSJ 165 (Del)].

**Adverse remarks—Probation.**—Person not communicated of adverse report of confidential roll cannot be acted upon. [*Dr. N.G. Kulkarni v. Union of India*, 2000 (2) SLR 49 : 2000 (2) RSJ 165 (Del)].

**Notice Pay.**—It is not mandatory under T.S. Rules to give notice pay with the termination order. [*Narendra Kr. B. Bhandari v. Asstt. Director Incharge, Small Industries Service Institute*, 1999 (3) SLJ 503 (CAT)].

**Termination of Service.**—Rules for time being in force will have a nexus with the regulation of condition of service of Municipal Officer at the relevant time as expressly mentioned in Regulation 4(1). Whenever the question of regulation of conditions of service of the Municipal Officer comes up for consideration, the relevant rules in force at that time have to be looked into. This is clear thrust of Regulation of 4(1). After 15.65 as per Rule 5 of latter rules there remained no necessity for employer while forthwith terminating temporary government servant to after him compensation with termination order. It must be held that termination of workmen from 29.4.98 was not violative of amended rules of Rule 1965 which applied in this case. Requisite compensation was not bounder the part of appellant. [*Management of M.C.D. v. Premchand Gupta*, 2000 (1) SRJ 443 : 2000 (1) LLJ 553 (SC)].

As the petitioner was a temporary employee, his service could have been terminated at any time in term of the provisions of Rules 5(1) of the CCS (Temporary) Rules. There was no requirement of hearing to the petitioner-appellant before terminating his



service, as he had come into service by suppression of material facts and he had been found guilty of suppression of the material fact regarding his antecedents, which he had provided and had also signed a declaration in the verification roll in this regard.

The principles of natural justice apply where a candidate comes with clean hands in service and there is no injustice or prejudice caused to the petitioner-appellant by any action of the authority.

In the instant case, no prejudice have been pleaded. Rather from perusal of the record, it is apparent that the petitioner-appellant could get selected as Trainee/Recruit Constable by concealment of the material fact or deliberate misrepresentation. [*Surendra Singh Yadav v. Union of India*, 2011 (128) FLR 538 (All)].

**Legality of termination.**—From the materials available on record, Court has observed that the services of the appellant were regularized by an Office Order dated 23rd of January, 1989 with effect from the date of his appointment i.e., 4th of November, 1987. Therefore, it is clear that the appellant was not a temporary employee but a regular employee, even if Court hold that his services were not confirmed under Regulation 3(iii). Even otherwise, the appellant could not be equated with temporary employees because Rule 3(iv) of DSIDC (Staff Service Rules), 1978 defines a temporary employee to mean "one who has not completed three years of continuous services in the Corporation" whereas in the present case, the appellant had already completed more than 5 years of continuous service. Even the single Judge in his judgment has, at one stage, held that the appellant was not a temporary employee. The single Judge had gone to the extent of saying that even if it is assumed that the Corporation wrongly applied sub-Rule (1) of Rule 5, then also, the decision of termination cannot be said to be illegal because on an overall concepts of facts, there was no need of such personnel because the work in the Corporation was reduced and the personnel were rendered surplus. It also observed that the re-deployment could not have been claimed as of right and the appellant could not allege any discrimination because the appellant was the junior most in the category of HEMM Operation.

The Court was not convinced with the explanation offered by the Corporation for not redeploying the appellant, his termination must be held to be arbitrary and unjust. Even otherwise, the Corporation could not terminate the service of the appellant by resorting to the Temporary Service Rules and on this ground also, the termination of the appellant was illegal and invalid and is liable to be quashed. [*K. Alex v. Delhi State Mineral Development Corporation*, 2009 (120) FLR 477 (SC)].

**Termination—Validity of.**—When the respondents were summarily terminating the engagement of the petitioner, that too by citing reason which would stigmatize his termination, bare modicum of hearing was necessary. The protection of tenure enjoyed by a regular Government servant cannot be extended to the petitioner. However, when the department had conducted an internal inquiry and on the basis of the findings of the inquiry, terminated the service of the petitioner by citing the reason of illegal money demand, at least, the petitioner should have been permitted to respond to such allegations. Under the circumstances, impugned notice of termination is set aside. The respondents shall give a brief notice to the petitioner and permit the petitioner to make his representation to the proposed action of termination. [*Sujit Saha v. State of Tripura*, AIROnline 2021 Tri 307].

**Termination of probationer.**—A probationer remains a probationer till he is confirmed provision of Rule 5(i) which is applicable to a temporary government servant could not have been invoked. Before the expiry of initial period of probation, he appellant's service could have been terminated or those could have been terminated during the extended period as per the term of his appointment but not under Rule 5(i)



and in case of serious allegations after affording reasonable opportunity to explain his part. *Held*, that the termination of appellant was not simplicitor nor the appellant a temporary Government servant, the provision of Rule 5(i) could not have been invoked in termination his services. [*Dr. N.G. Kulkarni v. Union of India*, 2000 (2) RSJ 165 : 2000 (2) SLR 49 (Del)].

A mere look at the earlier unamended Rule 5 of the Rules shows, as laid down by the then unamended proviso, that service of a temporary government servant could not be terminated forthwith without payment to him of the compensation equivalent to the sum provided therein. Such after of compensation therefore, was a condition precedent to such termination prior to the amendment of the proviso to the said Rules with retrospective effect by the latter amended rules, as seen above. The amended proviso to Rule 5 of the latter rules with effect from May 1, 1965 debted the words "by payment to him" which were earlier found in the unamended proviso to Rule 5(1) of the Rules. Instead after the word 'forthwith' the words "and on such termination the Government servant shall be entitled to claim" were added. Thus, what was a condition precedent under the unamended proviso to Rule 5 of the Rules become a condition subsequent. Consequently, after May 1, 1965 as per Rule 5 of the latter rules there remained, no necessary for the employee while forthwith terminating the services of temporary Government servant to after him compensation simultaneously with the termination order. Such service could be terminated forthwith and termination would immediately come into force. [*Management of M.C.D. v. Prem Chand Gupta*, 2000 (1) LLJ 533 : 2000 (1) SRJ 443 (SC)].

**Temporary Employer.**—Petition was terminated from service on the ground that petitioner was terminated due to non- tendering of information to higher authorities regarding registration of criminal case. [*Sheikh Saiful Islam v. The Inspector General of Police*, 1999 (1) SLR 60 (Cal)].

**Termination of Service—Liability of Compensation.**—What was a condition precedent under the unamended proviso to Rule 5 of the latter rules became a condition subsequent. Consequently after May 1, 1965 as per Rule 5 of the latter rules there remained no necessity for employer while forthwith terminating the services of temporary Government servant to offer him compensation simultaneously with the termination order. Such service could be terminated forthwith and termination would immediately come into force. [*Management of M.C.D. v. Prem Chand Gupta*, 2000 (1) LLJ 533 : 2000 (1) SRJ 443 (SC)].

**Termination simplicitor—Justification.**—The Court is in disagreement with the conclusion arrived at by Single Judge that the appellant after expiry of initial period of probation would acquire the status of a temporary employee. This conclusion is against the law hence not sustainable. That provision of Rule 5(i) which is applicable to a temporary Government servant could not have been invoked in the present case. Before the expiry of initial period of probation the appellant's services could have been terminated or those could have been terminated during the extended period as per the term of his appointment but not under Rule 5(i) and in case of serious allegations after affording reasonable opportunity to explain his part. The termination of appellant was not simplicitor not the appellant a temporary Government servant hence provisions of Rule 5(i) could not have been invoked in terminating his services. [*Dr. N.G. Kulkarni v. Union of India*, 2000 (1) SLJ (CAT) (Delhi) 237].

**Termination of service.**—The petitioner was charged under Section 148/149/323/325/506, Indian Penal Code, which would definitely involve moral turpitude. Bound by the legal dictum as laid down by the Apex Court and noted in the aforesaid judgment Court is not in position to accept the submission of counsel for the petitioner insofar as the obligation of petitioner to disclose the aforesaid information is concerned. [*Gugan Singh v. Director General, CRPF*, 2008 (3) SLJ 63 (Delhi)].



## GOVERNMENT OF INDIA'S ORDER

**Rule 5(i) not to be applied to probationers.**—A question has arisen whether this rule should be invoked also in the case of persons appointed on probation, where in the appointment letter a specific condition regarding termination of service without any notice during or at the end of the period of probation (including extended period, if any), has been provided. The position is that the C.C.S. (T.S.) Rules do not specifically exclude probationers or persons on probation as such. However, in view of the specific condition regarding termination of service without any notice during or at the end of the period of probation (including extended period, if any) it has been decided in consultation with the Ministry of Law, that in cases where such a provision has been specifically made in the letter of appointment, it would be desirable to terminate the services of the probationer/person on probation in terms of the letter of appointment and not under Rule 5(1) of the C.C.S. (T.S.) Rules, 1965. [G.I., M.H.A., O.M. No. 4/10/66-Ests. (C), dated 26th August, 1967].

**Proforma for termination of service.**—Standard proformas are prescribed to be used for termination of services of temporary Government Servants under Rule 5 of the C.C.S. (T.S.) Rules, 1965. They are given at the end of these Rules. Different forms are prescribed for use by Appointing Authority other than the President of India and where the Appointing Authority is the President of India. [G.I., M.H.A., O.M. Nos. 4/1/1965-Ests. (C), dated 30th March, 1967, No. 4/12/67-Ests. (C), dated 8th January, 1968 and C.S. Dept. of Personnel F. 4/1/73-Ests. (C), dated 1st September, 1973 and 11th January, 1974].

**Reasons should not be mentioned in termination order.**—When action is taken under Rule 5 to terminate the services of a temporary employee, the order of termination, which should be passed by the appointing authority, should not mention the reasons for such termination. [G.I., M.H.A., O.M. No. 39/14/56-Ests. (A), dated 22nd June, 1956].

**Resignation is different from notice of termination of service.**—When a temporary Government Servant submits a letter of resignation, a distinction should be drawn between a letter of resignation purporting to be a notice of termination of service and one which is not. A notice of termination of service given by a temporary Government Servant under Rule 5(1) of the C.C.S. (T.S.) Rules, 1965, is something different from a mere letter of resignation submitted by him without any reference direct or indirect to the said rule. While the former is an exercise of the right conferred by statutory rules enabling a temporary Government Servant to cease performance of his duties automatically on the expiry of the prescribed period of notice, the latter requires acceptance by the competent authority in order to become effective. Therefore, if a temporary Government Servant submits a letter of resignation in which he does not refer to Rule 5(1) of these Rules or does not even say that it be treated as a notice of termination of service, the provisions of Rule 5(1) CCS (TS) Rules, 1965, will not be attracted. In such a case he can relinquish his post only when the resignation is accepted and he is relieved of his duties. It will, therefore, be possible in such circumstances to retain the temporary officer even beyond one month if it takes time to make alternative arrangements. This will not be repugnant to the



provisions of these rules in any way because when a temporary Government Servant submits a letter of resignation without invoking the provisions of the said rules, they will not come into the picture notwithstanding the fact that, being a temporary Government Servant, he is governed by these rules. [G.I., M.H.A., O.M. No. 4/1/65-Ests. (C), dated 25th May, 1966].

**Services can be terminated during suspension/departmental proceedings.**—1. In the case of temporary Government Servant if the term of temporary post held by him at the time of suspension is likely to expire or if he otherwise becomes liable to be retrenched from service before the disciplinary proceedings are likely to be completed, it may be considered on merits whether,—

- (a) he should be discharged from service on the expiry of the term of the post held by him; or
- (b) his services should be terminated under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965; or
- (c) the disciplinary proceedings should be continued to its logical conclusion.

If it is decided to continue the disciplinary proceedings, the temporary post should be extended for an appropriate period under order of the authority competent to sanction such extension. If delay is anticipated in obtaining the sanction of the competent authority, the authority competent to dismiss or remove the Government Servant concerned from service may issue orders extending the post without reference to the competent authority. The vacancy caused by such extension should not, however, be filled. [Rule 36 of Posts & Telegraphs Manual, Volume III].

2. The services of a temporary Government Servant can be terminated under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, while he is under suspension or/and departmental proceedings are pending against him. [Rule 37 of Posts & Telegraphs Manual, Volume III].

**Pay and allowances cannot be forfeited in lieu of notice.**—Rule 5 enables Government to dispense with the services of a temporary employee forthwith on payment of one month's pay and allowances in lieu of notice, but does not provide for the forfeiture to Government of a similar amount when the employee does not give the requisite notice. The practice of obtaining an undertaking from temporary employees regarding forfeiture of pay and allowances should be discontinued where this has not already been done. [G.I., M.H.A., O.M. No. 78/105/55-ETS, dated 22nd December, 1955, read with G.I. Dept. of Per. & A.R. Noti. No. 4/2/72-Est. (C), dated 22nd November, 1972].

**Pay and allowances in lieu of notice to be paid immediately on discharge.**—1. The amendment to Proviso to sub-rule (1) of Rule 5 of the C.C.S. (T.S.) Rules, 1965 introduced by Dept. of Per. Noti. No. 4/2/72-Ests. (C), dated 23rd June, 1972, came up for discussion in the meeting of the National Council set-up under the Joint Consultative Machinery in its meeting held on the 28th and 29th July, 1972. During the discussion the staff side *inter alia* pointed out that the amendment might lead to delay in making payment of pay and allowances in lieu of notice to temporary Government Servants discharged



summarily. In order to allay this apprehension it was agreed by the official side that although, the amended Proviso to sub-rule (1) of Rule 5 of the C.C.S. (T.S.) Rules, 1965, provides that upon the termination of services of a temporary Government Servant forthwith, he would be entitled to claim his pay and allowances in lieu of notice, executive instructions would be issued to the effect that Ministries/Departments should make payment of pay and allowances to such Government Servants immediately on their discharge.

2. The agreement reached in the National Council is brought to the notice of the Ministry of Finance etc., for issuing suitable instructions to the appointing authorities under them. [C.S., Dept. of Personnel No. 4/2/72-Ests. (C), dated 4th November, 1972].

**Service should be terminated forthwith with offer to pay in lieu of notice, where evasion of service of notice is apprehended.**—Ordinarily when a Government Servant is actually in service, there would not be any difficulty in serving the notice on him personally or tendering in the presence of some other officer, if he refuses to accept the same. In the cases where it is apprehended that service is likely to be evaded *i.e.*, when the officer is on long leave, service should be terminated forthwith with an offer to pay a month's salary in lieu of notice as provided in the Rules. [G.I., M.H.A., O.M. No. 4/1/65-Ests. (C), dated 30th March, 1967].

**Government Servant ceases to be in service on expiry of period of notice, without formal relief.**—It has been decided that once a notice is issued to a temporary employee under Rule 5(1) of the C.C.S. (T.S.) Rules, 1965, he ceases to be in Government service on the expiry of one month from the date on which the notice was served on him. The question of formally relieving him on the due date does not arise. It should be ensured that no such employee is allowed to be kept on duty from the date on which he ceases to be in Government service. [D.G., P. & T. N.D. No. 29/3/69-SPB, II, dated 23rd July, 1970].

**6. Termination of temporary service on account of physical unfitness.**—Notwithstanding anything contained in Rule 5, the services of a temporary Government Servant <sup>1</sup>[\*\*\*] may be terminated at any time without notice on his being declared physically unfit for continuance in service by an authority who would have been competent to declare him as permanently incapacitated for service had his appointment been permanent.

7. *Omitted by Noti. No. GSR 145, dated 22nd February, 1989, G.I. Min. of Per. Pub. Gr. & Per. (D.P.T.).*

8. *Deleted.*

9. *Omitted by Noti. No. GSR 145, dated 22nd February, 1989, G.I. Min. of Pes. Pub. Gr. & Per. (D.P.T.).*

**10. Terminal gratuity payable to temporary Government Servants.**—<sup>2</sup>[(1) Subject to the provisions of sub-rule (1-B) a temporary Government employee

1. The words "who is not in quasi-permanent service" *omitted by Noti. No. GSR 145, dated 22nd February, 1989 of G.I. Min. of Per. P.G. & Pen. (Dept. of Per. & Trg.).*
2. Subs. by G.S.R. 446, dated 4.12.2003 (w.e.f. 1.1.1996).



who retires on superannuation or is discharged from service or is declared invalid for further service shall be eligible for gratuity on the same scale as admissible to a permanent Government employees under the Central Civil Services (Pension) Rules, 1972.]

(1-A) In the case of a temporary Government Servant who is compulsorily retired from service as a disciplinary measure, the provisions of sub-rule (1) shall apply subject to the modification that the rate of gratuity payable in his case shall not be less than two thirds of, but in no case exceeding, the rate specified in <sup>1</sup>[x x x] sub-rule (1).

(1-B) In the case of a temporary Government Servant who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Government service by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought voluntary retirement by giving three months' notice in writing on completion of 20 years service, provisions of sub-rule (1) shall not apply and in accordance with the provisions of Central Civil Services (Pension) Rules, 1972,—

- (i) such a Government Servant shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, and retirement gratuity, and
- (ii) in the event of death after retirement, the members of his family shall be eligible for the grant of family pension.

(2) In the event of death of a temporary Government Servant while in service, his family shall be eligible for family pension and death gratuity at the same scale and under the same provisions as are applicable to permanent Central Civilian Government Servants under the Central Civil Services (Pension) Rules, 1972.

(3) No gratuity shall be admissible under this Rule to a Government Servant,—

- (a) who resigns from his post or who is removed or dismissed from service as a disciplinary measure;
- (b) who is re-employed after retirement on superannuation or retiring pension :

Provided that a temporary Government Servant who resigned from service to take up, with prior permission, an appointment under a corporation or company wholly or substantially, owned or controlled by the Government or in or under a body controlled or financed by Government shall be paid terminal gratuity at the rate prescribed under sub-rule (1) in respect of the service rendered by him under the Government :

Provided further that a temporary Government Servant who has been absorbed in a Central autonomous body, with the permission of the parent department, shall have an option to count the service rendered under the Government for the purpose of pension under the autonomous body if it has a pension scheme, instead of drawing the terminal gratuity under the first proviso.



*Explanation.*—For the purpose of this sub-rule,—

- (i) "*Central autonomous body*" means a body which is financed wholly or substantially from cess or Central Government grants and includes a Central statutory body or a Central University but does not include a public undertaking falling under the purview of the Bureau of Public Enterprises;
  - (ii) "*financed substantially*" means that more than 50 per cent. of the expenditure is met by cess or Central Government grants."
- (4) (*Deleted w.e.f. 22.9.1977 by G.S.R. No. 433, dated 9.3.1978*).

(5) <sup>1</sup>[x x x].

(6) For the purpose of this rule,—

- <sup>2</sup>[(a) gratuity shall be calculated on the basis of pay which the Government employee was drawing immediately before his superannuation discharge invalidation/absorption in an autonomous body or on the date of his death and dearness allowance on that pay.]
- (b) '*pay*' shall mean pay as defined in Fundamental Rule 9(21)(a)(i);
- (c) period of extraordinary leave, if any, availed of by the Government Servant concerned shall be taken into account for computing the completed service on the same basis as it is taken into account for the purpose of calculation of pension and retirement gratuity/death gratuity under Rule 21 of the Central Civil Services (Pension) Rules, 1972, as amended from time to time, and
- (d) an increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days of earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn, shall form part of the pay for purposes of calculating terminal/death gratuity.

<sup>3</sup>[(7) The provisions of Rule 10 shall apply to Government servant appointed on or before 31st December, 2003.]

## NOTES

**Absence from duty.**—Without holding disciplinary proceeding termination illegal. [*Lal Zarzoliani v. State of Mizoram*, 2000 (1) SLR 693 (Gau)].

**Termination of temporary employee.**—Employee was appointed and reemployed on 1.4.1965 and terminated on 29.4.66. After the rules brought in force when Rules of 1949 were not in force, the order of termination made. No violation of Rules 1965 of Termination but became violative Section 25-T of I.D. Act and therefore void. Direction for payment of backwages 50% backwages and to continue in service. [*Management of M.C.D. v. Premchand Gupta*, 2000 (1) SLR 81 (SC)].

1. Omitted by G.S.R. 446, dated 4.12.2003 (w.e.f. 1.1.1996).
2. Subs. by G.S.R. 446, dated 4.12.2003 (w.e.f. 1.1.1996).
3. Ins. by Noti. No. 12011/2/2003-Estt. (C), dated 12.3.2004 (w.e.f. 1.1.2004).



**Quashing of termination.**—Termination order passed because of long pending criminal case, for which he cannot be blamed, the order is actually punitive in nature and is liable to be set aside. Impugned termination order is an order simplicitor. [*Harish Kumar Verma v. Union of India*, 2000 (1) SLJ (CAT) (New Delhi) 90].

11. Deleted by Noti. No. GSR 145, dated 22nd February, 1989, Gr. Min. of Per. Pub. Gr. & Pensions (Dept. of P. & T.).

### (B) FORMS

**Notice of termination of service issued under Rule 5(1) of Central Civil Services (Temporary Service) Rules, 1965, where the appointing authority is the President.**—In pursuance of sub-rule (i) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, the President hereby gives notice to Shri/Smt./Kumari.....(name) that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on or, as the case may be, tendered to him/her.

Station .....

By order and in the name of the President

Dated .....

(Signature of the authority empowered to authenticate documents in the name of the President)

### ACKNOWLEDGMENT

I hereby acknowledge the receipt on this day of the notice of termination from service.

Signature of the individual

Designation

Place

Dated

**Notice of termination of service issued under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 where the appointing authority is other than the president.**—In pursuance of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I hereby give notice to Shri/Smt./ Kumari ..... that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on or, as the case may be tendered to him/her.

Station .....

Dated .....

(Signature of the appointing authority)

### ACKNOWLEDGMENT

I hereby acknowledge the receipt of this day of the notice of termination from service.

Signature of the individual

Designation

Place

Dated



**Order of termination of services issued under proviso to sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965 where the Appointing Authority is the President.**—In pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, the President hereby terminates forthwith the services of Shri/Kumari/Shrimati ..... and directs that he/she shall be entitled to claim a sum equivalent to the amount of his/her pay plus allowance for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her serve, or, as the case may be, for the period by which such notice falls short of the month.

Station .....

Dated .....

By order and in the name of the President  
(Signature of the authority empowered  
to authenticate documents in the  
name of the President)

**Order of termination of services issued under proviso to sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965 where the Appointing Authority is other than the President.**—In pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I hereby terminate forthwith the services of Shri/Kumari/Shrimati ..... and direct that he/she shall be entitled to claim a sum equivalent to the amount of his/her pay plus allowances for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her service, or, as the case may be, for the period by which such notice falls short of the month.

Station .....

Dated .....

(Signature of the appointing authority)

**Order of termination of service issued under proviso to sub-rule (1) of Rule 5 of C.C.S. (T.S.) Rules during the currency of notice of termination of services already served on him, where the Appointing Authority is the President.**

In modification of Notice No. ...., dated ..... of termination of service Shri/Smt./Kumari ..... (name) and in pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, the President hereby terminate forthwith the services of Shri/Smt./Kumari ..... and directs that he/she shall be paid a sum equivalent to the amount of pay and allowances for the period by which the said notice falls short of one month calculated at the same rates at which he/she was drawing them immediately before the date of this order.

Station .....

Dated .....

By order and in the name of the President  
(Signature of the authority empowered  
to authenticate documents in the  
name of the President)



**Order of termination of service issued under proviso to sub-rule (1) of Rule 5 of C.C.S. (T.S.) Rules, 1965 during the currency of the notice of termination of services already served on him. Where the appointing authority is other than the President :**

In modification of Notice No. ...., dated ..... of termination of service of Shri/Smt./Kumari ..... (name) and in pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I hereby terminate forthwith the services of Shri/Smt./Kumari ..... (name) and direct that he/she shall be paid a sum equivalent to the amount of pay and allowances for the period by which the said notice falls short of one month calculated at the same rates at which he/she was drawing them immediately before the date of this order.

Station .....

(Signature of the Appointing Authority)

Dated ..... ..

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