

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981 COMPARATIVE TABLE

Comparative Table showing the rules from the Maharashtra Civil Services (Leave) Rules, 1981 and corresponding rules in the Bombay Civil Services Rules, 1959.

GOVERNMENT OF MAHARASHTRA FINANCE DEPARTMENT MANTRALAYA, BOMBAY-400 032 BR, DATED 23RD JULY 1981 NOTIFICATION CONSTITUTION OF INDIA

No.MSC1081/4/MCSR-Cell.-In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Maharashtra is hereby pleased to make the following Rules, namely:-

CHAPTER I-GENERAL

1. Short title and commencement

- (1) These Rules may be called the Maharashtra Civil Services (Leave) Rules, 1981.
- (2) They shall come into force on the 15th day of August 1981.

2. Extent of application

- 3.** (1) Save as otherwise provided in these rules, these rules shall apply to all Government servants whose conditions of service the Government of Maharashtra are competent to prescribe.

Note 1.-The amount of leave to Government servants of the former States of Saurashtra, Kutch, Madhya Pradesh and Hyderabad allocated to the the State of Bombay who have opted to be governed by the rules of the former States applicable to them before the 1st November 1956, in accordance with Government Resolution, Finance Department, No. INT-1056-S-8, dated the 7th January 1957, as modified from time to time, shall be governed by those rules.

Note-2.-The option for leave rules exercised by the Government servants of the former States of Saurashtra, Kutch, Madhya Pradesh and Hyderabad allocated to the State of Bombay covers also three types of leave, viz., Special Disability Leave, Maternity Leave and Hospital Leave and also the Pilgrimage leave in the case of the allocated Government servants from the former State of Hyderabad Civil Services Rules, but in the case of Study Leave they are all governed by these rules.

Note 3.-Persons transferred to Government service from a Local Fund which is not administered by Government will be treated as joining a first post under Government and their previous service shall not count as service performed under Government. Government may, however, allow previous service in such cases to count as service performed on such terms as it thinks fit.

- (2) Unless it to be otherwise provided in these rules, a permanent Government servant to whom these rules do not apply-

- (a) When transferred temporarily to a service or post to which these rules apply, shall remain subject to the leave rules which were applicable to him before such transfer; and

(b) When appointed substantively to a permanent post to which these rules apply, shall become subject to these rules from the date of such appointment in which case the leave at his credit under the rules previously applicable to him shall be carried forward subject to the maximum limits of accumulation as laid down in rule 50. The leave so carried forward shall first be exhausted before the leave earned under these rules is availed of. The leave salary in respect of the leave carried forward shall be borne by the Government from which the Government servant is transferred.

3. Right to interpret

Government reserves to them the right of interpreting these rules.

4. Power of relaxation

Where Government is satisfied that the operation of any of these rules causes or is likely to cause undue hardship in the case of any Government servant or class of Government servants, it may, by an order in writing, exempt any such Government servant or class of Government servants from any provisions of these rules or may direct that such provisions shall apply to such Government servants with such modifications not affecting the substance thereof as may be specified in such order.

5. Persons for whom special provisions made

Persons in respect of whom special provisions regarding leave have been made shall be governed by such special provisions.

6. Regulation of claim to leave

A Government servant's claim to leave is regulated by the rules in force at the time the leave is applied for and granted.

7. Exercise and delegation of powers under these rules

No powers may be exercised or delegated under these rules except after consultation with the Finance Department. It shall be open to that Department to prescribe, by general or special order, cases in which its consent may be presumed to have been given.

Note.-For powers delegated under these rules see Appendix I.

8. Reasons for concessions to be communicated to Audit Officer

When a competent authority, other than Government, communicates to the Audit Officer an order granting any concessions under these rules to any Government servant in cases in which it is prescribed that the reasons therefor should be recorded, he should at the same time forward to him a copy of his reasons.

(The definitions given below are reproduced from Chapter II of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and are only those definitions which are relevant for the purpose of the subject-matter contained in this set of rules.)

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981

DEFINITION

9. Unless the context otherwise requires, the terms defined in this chapter are used in the various sets of the Maharashtra Civil Services Rules, in the sense here explained:-

(3) **Apprentice** means a person deputed for training in a trade or business with a view to employment in Government service, who is paid at monthly rates by Government during such training but is not employed in or against a substantive vacancy in the cadre of a department.

(4) **Audit Officer** means an Audit Officer, appointed by the Comptroller and Auditor General of India whatever his official designation, in whose circle of audit a public servant is serving, or (in respect to verification of service) has served.

(5) **Cadre** means the strength of a service or a part of a service sanctioned as a separate unit.

(6) **Compensatory Allowance** means an allowance granted to meet personal expenditure necessitated by the special circumstances in which duty is performed. It includes different types of travelling allowances.

(7) **Competent Authority**, in relation to the exercise of any power, means Government, or any authority to which the power is delegated by or under these rules.

(8) **Date of first Appointment** means the date the Government servant assumes the duties of his first post in Government service, or, if this be earlier, the date of his assumption of any duty which is treated, as service counting for pension.

(9) **Day** means the period beginning from one midnight and ending with the next midnight.

(10) **First appointment** means the appointment of a person who is not holding any appointment under Government, even though he may have previously held such an appointment.

(11) **Foreign Service** means service in which a Government servant receives his pay with the sanction of Government from any source other than the Consolidated Fund of India or of a State, or of a Union Territory.

(12) **A Gazetted Government servant** is one who is a member of an All India or State Service or a person appointed in accordance with the terms of a contract or agreement and whose appointment is gazetted by Government. Members of the Subordinate Civil Services, whose appointments are gazetted by Heads of Departments are Non-gazetted Government servants. Notifications investing Government servants with powers under different Acts, in order that the Courts may take judicial cognizance of them, do not constitute the persons invested with such powers as Gazetted Government servants within the meaning of this sub-rule.

Exception.-Officers whose appointments to Class II services or posts are made by the Heads of Departments or Heads of Offices subordinate to them and are not published in the Gazette should be treated as Gazetted Government servants.

(21) **Government**, unless there is anything repugnant in the subject or context, as respects anything done or to be done after the commencement of the Constitution, shall mean the Governor of Maharashtra.

(22) **Heads of Departments.** This term includes the officers mentioned in Appendix II of Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and any others whom Government may from time to time declare to be Heads of Departments.

(23) Holiday means-

(a) a holiday prescribed or notified by or under section 25 of the Negotiable Instruments Act, 1881; and

(b) in relation to any particular office, a day on which such office is ordered by Government, or by a duly constituted authority, by notification in the Gazette or otherwise, to be closed for the transaction of Government business without reserve or qualification.

(13) **Class IV service** means service performed by a Government servant in a post specifically classified as Class IV and such other unclassified Non-Gazetted posts the maximum of the scale of which is equal to or less than Rs. 435.

(14) **Joining time** means the time allowed to a Government servant to join a new post or to travel to or from a station to which he is posted.

(15) **Leave** means permission to remain absent from duty granted by a competent authority under the Maharashtra Civil Services (Leave) Rules, 1981.

(16) **Leave-salary** means the monthly amount paid by Government to a Government servant on leave.

(17) **Lien** means the title of a Government servant to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively.

(34) **Month** means a calendar month. In calculating a period expressed in terms of months and days complete calendar months, irrespective of the number of days in each, should first be calculated and the odd number of days calculated subsequently,

Instruction.-Calculations of period expressed in terms of months and days should be made as under:-

(b) To calculate 3 months and 20 days on and from the 25th January, the following method should be adopted:-

Y.m.d.
25th January to 31st January 0 0 7
February to April 0 3 0
1st May to 13th May 0 0 13

0 3 20

(c) The period commencing on 30th January, and ending with 2nd March should be deemed as 1 month and 4 days, as indicated below:-

Y. m. d.
30th January to 31st January 0 0 2
February 0 1 0
1st March to 2nd March 0 0 2

0 1 4

(35) **Officiate.** A Government servant officiates in a post when he performs the duties of a post on which another person holds a lien. A competent authority may, if it thinks fit, appoint a Government servant to officiate in a vacant post on which no other Government servant holds a lien.

(36) **Pay** means the amount drawn monthly by a Government servant as-

(i) the pay (including special dearness pay) which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre; and

(ii) personal pay, and special pay; and

(iii) any other emoluments which may be specially classed as pay by Government.

(40) **Permanent post** means a post carrying a definite rate of pay sanctioned without limit of time.

(41) **Personal pay** means additional pay granted to a Government servant-

(a) to save him from a loss of substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or due reduction of such substantive pay otherwise than as a disciplinary measure; or

(b) in exceptional circumstances, on other personal considerations.

(42) **Presumptive pay** of a post, when used with reference to any particular Government servant, means the pay to which he would be entitled if he held the said post and were performing its duties; but it does not include special pay unless the Government servant performs or discharges the work or responsibility, in consideration of which special pay was sanctioned.

(43) **Probationer** means a Government servant employed on probation in or against a substantive or temporary vacancy in the cadre of a department.

Note 1.-No person appointed substantively to a permanent post in a cadre is a probationer, unless definite conditions of probation have been attached to his appointment, such as the condition that he must remain on probation pending the passing of certain examination.

Note 2.-A Government servant (other than one who holds substantively a permanent post) appointed on promotion to a temporary post will be treated for all purposes as a temporary Government servant.

Note 3.-The status of a probationer is to be considered as having the attributes of a substantive status except where the rules prescribe otherwise.

(46) **Registered medical practitioner** means a medical practitioner registered under the Maharashtra Medical Council Act,, LXVI of 1965. or the Maharashtra Medical Practitioners Act, XXVIII of 1961, or a practitioner registered under Part A or Part B of the Register maintained under the Maharashtra Homeopathic and Biochemical Practitioners Act, XII of 1960, or any other law corresponding thereto and in force in the State of Maharashtra, or the respective Medical Registration Acts of the several State Governments.

(47) **Special pay** means an addition, of the nature of pay, to the emoluments of a post or of a Government servant granted in consideration of-

(a) the specially arduous nature of the duties;

(b) a specific addition to the work or responsibility.

(51) **Substantive pay** means the pay other than special pay, personal pay or emoluments classed as pay by Government under sub-rule 36(iii) to which a Government servant is entitled on account of a post to which he has been appointed substantively or by reasons of his substantive position in a cadre.

(52) **Temporary post** means a post carrying a definite rate of pay sanctioned for a limited time.

Note.-Substantive appointments to temporary posts should be made in a limited number of cases only, as for example, when posts are, to all intents and purposes, quasi-permanent or when they have been sanctioned for a period of not less than, or there is reason to believe that they will not terminate within a period of three years. In all other cases, appointments in temporary posts should be made in an officiating capacity only.

Instruction.-The benefit of substantive appointments to temporary posts contemplated in the above note should not be allowed to be enjoyed by more than one person simultaneously. Therefore, where a Government servant has already been appointed substantively to a temporary post and there is a temporary interruption in his tenure of the post, it would not be proper to appoint another Government servant substantively to the post during such temporary interruption.

For this purpose, interruptions which are likely to last for less than 3 years may be treated as temporary. It follows, therefore, that where a Government servant is already appointed substantively to a temporary post, a second Government servant should not be appointed substantively to it unless the previous holder of the post has been transferred from it permanently or unless he has been transferred temporarily and there is reason to believe that he will remain absent from the post for a period of not less than three years.

(53) **Tenure post** means a permanent post which an individual Government servant may not hold, for more than a limited period without reappointment.

Note.-The following posts in State and Class I services have been declared by Government to be tenure posts:-

Period of tenure (Years)	
(1) Under Secretary to Government (when held by persons other than those promoted from the Subordinate Secretariat Service).	3
(2) Deputy Secretary (Criminal Law) in the Law & Judiciary Department.	5
(3) Solicitor (Mofussil Litigation)	5
(4) Three posts of Assistant Directors of Social Welfare	3

(56) **Transfer** means the movement of a Government servant from one headquarter station in which he is employed to another such station, either-

- (a) to take up the duties of a new post; or
- (b) in consequence of a change of his headquarters.

(57) Transit time means the actual time required to reach the destination of tour from the headquarters or from one outstation to another outstation by the ordinary mode of travel.

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981

CHAPTER III-GENERAL CONDITIONS

10. Right to leave

- (1) Leave is permission granted by a competent authority at its discretion to remain absent from duty.
- (2) Leave cannot be claimed as of right.
- (3) When the exigencies of public service so require, leave of any kind may be refused or revoked by the authority competent to grant it, but it shall not be open to that authority to alter the kind of leave due and applied for except at the written request of the Government servant.

11. Considerations for sanctioning of leave on application

Where all applications for leave cannot in the interest of public service be granted, an authority competent to grant leave should in deciding which application should be granted take into account the following considerations:-

- (a) the Government servant who can for the time being best be spared.
- (b) the amount of leave due to the various applicants.
- (c) the amount and character of the service rendered by each applicant since he last returned from leave.
- (d) the fact that any such applicant was compulsorily re-called from his last leave.
- (e) the fact that any such applicant has been refused leave in the public interest.

4. Grant of leave should not unduly deplete cadre

Leave should not be granted to an extent which would deplete the strength of a service or Department available for duty below the essential minimum.

5. Duties of Government servant absent on leave to be discharged by another Government servant ordinarily from same station or district

As a general rule, the duties of a Government servant absent on leave for a period not exceeding 120 days should be discharged by another Government servant in the same station or district. Only in exceptional cases, where there is no Government servant available on the spot, the transfer of a Government servant from another station or district to officiate in consequence of a Government servant being on leave, not exceeding 120 days can be allowed. In the case of posts held by members of the All India Services, if a member of that service is not available on the spot, a State Service Officer should be placed in charge of the vacant post.

6. Commutation of one kind of leave into another

(1) At the request of a Government servant, the authority which granted him leave may commute it retrospectively into leave of a different kind which was due and admissible to him at the time the leave was granted, but the Government servant cannot claim such commutation as a matter of right.

(2) The commutation of one kind of leave into another shall be subject to adjustment of leave salary on the basis of leave finally granted to the Government servant, that is to say, any amount paid to him in excess shall be recovered or any arrears due to him shall be paid.

Note.-Extraordinary leave granted on medical certificate or otherwise may be commuted retrospectively into leave not due subject to the provisions of rule 62.

7. Combination of different kinds of leave

Except as otherwise provided in these rules, any kind of leave under these rules may be granted in combination with or in continuation of any other kind of leave.

Explanation.-Casual leave which is not recognized as leave under these rules shall not be combined with any other kind of leave admissible under these rules.

8. Maximum amount of continuous leave

Unless Government in view of the exceptional circumstances of the case otherwise determines, no Government servant shall be granted leave of any kind for a continuous period exceeding five years.

9. Formal joining of duty at the end of leave with the intention of taking leave again not permitted

Formal joining of duty at the end of leave with the intention of taking leave again within a few days should not be permitted. The principle on which the requirements of this rule should be enforced is that no deliberate or intentional evasion of the rule should be permitted; but so long as this condition is satisfied, it is left to the discretion of the authority competent to grant the leave, to grant or refuse it, as may seem proper in each case.

10. Application of the rules while on temporary transfer to other Government or on foreign service

(1) Government servants to whom these rules apply shall continue to be governed by these rules while on temporary transfer to the Central Government or any other State Government or while on foreign service within India.

(2) A Government servant in foreign service in India should submit his application for leave for a period not exceeding 120 days to his employer through the Audit Officer concerned. If the period is in excess of 120 days, he should submit the application through his employer to the authority, competent to grant the leave along with the Audit Officer's report thereon.

(3) A Government servant in Foreign Service in India may be granted by his employer leave for a period not exceeding 120 days, provided that it is certified by the Audit Officer to be admissible. Leave of longer duration may be granted by the authority which sanctions the transfer.

(4) In the case of Government servants on foreign service outside India (including service with U.N. agencies within or outside India) or on temporary transfer to the Armed Forces of the Union, these rules shall apply only to the extent provided in the terms and conditions of foreign service or temporary transfer, as the case may be.

11. Admissibility of leave while in foreign service to be certified by Audit Officer

In the case of a Government servant on foreign service leave should not be sanctioned until the Audit Officer who is responsible for the recovery of the leave and pension contributions has certified the amount of leave and the leave salary admissible.

12. Acceptance of service or employment while on leave

(1) A Government servant (other than a Government servant who has been permitted a limited amount of private practice or who has been permitted to

undertake casual literary work or service as an examiner or similar employment) while on leave (including leave preparatory to retirement or leave granted beyond the date of retirement or quitting service) shall not take up any service or employment elsewhere, including the setting up of a private professional practice as Accountant, Consultant or Legal or Medical Practitioner, without obtaining the previous sanction of-

(a) Government if the proposed service or employment lies elsewhere than in India; or

(c) the authority empowered to appoint him, if the proposed service or employment lies in India.

(2) (a) No Government servant while on leave, other than leave preparatory to retirement or leave granted beyond the date of retirement, shall ordinarily be permitted to take up any other service or employment.

(b) If grant of such permission is considered desirable in any exceptional case, the Government servant may have his services transferred temporarily from his parent office to the office in which he is permitted to take up service or employment or may be required to resign his appointment before taking up any other service or employment.

(3) (a) In case a Government servant who has proceeded on leave preparatory to retirement is required, before the date of compulsory retirement, for employment during such leave in any post under the State Government in or outside India and is agreeable to return to duty, the unexpired portion of the leave from the date of rejoining shall be cancelled.

(a) The leave so cancelled under clause (a) shall be treated as leave refused and subject to the provisions of rule 67 it may be granted from the date of compulsory retirement of the Government servant.

(b) Such recall to duty before expiry of leave shall be treated as optional for the purpose of rule 46.

(c) No leave shall be earned in respect of any period of employment during leave preparatory to retirement.

(d) In case a Government servant is employed in any post under the Government of Maharashtra while he is on leave referred to in rule 67 he may continue to enjoy his leave concurrently with such employment, but his leave salary which may be drawn in addition to pay of the post in which he is employed will be restricted to the amount of leave salary admissible in respect of leave on half pay. During such employment he may be granted dearness allowance and compensatory allowance, if any admissible on the basis of pay. These allowances will neither be admissible on leave salary nor will the leave salary be taken into account in calculating these allowances.

(4) Government servant on leave preparatory to retirement desiring to take up employment under Government will be given the option of retiring forthwith, or of remaining on leave until he has exhausted the leave admissible to him on condition that so long as he is employed under the Government, leave salary will be restricted to the amount of the pension plus pension equivalent of death-cum-retirement-gratuity, admissible to him on retirement. The expression 'employment under Government' includes employment in any office under the Government whether under a State Government or the Central Government.

(5) (a) Where a Government servant is on leave beyond the date of compulsory retirement as provided in rule 67 and is employed during such leave in any post under the State Government or under a local body referred to in clause (a) of sub-rule (3) of rule 66 he may, if he so desires, continue to enjoy his leave concurrently with such employment subject to the maximum limit of 180 days as prescribed in rule 50.

(6) (b) Where a Government servant is on leave preparatory to retirement as provided in rule 66 and is permitted in such leave to take up employment under any other State Government or under the Central Government or under a private employer or an employment payable from a Local Fund or an employment in any independent profession, trade or business such as setting up of practice as a Consultant, Accountant, Lawyer or Doctor, his leave salary should be restricted to the amount of leave salary admissible in respect of leave on half pay. No dearness allowance shall be admissible on leave salary.

(7) Re-employment of a Government servant, in a post other than in his parent department or office is to be treated as involving a "contracting out" of the Government servant's normal conditions of service and such an employment does not, therefore, attract the protection afforded by rule 27 of Maharashtra Civil services (General Conditions of Services) Rules, 1981.

13. Carry-forward of leave of temporary Government servant with one year's continuous service if appointed within six days of relinquishment of the first appointment.

Whenever a temporary Government servant with at least one year's continuous service is appointed to another permanent or temporary post under Government and the interruption in service between relinquishment of the first appointment and joining the second appointment does not exceed six days, all kinds of leave (earned leave, half pay leave, etc.) at his credit in the old post should be credited to his leave account in the new post. The service rendered by him in the old post and in the new post is not to be treated as continuous and cannot therefore be taken into account for any purpose.

14. Leave at credit to cease on removal or resignation

(1) Except as provided in rule 67 and this rule, any claim to leave to the credit of a Government servant, who is dismissed or removed or who resigns from Government service, ceases from the date of such dismissal or removal or resignation, as the case may be.

(2) Where a Government servant applies for another post under the Government but outside his parent office or department and if such application is forwarded through proper channel and the applicant is required to resign his post before taking up the new one, such resignation shall not be a resignation of public service provided that there is no physical break or if there be any, it does not exceed the joining time admissible under the rule, and shall not result in the lapse of the leave to his credit.

(3) A Government servant, who is dismissed or removed from service but is re-instated on appeal or revision, shall be entitled to count for leave his service prior to dismissal or removal, as the case may be.

(4) A Government servant, who having retired on compensation, or invalid pension or gratuity is re-employed and allowed to count his past service for pension, shall be entitled to count his former service towards leave.

15. Transfer to industrial establishment

If a Government servant governed by these rules is appointed in an industrial establishment wherein his leave terms area governed by the Factories Act, 1948 (63 of 1948), the balance of the leave at his credit on the date of such appointment shall be allowed to be availed of as terminal leave or may lapse, subject to revival as and when he is transferred back to a service or post to which these rules apply.

CHAPTER IV- GRANT OF AND RETURN FROM LEAVE

3. Application for leave

An application for leave or for extension of leave shall be made in Form 1 in Appendix V to the authority competent to grant leave.

4. Leave account

(1) A leave account in Form 2 in Appendix V shall be maintained by the Audit Officer in respect of all Gazetted Government servants except such Government servants whose pay and allowances are drawn by the Heads of Offices on establishment bills.

(2) In respect of Non-Gazetted Government servants and such Gazetted Government servants whose pay and allowances are drawn by means of establishment pay bills, the leave account in Form 2 shall be maintained by the Head of Office.

5. Verification of title to leave

(1) No leave shall be granted to a Government servant until a report regarding its admissibility has been obtained from the authority maintaining the leave account.

(2) The authority competent to sanction leave to a Government servant shall indicate in the orders sanctioning earned leave/half pay leave, the balance of such leave to his credit.

(3) (a) Where there is reason to believe that the obtaining of admissibility report will be unduly delayed, the authority competent to grant leave may calculate, on the basis of available information, the amount of leave admissible to the Government servant and issue provisional sanction of leave for a period not exceeding sixty days.

(4) (b) The grant of leave under this sub-rule shall be subject to verification by the authority maintaining the leave account and modified sanction for the period of leave may be issued where necessary.

(a) In the case of Gazetted Government servants, the Audit Officer may, at the request of the authority competent to grant leave, issue a provisional leave-salary slip for a period not exceeding sixty days.

Note.-In the case of leave preparatory to retirement or refused leave, an undertaking for recovery of the leave salary, if any, paid in excess shall be taken from the Government servant.

6. Authority competent to grant leave to Non-gazetted Government servants

Except as provided in rule 43, any leave, other than special disability leave, admissible under these rules may be granted to a Non-gazetted Government servant by the authority whose duty it would be to fill up his post if it were vacant or by any other competent authority.

7. Final sanction of leave to Gazetted officer only when admissibility certified by Audit Officer

In cases of emergency, a Gazetted Government servant may be allowed to proceed on leave by the authority competent to grant him leave, but leave may not be finally sanctioned to him until a report as to the admissibility of the leave has been obtained from the Audit Officer.

8. Grant of leave to a Gazetted Government servant

Except as provided in rule 43, any leave, other than special disability leave, admissible under these rules may be granted to a Gazetted Government servant by a competent authority on receipt of the report referred to in rule 28.

9. Grant of leave and payment of leave salary to a Government servant transferred from one Department/Office to another while on leave

The grant of leave or extension of leave and payment of leave salary to a Government servant transferred from one Department/Office to another while he is already on leave or in transit from one department to another, shall be regulated as follows:-

(a) in cases where a period of leave has already been sanctioned by a Department/Office and the Government servant concerned is transferred to another Department//Office where he has to join on expiry of the leave, the issue of formal orders sanctioning extension of leave and the payment of leave salary shall devolve on-

(i) the Department/Office where he is to report for duty, if the transfer or reversion of the Government servant to such Department/Office is to take effect from the date of expiry of the original spell of leave, or

(ii) the Department/Office from which he is transferred, if the transfer or reversion is to take effect from the date of expiry of extension of the leave applied for.

(b) in cases where the leave is applied for by a Government servant during the period of transit from one Department/Office to another, the leave should be sanctioned by the Department/Office where he has to report for duty and that Department/Office should also make suitable administrative arrangements incumbent on the sanctioning of leave.

10. Leave not to be granted in certain circumstances

Leave shall not be granted to a Government servant whom a competent punishing authority has decided to dismiss, remove or compulsorily retire from Government service.

11. Repeated grants of leave on medical certificate within short intervals

When a Government servant applies for repeated grants of leave on medical certificates within short intervals, the attention of the Medical Board/Government Medical Officer should be drawn to his case with a view to their/his carefully considering the term of absence necessary for his complete recovery.

12. Production of medical certificate does not confer a right to leave which is not admissible

Every certificate of a Medical Board or a Medical Officer recommending the grant of leave to a Government servant must contain a proviso that no recommendation contained in it, shall be deemed to be evidence of a claim to any leave not admissible to the Government servant under the rules to which he is subject.

13. Appearance before Medical Board

There shall be a Standing Medical Board, for each Revenue Division except Bombay Division, meeting at Pune, Aurangabad and Nagpur. For Bombay Division, there shall be two Standing Medical Boards, meeting at the J.J. Group of Hospitals, Bombay and the St. George's Hospital, Bombay or G. T. Hospital, Bombay.

14. Appearance of a Government servant serving outside the limits of Greater Bombay before a Medical Board

(1) A Government servant serving outside the limits of Greater Bombay shall normally be required to appear before the Medical Board constituted under rule 34 for the Revenue Division in which he is serving, but, when the authority competent to grant leave is satisfied that it will be more convenient, either to Government or the Government servant, that the latter should appear before the Board constituted for another Division or for Bombay, he may request the Civil Surgeon of the concerned district or the Superintendent of St. George's or J.J. Hospitals, Bombay, respectively to convene a Board.

(2) A Government servant serving in Bombay, or within the limits of the Greater Bombay, shall be required to appear before one of the Boards constituted for Greater Bombay.

15. Medical Board to consist of

The Board referred to in rule 34 for the Revenue Divisions, other than Bombay Division, shall consist of three qualified medical men, of whom one shall be the Civil Surgeon at the Divisional headquarters station, who shall also be the Chairman. The two standing Medical Boards for Bombay Division shall be constituted as indicated in paragraph 648 of the Bombay Civil Medical Code, Part I.

16. Arrangement for assembly of Medical Board

On receipt of intimation from authority competent to grant leave that a Government servant requires to be examined by the Medical Board, the Civil Surgeon or Superintendent of St. George's Hospital or Dean of J. J. Hospitals shall arrange for the assembly of the Medical Board.

17. Grant of leave to Gazetted Government servant outside district headquarters on medical certificate of a Registered Medical Practitioner

A Gazetted Government servant serving in places outside district headquarters may be granted leave on medical certificate on the strength of a certificate of a Registered Medical Practitioner countersigned by the Civil Surgeon or the District Medical Officer, who may visit the patient if for any reason he considers this course advisable. This rule will only apply when the Government servant requiring leave is too ill, or unable for other reasons regarded as sufficient by his immediate superior, to come to headquarters to undergo examination by the Civil Surgeon or the District Medical Officer.

18. No medical certificate to be submitted for countersignature without the cognisance of Head of Office

No certificate should be submitted for countersignature without the cognisance of the Head of the Office in which the applicant is serving.

19. Grant of leave on medical grounds to Gazetted Government servants

(1) Where leave of any kind (together with extension of leave, if any) is asked for on medical grounds, the competent authority may, if he considers it necessary to have a medical opinion, follow the following procedure :-

(a) if the leave together with extension of leave (if any) asked for is of 2 months' duration or less, he may be asked to obtain a certificate in Form 3 in Appendix V from his Authorized Medical Attendant; or Medical Officer of equal status.

(b) if the leave together with extension of leave (if any) asked for is for more than two months, or if the certificate obtained under clause (a) above so recommends, he may be asked to appear before a Medical Board.

(2) If according to (1) (b) above, appearance before a Medical Board is required, the authority competent to grant leave, shall request the Civil Surgeon of the district in which the Government servant is serving or in which he falls ill or to which he proceeds for treatment to set up a Medical Board. The Government servant shall present himself before the Medical Board with two copies of the statement of his case.

(3) The Medical Board may give the Government servant a certificate to the following effect, namely:-

"We do hereby certify that, according to the best of our professional judgement and after careful personal examination of the case, we consider the health of Shri/Shrimati/Kumari..... to be such as to render leave of absence for a period ofabsolutely necessary for his/her recovery".

Note.-Where the leave recommended is for more than three months or where the leave for three months or less is extended beyond three months, the Medical Board shall state, at the time of giving this certificate, whether the Government servant should or need not appear before another Medical Board for obtaining the certificate of fitness for return to duty.

(4) Where the Medical Board entertain a doubt, it may, before giving the certificate under sub-rule (3), provide for the keeping of the applicant under professional observation for a period not exceeding fourteen days and give him a certificate, to keep Shri/Shrimati/Kumariunder professional observation for.....days."

(5) If the state of health of the applicant is certified by the Civil Surgeon or District Medical Officer to be such as to make it impracticable for the applicant, for a specified period, to present himself/herself at the place where a Board can be assembled, the authority competent to grant the leave may, in lieu of the certificate prescribed in sub-rule (3), accept a certificate signed by any two Medical Officers, not below the rank of a Civil Surgeon.

(6) Notwithstanding anything contained in sub-rule (5), the authority competent to grant leave may dispense with the procedure laid down in sub-rules (2) and (3) when the applicant is undergoing treatment in a hospital as an indoor patient and the leave is recommended by the Medical Officer-in-charge of the case in the hospital not below of a Civil Surgeon for the period of hospitalization or convalescence.

(7) A Medical Officer shall not recommend the grant of leave in any case in which there appears to be no reasonable prospect that the Government servant concerned will ever be fit to resume his duties and in such case, the opinion that the Government servant is permanently unfit for Government service shall be recorded in the medical certificate.

(8) The grant of a medical certificate under this rule does not in itself confer upon the Government servant concerned any right to leave, the medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

Note.-In Greater Bombay, certificates from the Police Surgeon, Bombay, and the Superintendents/Dean of St. George's, J. J. and G.T. Hospitals, and those signed by the Honorary Medical Staff of these institutions and countersigned by the Superintendents/Dean may be accepted for purposes of this rule. The Superintendents/Dean of the above. Hospitals are empowered to countersign medical certificates from other Registered Medical Practitioners in Greater Bombay or

require the applicant to present himself before him for medical examination before countersignature.

Instruction.-In case the leave is for sixty days or less, the last sentence of the medical certificate in Form 3 should be modified by scoring out the irrelevant words. In case the leave is for more than sixty days, the last sentence of the medical certificate should be completely scored out.

Note 2.-Certificates signed by the Medical-in-charge, Cama and Albles Hospitals, Bombay, may be accepted for purposes of this rule so far as female Government servants of Gazetted rank in Greater Bombay are concerned.

Note 3.-Certificates signed by the Assistant to the Civil Surgeon, Pune, provided he is an officer of Class I of the Maharashtra Medical and Health Services, may be accepted for the purposes of this rule.

20. Grant of leave on medical grounds to Non-gazetted Government servants

(1) An application for leave on medical grounds made by a Non-gazetted Government servant, shall be accompanied by a medical certificate in Form 4 in Appendix V given by an Authorised Medical Attendant or a Registered Medical Practitioner, defining as clearly as possible the nature and probable duration of the illness.

(2) A Medical Officer shall not recommend the grant of leave in any case in which there appears to be no reasonable prospect that the Government servant concerned will ever be fit to resume his duties and in such case, the opinion that the Government servant is permanently unfit for Government service shall be recorded in the medical certificate.

(3) The authority competent to grant leave may, at its discretion, secure a second medical opinion by requesting a Government Medical Officer not below the rank of a Civil Surgeon, to have the applicant medically examined on the earliest possible date. Non-Gazetted female Government servant in Greater Bombay may be examined by the Medical Officer in-charge Cama and Albles Hospitals, Bombay.

(4) It shall be the duty of the Government Medical Officer referred to in sub-rule (3) to express an opinion both as regards the facts of the illness and as regards the necessity for the amount of leave recommended and for that purpose he may either require the applicant to appear before himself or before a Medical Officer nominated by himself.

(5) The grant of a medical certificate under this rule does not in itself confer upon the Government servant concerned any right to leave; the medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

(6) The authority competent to grant leave may, in its discretion, waive the production of a medical certificate in Form 4 in case of an application for leave for a period not exceeding three days at a time. Such leave shall not be treated as commuted leave and shall be debited against leave other than commuted leave.

21. Grant of leave on medical grounds to a Class IV Government servant

In support of an application for leave, or for an extension of leave, on medical grounds from a Government servant in Class IV service, the authority competent to grant the leave may accept such certificate as it may deem sufficient.

22. Leave to a Government servant and who is unlikely to be fit to return to duty

(1) a) When a medical authority has reported that there is no reasonable prospect that the Government servant will ever be fit to return to duty, leave shall not necessarily be refused to such Government servant.

(c) The leave may be granted, if due, by the authority competent to grant leave on the following conditions :-

(i) if the medical authority is unable to say with certainty that the Government servant will never again be fit for service, leave not exceeding twelve months in all may be granted and such leave shall not be extended without further reference to a medical authority,

(ii) if a Government servant is declared by a medical authority to be completely and permanently incapacitated for further service, leave or an extension of leave may be granted to him after the report of the medical authority has been received, provided the amount of leave as debited to the leave account together with any period of duty beyond the date of the report of the medical authority does not exceed six months.

(2) A Government servant who is declared by a medical authority to be completely and permanently incapacitated for further service shall,-

(a) if he is on duty, be invalidated from service from the date of relief of his duties, which should be arranged without delay on receipt of the report of the medical authority; if, however, he is granted leave under sub-rule (1), he shall be invalidated from service on the expiry of such leave,

(b) if he is already on leave, be invalidated from service on the expiry of that leave or extension of leave, if any, granted to him under sub-rule (1).

23. Commencement and termination of leave

Except as provided in rule 45, leave ordinarily begins on the day on which the transfer of charge is effected and ends on the day preceding that on which the charge is resumed.

24. Combination of holidays with leave

(1) When the day, immediately preceding the day on which a Government servant's leave begins or immediately following the day on which his leave expires, is a holiday or one of a series of holidays, the Government servant may be permitted to leave his station at the close of the day before, or return to it on the day following such holiday or series of holidays:

Provided that-

(a) his transfer or assumption of charge does not involve the handing or taking over of securities or of moneys other than a permanent advance,

(b) his early departure does not entail a correspondingly early transfer from another station of a Government servant who was performing his duties during his absence or in the discharge from Government servant to perform his duties, and

(c) the delay in his return does not involve a corresponding delay in the transfer to another station of the Government servant who was performing his duties during his absence or in the discharge from Government service of a person temporarily appointed to it.

(2) On condition that the departing Government servant remains responsible for the moneys in his charge, the Head of Department may, in any particular case, waive the application of clause (a) of the proviso to sub-rule (1).

(3) Unless the authority competent to grant leave in any case otherwise directs-

(4) (a) if holidays are prefixed to leave, the leave and any consequent rearrangement of pay and allowances take effect from the day after the holidays; and

(5) (b) if holidays are suffixed to leave, the leave is treated as having terminated and any consequent rearrangement of pay and allowances takes effect from the day on which the leave would have ended if holidays had not been suffixed.

(6) Note 1.-A compensatory leave granted in lieu of duty performed by a Government servant on Sunday or a holiday for a full day may be treated as a holiday for the above purpose.

(7) Note 2.-A Government servant who has availed of half days casual leave and then proceeds on leave from the next day shall be allowed to prefix half days casual leave to the leave.

25. Recall to duty before expiry of leave

(1) All orders recalling a Government servant to duty before the expiry of his leave shall state whether the return to duty is optional or compulsory.

(2) Where the return to duty is optional the Government servant shall not be entitled to any concession.

(3) Where the return to duty is compulsory, the Government servant shall be entitled-

(4) a) if the leave from which he is recalled is in India, to be treated as on duty from the date on which he states for the station to which he is ordered, and to draw-

(i) travelling allowance under rules made in this behalf for the journey; and

(ii) leave salary, until he joins his post, at the same rate at which he would have drawn it but for recall to duty.

(c) if the leave from which he is recalled is out of India, to count the time spent on the voyage to India as duty for purposes of calculating leave, and to receive-

(i) leave salary, during the voyage to India and for the period from the date of landing in India to the date of joining his post, at the same rate at which he would have drawn it but for recall to duty(

(ii) a free passage to India,

(iii) refund of his passage from India if he has not completed half the period of his leave by the date of leaving for India on recall, or three months, whichever is shorter,

(iv) travelling allowance, under the rules for the time being in force, for travel from the place of landing in India to the place of duty.

(v) Note.-Orders recalling a Government servant from leave out of India should be communicated to him officially through the High Commissioner for India. The orders of recall should state clearly whether the return is optional or compulsory.

26. Return from leave

(1) A Government servant on leave shall not return to duty before the expiry of the period of leave granted to him unless he is permitted to do so by the authority which granted him leave.

(2) Notwithstanding anything contained in sub-rule (1), a Government servant on leave preparatory to retirement shall be precluded from returning to duty, save with the consent of the authority competent to appoint him to the post from which he proceeded on leave preparatory to retirement.

(3) a) A Government servant who has been granted leave on medical grounds may not return to duty until he has produced a medical certificate of fitness in Form 5 in Appendix V.

(c) If the Government servant is a Gazetted Officer, the certificate under clause(a) shall be obtained from a Medical Board except in the following cases:-

(i) cases in which the leave is for not more than three months.

(ii) cases in which leave is for more than three months or leave for three months or less is extended beyond three months, and the Medical Board states, at the time of granting the original certificate or the certificate for extension, that the Government servant need not appear before another Medical Board for obtaining the certificate of fitness.

(d) In cases falling under clause(b), the certificate may be obtained from the Authorised Medical Attendant or a Medical Officer of equivalent status.

(e) In the case of a Non-gazetted Government servant, the authority under whom the Government servant is employed on return from leave may, at his discretion, accept a certificate signed by a Registered Medical Practitioner.

(4) (a) A Government servant returning from leave is not entitled, in the absence of specific orders to that effect, to resume as a matter of course the post which he held before going on leave.

(a) Such Government servant shall report his return to duty to the authority which granted him leave or to the authority, if any, specified in the order granting him the leave and await orders.

Note 1.-A Government servant who had been suffering from tuberculosis may be allowed to resume duty on the basis of fitness certificate which recommends light work for him.

Note 2.-The competent authority should provide for the expected return of Government servants from leave by seeing that the Government servants to be relieved are at headquarters in due time to give over charge.

27. Absence after expiry of leave

(1) Unless the authority competent to grant leave extends the leave, a Government servant who remains absent after the end of leave is entitled to no leave salary for the period of such absence and that period shall be debited against his leave account as though it were half pay leave, to the extent such leave is due, the period in excess of such leave due being treated as extraordinary leave.

(2) Willful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action.

28. Leave intervening treated as over-stayal

The entire period (including Sundays and holidays) intervening between the day on which the leave expires and the day on which the Government servant resumes duty shall be treated as over-stayal.

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981

CHAPTER V

KINDS OF LEAVE DUE AND ADMISSIBLE

42. Earned leave for Government servants serving in Departments other than Vacation Department

(1)(a) A Government servant who is serving in a Department other than a Vacation Department shall be entitled to earned leave at the rate of one-eleventh of the period spent on duty.

(a) The Government servant shall cease to earn such leave under clause (a) when the earned leave due amounts to 180 days.

(b) Where a Government servant not in permanent employ is appointed without interruption of service substantively to a permanent post, his leave account shall be credited with the earned leave which would have been admissible if his previous duty had been rendered as a Government servant in permanent employ.

(c) Note.-The provisions of this clause shall apply to Government servant whose first year of service or any part thereof in temporary capacity was rendered before 1st October 1974, when rate of earning such leave used to be 1/22nd of period spent on duty.

(d) A period spent in foreign service shall count as duty for purposes of this rule, if contribution towards leave salary is paid on account of such period.

(e) (2) Subject to the provisions of rule 10 and sub-rules (1) and (3) of this rule, the maximum earned leave that may be granted at a time shall be 120 days.

(f) (3) Earned leave may be granted to a Government servant in Class I or Class II service for a period exceeding 120 days but not exceeding 180 days, if the entire leave so granted or any portion thereof is spent outside India, Bangladesh, Bhutan, Burma, Sri Lanka, Nepal and Pakistan:

(g) Provided that where earned leave for a period exceeding 120 days is granted under this sub-rule, the period of such leave spent in India shall not in the aggregate exceed the aforesaid limits.

Exception.-When earned leave admissible under these rules is combined with special types of leave, such as T. B. leave or hospital leave, the whole spell of such leave terminating in superannuation (or invalidation) shall not be treated as leave preparatory to retirement for the application of the limits of earned leave admissible under this rule.

43. Calculation of earned leave

(1) In calculating earned leave referred to in sub-rule (1) of rule 50 the actual number of days of duty performed shall first be counted and then multiplied by 1/11th and the product expressed in days and fraction of day.

(2) In case there is a change in the rate of earning of leave, the fraction in the earned leave shall be rounded off to the nearest day, that is fraction below half shall be ignored and half or more shall be reckoned as one day.

44. Vacation Department

A Vacation Department is, subject to the exceptions and to the extent stated in Appendix II, a department or part of a department to which regular vacations are allowed, during which a Government servant serving in the department is permitted to be absent from duty.

45. Government servant holding two appointments

A Government servant holding two appointments, of which one is in a Vacation Department and one is not, will not be deemed to serve in a Vacation Department.

46. Earned leave for persons serving in Vacation Departments

(1) A Government servant serving in a Vacation Department shall not be entitled to any earned leave in respect of duty performed in any year in which he avails himself of the full vacation.

(2) (a) In respect of any year in which a Government servant avails himself of a portion of the vacation, he shall be entitled to earned leave in such proportion of 30 days, as the number of days of vacation not taken bears to the full vacation.

Provided that no such leave shall be admissible to a Government servant not in permanent employ in respect of the first year of his service.

(b) If, in any year, the Government servant does not avail himself of any vacation, earned leave shall be admissible to him in respect of that year under rule 50.

Explanation.-For the purposes of this rule, the term "year" shall be construed as meaning not calendar year but twelve months actual duty in a Vacation Department.

Note 1.-A Government servant entitled to vacation shall be considered to have availed himself of a vacation or a portion of a vacation unless he has been required by general or special order of a higher authority to forgo such vacation or portion of a vacation; provided that if he has been prevented by such order from enjoying more than fifteen days of the vacation, he shall be considered to have availed himself of no portion of the vacation.

Note 2.-When a Government servant serving in a Vacation Department proceeds on leave before completing a full year of duty, the earned leave admissible to him shall be calculated not with reference to the vacations which fall during the period of actual duty rendered before proceeding on leave but with reference to the vacations that fall during the year commencing from the date on which he completed the previous year of duty.

(3) Vacation may be taken in combination with or in continuation of any kind of leave under these rules:

Provided that the total duration of vacation and earned leave taken in conjunction, whether the earned leave is taken in combination with or in continuation of other leave or not, shall not exceed the amount of earned leave due and admissible to the Government servant at a time under rule 50:

Provided further that the total duration of vacation, earned leave and commuted leave taken in conjunction shall not exceed 240 days.

47. Government servant in Vacation Department liable to be recalled at his own expense

A Government servant serving in a Vacation Department, who leaves his place of duty during vacation, is liable to be recalled thereto at his own expense, except when such Government servant had been granted leave with permission to prefix or suffix vacation to his leave.

48. Furnishing of certificate to Audit of non-availment of vacation

It is the duty of the Government servant concerned to furnish a certificate to the Audit Officer, along with a copy of the order of the head of his department, that he has not availed himself of a vacation or portion thereof unless he comes under one or other of the general classes specified below.

Note.-The following Government servants are required by general order of Government to perform duties throughout the vacations, viz.-

(h) Judicial officers under training;

(iii) Head Clerk, Sheristedar or Nazir of a District Court.

49. Government servant precluded from enjoying a part of vacation

In the case of a Government servant who is precluded from enjoying a part of the vacation by reason of his transfer, the time actually spent in travelling from one station to another and not the full joining time admissible under the rules should be added to the period by which he has been prevented from enjoying a vacation by reason of his transfer.

50. Termination of period of service on transfer from Vacation Department to Non-vacation Department

(1) When a Government servant is transferred from a Vacation Department to a Non-vacation Department, his period of service in the former will be considered to have terminated with effect from the close of the last vacation enjoyed by him.

(2) When a Government servant is transferred from a Non-vacation Department to a Vacation Department his period of service in the latter will be held to have commenced from the date of his joining the Vacation Department.

Note.-In the case of a Government servant transferred to a Non-vacation Department during the period of vacation the words "last vacation enjoyed by him" occurring in sub-rule (1) of this rule should be interpreted as referring to the last vacation fully or partly enjoyed by him.

51. Government servant in Vacation Department not entitled to pay if he resigns without previous intimation

(1) A Government servant serving in a department to which regular vacations are allowed, who holds only an acting appointment is not entitled to any pay for the period of vacation, if he resigns the appointment without any previous intimation from the day his office reopens for business after the vacation. Similarly a Government servant serving in a department to which regular vacations are allowed,

who joins his appointment from extraordinary leave only a day or two previous to the beginning of the vacation, is not entitled to pay for the period of vacation if he goes again on extraordinary leave without returning to duty on the reopening of his office after vacation.

(2) A teacher in a Government Secondary School or an Assistant Lecturer in a Government College officiating in, or holding a temporary post created against a post substantively vacant, may be granted pay for the period of a vacation provided his services are dispensed with just before the commencement of the vacation and he has already put in service, of not less than eight months during the academic year concerned.

52. Half pay leave

(1)(a) A Government servant shall be entitled to half pay leave of 20 days in respect of each completed year of service.

(b) The leave due under clause (a) above may be granted on medical certificate or on private affairs:

Provided that in the case of a Government servant not in permanent employ, no half pay leave may be granted unless the authority competent to grant leave has reason to believe that the Government servant will return to duty on its expiry except in the case of a Government servant who has been declared completely and permanently incapacitated for further service by a medical authority.

(3) If a Government servant is on leave on the day on which he completes a year of service, he shall be entitled to half pay leave without having to return to duty. The period of suspension when treated as such i.e., as suspension should be excluded for counting completed years of service for the purpose of half pay leave.

53. Commuted leave

(1) Commuted leave not exceeding half the amount of half pay leave due may be granted on medical certificate to a Government servant subject to the following conditions :-

(a) the authority competent to grant leave is satisfied that there is reasonable prospect of the Government servant returning to duty on its expiry;

(b) When commuted leave is granted, twice the amount of such leave shall be debited against the half pay leave due;

(c) the authority competent to grant leave obtains an undertaking from the Government servant that in the event of his resignation or retiring voluntarily from service he shall refund the difference between the leave salary drawn during commuted leave and that admissible during half pay leave.

(2) Commuted leave upto a maximum of 90 days may be allowed during the entire service (without production of medical certificate) where such leave is utilised for an approved course of study whether full time or part time certified to be in the public

interest by the leave sanctioning authority and also for the preparation of the final examination.

(3) Where a Government servant who has been granted commuted leave resigns from service or at his request is permitted to retire voluntarily without returning to duty, the commuted leave shall be treated as half pay leave and the difference between the leave salary in respect of commuted leave and half pay leave shall be recovered:

Provided that no such recovery shall be made if the retirement is by reason of ill-health incapacitating the Government servant for further service or in the event of his death.

Note.-Commutated leave may be granted at the request of the Government servant even though earned leave is due to him.

54. Leave not due

(1) Save in the case of leave preparatory to retirement, leave not due may be granted to a Government servant in permanent employ subject to the following conditions:-

(a) the authority competent to grant leave is satisfied that there is reasonable prospect of the Government servant returning to duty on its expiry;

(b) leave not due shall be limited to the half pay leave he is likely to earn thereafter;

(c) leave not due during the entire service shall be limited to a maximum of 360 days out of which not more than 90 days at a time and 180 days in all may be otherwise than on medical certificate;

(d) leave not due shall be debited against the half pay leave the Government servant may earn subsequently;

(e) the authority competent to grant leave obtains an undertaking from the Government servant that in the event of his resigning or retiring voluntarily from service without returning to duty, he shall refund the leave salary paid to him.

(2) (a) Where a Government servant who has been granted leave not due resigns from service or at his request permitted to retire voluntarily without returning to duty, the leave not due shall be cancelled, his resignation or retirement taking effect from the date on which such leave had commenced, and the leave salary shall be recovered.

(b) Where a Government servant who having availed himself of leave not due returns to duty but resigns or retires from service before he has earned such leave, he shall be liable to refund the leave salary to the extent the leave has not been earned subsequently:

Provided that no leave salary shall be recovered under clause (a) or clause (b) if the retirement is by reason of ill-health incapacitating the Government servant for

further service or compulsory on attaining the age of 50/55 years or in the event of his death.

55. Extraordinary leave

(1) Extraordinary leave may be granted to a Government servant in special circumstances-

(a) when no other leave is admissible;

(b) when other leave is admissible but the Government servant applies in writing for the grant of extraordinary leave.

(2) Unless Government in view of the exceptional circumstances of the case otherwise determines, no Government servant who is not in permanent employ shall be granted extraordinary leave on any one occasion in excess of the following limits:-

(a) three months;

(b) six months, where the Government servant has completed three years continuous service on the date of expiry of leave of the kind due and admissible under these rules, including three months extraordinary leave under clause (a) and his request for such leave is supported by a medical certificate as required by these rules;

(c) twelve months, in the case of a Government servant who has completed five years' continuous service on the date of expiry of leave due and admissible under the rules including extraordinary leave under (a) and (b) of sub-rule (2) above, if the extraordinary leave is required on account of illness of the Government servant as certified by a Civil Surgeon or Superintendent of Government Hospital, as the case may be;

(d) twelve months, where the Government servant who has completed one year's continuous service is undergoing treatment for cancer, or for mental illness, in an institution recognised for the treatment of such disease or under a Civil Surgeon or a Specialist in such disease;

(e) eighteen months, where the Government servant who has completed one year's continuous service is undergoing treatment for-

(i) pulmonary tuberculosis or pleurisy of tubercular origin, in a recognised sanatorium;

Note.-The concession of extraordinary leave upto eighteen months shall be admissible also to a Government servant suffering from pulmonary tuberculosis or pleurisy of tubercular origin who receives treatment at his residence as such by the State Administrative Medical Officer concerned and produces a certificate signed by that specialist to the effect that he is under his treatment and that he has reasonable chances of recovery on the expiry of the leave recommended.

(ii) tuberculosis of any other part of the body by a qualified tuberculosis specialist or a Civil Surgeon, or

(iii) leprosy in a recognised leprosy institution or by a Civil Surgeon or a specialist in leprosy hospital recognised as such by the Director of Health Services;

(f) twenty-four months, where the leave is required for the purpose of prosecuting studies certified to be in the public interest, provided the Government servant concerned has completed three years continuous service on the date of expiry of leave of the kind due and admissible under these rules, including three months extraordinary leave under clause (a) of sub-rule (2) above.

(3) (a) Where a Government servant is granted extraordinary leave in relaxation of the provisions contained in clause (f) of sub-rule (2), he shall be required to execute a bond in Form 6 in Appendix V, undertaking to refund to the Government the actual amount of expenditure incurred by the Government during such leave plus that incurred by any other agency with interest thereon in the event of his not returning to duty on the expiry of such leave or quitting the service before a period of three years after return to duty.

(c) The bond shall be supported by sureties from two permanent Government servants having a status comparable to or higher than that of the Government servant.

(3) Government servants belonging to the Scheduled Castes or the Scheduled Tribes may, for the purpose of attending the Pre-Examination Training Course at the centers notified by the Government from time to time, be granted extraordinary leave by Head of Department in relaxation of the provisions of sub-rule (2).

(4) Two spells of extraordinary leave, if intervened by a spell of vacation or by any other kind of leave, shall be treated as one continuous spell of extraordinary leave for the purposes of sub-rule (2).

(5) The authority competent to grant leave may commute retrospectively periods of absence without leave into extraordinary leave.

56. Leave to a probationer, a person on probation and an apprentice

(1) (a) A probationer shall be entitled to leave under these rules if he had held his post substantively otherwise than on probation.

(b) If, for any reason, it is proposed to terminate the services of probationer, any leave which may be granted to him shall not extend-

(i) beyond the date on which the probationary period as already sanctioned or extended expires, or

(ii) beyond any earlier date on which his services are terminated by the orders of an authority competent to appoint him.

(2) A person appointed to a post on probation shall be entitled to leave under these rules.

Note.-The probationers in the Registration Department for Sub-Registrar's posts are not eligible for any leave but the period of probation will count as duty if the probationers are subsequently confirmed.

(3) An apprentice shall be entitled to-

(a) leave, on medical ground on leave salary equivalent to half pay for a period not exceeding 30 days in any year of apprenticeship;

(b) extraordinary leave under rule 63.

Note.-Leave at the credit of a Government servant on the date of his appointment as an apprentice under any Department may be allowed to be carried forward on his appointment to any post on the expiry of the period of apprenticeship.

57. Person re-employed after retirement

(1) In the case of a person re-employed after retirement, the provisions of these rules shall apply as if he had entered Government service for the first time on the date of his re-employment.

(2) Earned leave due and admissible may be granted to a re-employed pensioner prior to cessation of his duties.

58. Leave preparatory to retirement

(1) A Government servant may be permitted by the authority competent to grant leave to take leave preparatory to retirement to the extent of earned leave due, not exceeding 180 days together with half pay leave due, subject to the condition that the total period of leave should not exceed 28 months or such leave does not extend beyond the date of compulsory retirement.

(2) A Government servant, who has given notice of retirement after attaining the age of 50 years in the case of Gazetted or 55 years in the case of Non-gazetted or to whom notice has been given by the appropriate authority after attaining the age of 50/55 years, as the case may be, may be granted leave due and admissible to him not extending beyond the date of compulsory retirement, even though such leave extends beyond the date of expiry of the notice:

Provided that a Government servant, who is retired by the appropriate authority by giving him pay and allowances in lieu of notice, may apply for leave within the period for which such pay and allowances were given, and where he is granted leave, the leave salary shall be allowed only for the period of leave excluding that period for which pay and allowances, in lieu of notice have been allowed.

Note.-The leave granted as leave preparatory to retirement shall not include extraordinary leave.

(3) (a) Where a Government servant who is on foreign service in or under any local authority or a corporation or company wholly or substantially owned or controlled by the Government (referred to as the local body) applies for leave preparatory to retirement, the decision to grant or refuse such leave shall be taken by foreign employer with the concurrence of the lending authority under the State Government.

(b) In case the leave is so refused to the Government servant in public interest, it may be availed of by him to the extent admissible under rule 67 from the date of his quitting service.

(c) In case the lending authority under Government is not agreeable to the refusal of leave preparatory to retirement, it shall be granted to the Government servant and if the foreign employer needs the services of the officer during that period, the Government servant may be re-employed by that employer concurrently with leave preparatory to retirement and leave salary regulated in accordance with the provisions of sub-rule (5) of rule 70.

(3) Where a Government servant is on foreign service in or under a local body other than the one mentioned in clause (a) of sub-rule (3), leave preparatory to retirement shall be admissible to him only when he quits duty under the foreign employer:

Provided that where the Government servant continuous in service under such foreign employer, the Government servant shall not be eligible for grant of refused leave under rule 67.

59. Leave beyond the date of compulsory retirement or quitting of service

(1) Except as provided hereinafter, no leave shall be granted to a Government servant beyond-

- (a) the date of his compulsory retirement, or
- (b) the date of his final cessation of duties, or
- (c) the date of his resignation from service.

(2) Where the service of a Government servant has been extended in the interest of public service beyond the date of his compulsory retirement, he may be granted earned leave, subject to a maximum of 180 days.

(3) Where the service of a Government servant, not in permanent employ is terminated by notice or by payment of pay and allowances in lieu of notice, or otherwise in accordance with the terms and conditions of his appointment, he may be granted earned leave to his credit, subject to a maximum of 120 days, even though such leave extends beyond the date on which he ceases to be in service. If the Government servant himself resigns or quits service, he may be granted earned leave to the extent of half of such leave to his credit subject to a maximum of 60 days:

Provided that the leave so granted to such Government servant, other than a Government servant re-employed after attaining the age of compulsory retirement, does not extend beyond the date on which he attains the age of compulsory retirement.

60. Cash equivalent of leave salary in respect of earned leave at the credit at the time of retirement on superannuation

(1) The authority competent to grant leave shall suo-motu sanction to a Government servant who retires on attaining the age of superannuation, the cash equivalent of leave salary in respect of the period of earned leave at his credit on the date of his superannuation, subject to a maximum of 180 days.

(2) The cash equivalent of leave salary payable under sub-rule (1) above, shall also include dearness allowance admissible on the leave salary at the rates in force on the date of retirement and it shall be paid in one lumpsum, as a one-time settlement.

(3) The compensatory local allowance and house rent allowance shall not be included in calculating the cash equivalent of the leave salary under this rule.

(4) From the cash equivalent so worked out, no deduction shall be made on account of pension and pensionary equivalent of other retirement benefits.

(5) A Government servant who retires from service on attaining the age of compulsory retirement while under suspension shall be paid cash equivalent of leave salary under sub-rule (1) above in respect of the above period of earned leave at his credit on the date of his superannuation, provided that in the opinion of the authority competent to order reinstatement, the Government servant has been fully exonerated and the suspension was wholly unjustified.

Note 1.-A Government servant can also avail of as leave preparatory to retirement a part of earned leave at his credit. In that case, he shall be allowed payment of cash equivalent of leave salary for the balance of the earned leave that remains at his credit on the date of retirement in accordance with sub-rule (1) above.

Note 2.-With a view to enabling the retiring Government servant to receive cash equivalent of leave salary in respect of the unutilised earned leave without delay, the following procedure shall be followed:

(a) A Government servant nearing the date of retirement on superannuation should inform in writing to the authority competent to sanction him leave, three months in advance of the date of retirement, if he desires to avail of cash equivalent of leave salary in respect of the unutilised earned leave at his credit on the date of his superannuation.

(b) (i) The competent authority should within 15 days of receipt of such an intimation from a Gazetted Officer move the Audit Officer to communicate to him the amount of earned leave to his credit on the date of his superannuation.

(ii) The Audit Officer should communicate the title to earned leave due and admissible as on the date of superannuation to the competent authority at least a fortnight before the date of retirement of the Government servant, endorsing a copy to the concerned Gazetted Officer.

(iii) Where reporting the title to the earned leave at the credit of the retiring Gazetted Officer, the Audit Officer will indicate the rate of cash equivalent of leave salary in

respect of the unutilised earned leave due and admissible subject to the condition that the cash equivalent at the rates indicated by the Audit is not payable before the date of retirement and that the officer does not avail of any earned leave subsequent to the date of report of the title to leave by the Audit Office.

(c) In the case of a Non-gazetted Government servant the competent authority should within 15 days of receipt of intimation from the concerned Government servant, himself arrange to have ascertained the amount of earned leave due and admissible to the credit of the Government servant on the date of superannuation.

(d) The competent authority should after satisfying himself that earned leave, if any, availed of by the concerned Government servant, as Gazetted or Non-gazetted after receipt of his written intimation admissible as in (a) above, is actually deducted from the earned leave due and admissible as on the date of superannuation as reported by the Audit /his office, arrange to issue necessary orders sanctioning cash equivalent of leave salary in respect of the unutilized earned leave. This should be done within a week of the retirement of the concerned Government servant.

(e) Thereafter, the competent authority should within 15 days after the date of retirement, prefer a bill claiming the cash equivalent of leave salary in respect of the unutilized earned leave to the Treasury.

(f) Payment of cash equivalent of leave salary in respect of the unutilized earned leave at the credit of the Government servant retiring on superannuation, should be made irrespective of whether or not ' No Demand Certificate' from the Audit Office/Department concerned is received.

Note 3:- The cash payment for unutilized earned leave shall be made in the following manner:-

Pay + Dearness Allowance admissible No. of utilized days of
Cash on date of retirement earned leave at credit
Payment = X subject to maximum of
30 180 days.

69. Cash equivalent of leave salary in case of death while in service

In case a Government servant dies while in service, the cash equivalent of the leave salary that the deceased employee should have got had he gone on earned leave that would have been due and admissible to him but for the death on the date immediately following the death and in any case, not exceeding leave salary for 180 days, shall be paid to his family without any reduction on account of pension and pension equivalent of death-cum-retirement gratuity.

Note:- In addition to the cash equivalent of leave salary admissible under this rule, the family of the Government servant shall also be entitled to payment of dearness allowance only.

70. Leave salary

(1) Except as provided in sub-rule (5) and (6), a Government servant who proceeds on earned leave is entitled to leave salary equal to the pay drawn immediately before

proceeding on earned leave.

Note:- In respect of any period spent on foreign service out of India, the pay which the Government servant would have drawn if on duty in India but for foreign service out of India shall be substituted for the pay actually drawn while calculating leave salary.

(2) A Government servant on half pay leave or leave not due is entitled to leave salary equal to half the amount specified in sub-rule (1) above.

(3) A Government servant on commuted leave is entitled to leave salary equal to the amount admissible under sub-rule (1) above.

(4) A Government servant on extra-ordinary leave is not entitled to any leave salary.

(5) A Government servant who is permitted during leave preparatory to retirement to take up any other service or employment under an employer other than State Government, his leave salary while on earned leave shall be restricted to the amount of leave salary admissible under this rule.

(6) (a) A Government servant who is granted leave beyond the date of compulsory retirement or quitting of service, as the case may be, as provided under rule 67 shall be entitled during such leave to his leave salary as admissible under this rule.

(b) Where such a Government servant is re-employed during such leave he may continue to enjoy his leave concurrently with such employment but his leave salary which may be drawn in addition to pay of the post in which he is employed, shall be restricted to the amount of leave salary admissible while on half pay leave.

(d) A Government servant whose pension is drawn separately during re-employment and who proceeds on earned leave during the period of re-employment, the leave salary shall be based on the pay drawn by him exclusive of the pension and pension equivalent of other retirement benefits.

(7) In the case of person to whom the Employees State Insurance Act, 1948 (34 of 1948) applies, leave salary payable during leave, other than earned leave, shall be reduced by the benefits payable under the said Act for the corresponding period.

71. Drawal of leave salary

The leave salary payable under these rules shall be drawn in rupees in India.

72. Advance of leave salary

A Government servant including a Government servant on foreign service, proceeding on leave for a period of not less than 30 days, may be allowed an advance in lieu of leave salary upto a month's pay and allowances admissible on that leave salary subject to deductions on account of Income Tax, Provident Fund, House Rent, recovery of advances etc.

73. Surrender of earned leave

(1) A Government servant shall be allowed to surrender earned leave at his option to the extent of 30 days in a financial year on availment of not less than 30 days earned leave subject to the following conditions:-

(a) the surrender of earned leave shall not be allowed more than once in any financial year,

(b) the application for surrender of earned leave should be made along with the application for grant of leave,

(c) the number of days of earned leave surrendered under these rules should be reckoned as surrendered on the date of commencement of actual leave taken and deducted from the leave account of the Government servant on that date,

(d) the total of the earned leave actually availed of and the earned leave surrendered should not exceed the maximum leave admissible to the Government servant at any one time viz. 120 days,

(e) on return from earned leave the Government servant should serve the Government for a period of not less than that of the earned leave surrendered,

(f) in the case of a Government servant who is on the verge of retirement, the period of leave surrendered should not exceed the period of duty between the date of expiry of earned leave actually availed of and the date of compulsory retirement.

(g) the surrender of earned leave should not be allowed in the case of leave preparatory to retirement or refused leave,

(h) the surrender of earned leave shall not be admissible to a Government servant who resigns while on leave,

(i) a Government servant who is permitted to surrender leave should not ordinarily be permitted to rejoin duty before the expiry of the thirty days leave sanctioned to him,

(j) in case of compulsory recall to duty, the Government servant should be allowed to enjoy the balance of his earned leave before expiry of the period of six months from the date on which he proceeded on earned leave or before he again proceeds on earned leave with surrender of earned leave, whichever is earlier. The leave sanctioning authority shall grant leave to such a Government servant during the prescribed period if he applies for it. If, however, the Government servant concerned himself does not ask for being allowed to enjoy the balance of the earned leave, the balance of the earned leave shall lapse and the said period would be debited to his leave account as if he had enjoyed it,

(k) the concession shall be admissible to a Government servant who is on foreign service or on deputation to the Government of India or to any other State Government,

(l) if a Government servant during his deputation to Central Government or other State Government or at the end of it, surrenders earned leave at his credit and in consideration thereof becomes entitled to additional remuneration representing cash value of the leave surrendered, the liability for the payment of additional remuneration including other compensatory allowances relatable to the cash value of leave surrendered, will devolve on the Government of Maharashtra,

(m) in the case of Government servant who is on foreign service, a term to the effect that the Government servant shall be entitled to the benefit of surrender of leave and the expenditure towards compensatory allowances including dearness allowance on the leave so surrendered while on foreign service, shall be borne by the foreign employer, should be incorporated in the terms and conditions.

(2) The authorities who are empowered to sanction earned leave shall be competent to accept surrender of earned leave.

(3) The leave salary and allowances admissible for the leave surrendered should be at the rate of leave salary and allowances admissible at the commencement of earned leave and shall include dearness allowance, compensatory local allowance and non-practicing purpose, a month should be reckoned as 30 days, irrespective of the month in which the leave is availed of.

(4) The amount of leave salary and allowances for the surrendered leave may be paid in advance but not earlier than six days before the commencement of leave and shall not be liable to deductions on account of any advances etc. The leave sanctioning authority should insert a clause in the sanctioning order itself to the effect that in case the leave had to be cancelled by the competent authority before the date from which the Government servant was to proceed on leave, the amount of leave salary and allowances for the surrendered leave will have to be refunded forthwith to Government by the Government servant in one installment or adjusted in full in the first monthly pay/leave salary bill of the Government servant.

(5) (a) In order to guard against omission to post a debit in the leave account in respect of the leave surrendered in the case of non-Gazetted Government servants and Gazetted Officers referred to in sub-rule (2) of rule 25 details of the surrendered leave should be noted in their service books and in their leave accounts when the leave salary is drawn. A certificate to the effect that the necessary entries have been made in the service book and the leave account, should be furnished by the disbursing officer in the bill in which the leave salary for the surrendered leave is drawn.

(b) In respect of Gazetted Officers other than those referred to in sub-rule (2) of rule 25, the Audit Officer who certifies the admissibility of earned leave, should debit in the leave account of the Gazetted Officer concerned, the amount of earned leave surrendered on receipt of orders accepting the surrender of leave from the competent authority.

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981
CHAPTER VI
SPECIAL KINDS OF LEAVE OTHER THAN STUDY LEAVE

74. Maternity leave

(1) A competent authority may, subject to the provisions of this rule, grant to a female Government servant in permanent employ, who does not have three or more living children on the date of the application, maternity leave for a period of ninety days from the date of its commencement. During such period she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave. Such leave shall not be debited to the leave account.

(2) A female Government servant not in permanent employ who has put in at least one year of continuous service shall also, subject to the provisions of this rule, be eligible for maternity leave referred to in sub-rule (1), subject to the condition that

the leave salary admissible during the period of maternity leave shall be regulated as follows, that is to say:-

(a) In the case of a female Government servant who has put in two or more years' continuous service, the leave salary admissible shall be as provided in sub-rule (1) of rule 70 of these rules; and

(b) In the case of a female Government servant who has put in continuous service for a period exceeding one year, but less than two years, the leave salary admissible shall be as provided in sub-rule (2) of rule 70 of these rules.

(3) The application for maternity leave should invariably be supported by medical opinion as to the probable date of confinement, and an undertaking to the effect that the Government servant shall report the date of confinement supported by a medical certificate. In case of a Class IV Government servant in which insistence on a regular medical certificate is likely to cause hardship, the authority competent to grant leave may accept such certificate as it may deem sufficient.

(4) A female Government servant may be allowed leave of the kind due, including commuted leave, if she so desires, in continuation of the maternity leave, up to a maximum of 60 days without production of a medical certificate.

(5) Leave under this rule shall be admissible in a case of miscarriage or abortion, including abortion induced under the Medical Termination of Pregnancy Act, 1971, subject to the following conditions:-

(a) the leave does not exceed six weeks, and

(b) the application for the leave is supported by a medical certificate.

(6) Heads of Departments may subject to the provisions of this rule, grant to a female Government servant borne on the work-charged establishment or remunerated by piece rates or daily wages who does not have three or more living children on the date of application, maternity leave for 90 days from the date of its commencement, subject to the provisions of sub-rules (3) and (5) above, subject to the following further conditions:-

(a) She must have put in continuous service for at least 33 months (inclusive of any period of authorised leave) previous to the date of requiring the maternity leave and must furnish a guarantee with at least one security that she will return to duty for a period of at least 6 months after the expiry of the leave if her services are required.

(b) The leave salary admissible shall be equal to the emoluments drawn for the month immediately before proceeding on leave.

75. Special disability leave for injury intentionally inflicted

(1) The authority competent to grant leave may grant special disability leave to a Government servant (whether permanent or temporary) who is disabled by injury intentionally inflicted or caused in, or in consequence of, the due performance of his official duties or in consequence of his official position.

(2) Such leave shall not be granted unless the disability manifested itself within three months of the occurrence to which it is attributed and the person disabled acted with the promptitude in bringing it to notice:

Provided that the authority competent to grant leave may, if it is satisfied as to the cause of the disability, permit leave to be granted in cases where the disability manifested itself more than three months after the occurrence of its cause.

(3) The period of leave granted shall be such as is certified by an Authorised Medical Attendant and shall in no case exceed 24 months.

(4) Special disability leave may be combined with leave of any other kind.

(5) Special disability leave may be granted more than once if the disability is aggravated or reproduced in similar circumstances at a later date, but not more than 24 months of such leave shall be granted in consequence of any one disability.

(6) Special disability leave shall be counted as service qualifying for pension and shall not, except the leave granted under the proviso to clause (b) of sub-rule (7), be debited against the leave account.

(7) Leave salary during such leave shall-

(a) for the first 120 days of any period of such leave, including a period of such leave granted under sub-rule (5), be equal to leave salary while on earned leave, and

(b) for the remaining period of any such leave, be equal to leave salary during half pay leave:

Provided that a Government servant may, at his option, be allowed leave salary as in sub-rule (a) for a period not exceeding another 120 days, and in that event the period of such leave shall be debited to his half-pay leave account.

Note.-Leave salary in respect of special disability leave granted to a Government servant who has rendered service under more than one Government may be apportioned between the Government in accordance with the normal rules

(8) (a) In the case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(c) In the case of a person to whom the Employees' State Insurance Act, 1948 (34 of 1948) applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

(e) In case of a person to whom the Employees State Insurance Act ,1923(8 of 1923)applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

(9) (a) The provisions of this rule shall apply-

(i) to a civil Government servant disabled in consequence of service with a military force, if he is discharged as unfit for further military service, but is not completely and permanently incapacitated for further civil service, and

(ii) to a civil servant not so discharged who suffers a disability which is certified by a medical Board to be directly attributable to his service with military force.

(f) In either case, any period of leave granted to such a person under military rules in respect of that disability shall be reckoned as leave granted under this rule for the purpose of calculating the period admissible.

76. Special disability leave for accidental injury

(1) The provisions of rule 75 shall apply also to a Government servant, whether permanent or temporary, who is disabled by injury accidentally incurred in, or in consequence of, the due performance of his official duties or in consequence of his official position, or by illness incurred in the performance of any particular duty which has the effect of increasing his liability to illness or injury beyond the ordinary risk attaching to the civil post which he holds.

(2) The grant of special disability leave in such case shall be subject to the further conditions :-

(a) that the disability, if due to disease, must be credited by an Authorised Medical Attendant to be directly due to the performance of the particular duty; and

(b) that, if the Government servant has contracted such disability during service otherwise than with a military force, it must be, in the opinion of the authority competent to sanction leave exceptional in character; and

(c) that the period of absence recommended by an Authorised Medical Attendant may be covered in part, by leave under this rule and in part by any other kind of leave, and that amount of special disability leave granted on leave salary equal to that admissible on earned leave shall not exceed 120 days.

77. Hospital leave

(1) The authority competent to grant leave may grant hospital leave to -

(a) Class IV Government servants, and

(b) Class III Government servants whose duties involve the handling of dangerous machinery explosive materials, poisonous drugs and the like, or the performance of hazardous tasks while under medical treatment in a hospital or otherwise, for illness or injury, if such illness or injury is directly due to risks incurred in the course of their official duties.

Exception - The hospital leave may also be granted on account of ill health to Government servants specified below whose duties expose them to special risk of accident or illness even though the illness or injury may not be directly due to risks incurred in the course of their official duties:-

- (i) Police officers, including trainees of a rank not higher than that of Head Constable;
- (ii) Government servants of the Prohibition and Excise Department other than clerical establishments;
- (iii) Forest Subordinates, other than clerks in receipt of pay not exceeding Rs. 225,

(2) Hospital leave shall be granted on the production of medical certificate from an Authorised Medical Attendant.

(3) Hospital leave may be granted on leave salary equal to that admissible during earned leave or half pay leave and for such period as the authority granting it may consider necessary.

(4) Hospital leave shall not be debited against the leave account and may be combined with any other kind of leave which may be admissible, provided the total period of leave, after such combination does not exceed 28 months.

(5) (a) In case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(b) In case of a person to whom the Employees State Insurance Act, 1948 (34 of 1948) applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for the corresponding period.

78. Seamen's sick leave

(1) A Government servant serving as an officer, warrant officer or petty officer on a Government vessel may, while undergoing medical treatment for sickness or injury, either on his vessel or in hospital, be granted leave, by an authority competent to grant leave, on leave salary equal to full pay for a period not exceeding six weeks: provided that such leave shall not be granted if a Government medical officer certifies that the Government servant is malingering or that his ill health is due to drunkenness or similar self-indulgence or to his own action in willfully causing or aggravating the disease or injury.

(2) A seaman disabled in the exercise of his duty may be allowed leave on leave salary equal to full pay for a maximum period not exceeding three months, if the following conditions are fulfilled, namely:-

- (a) a Government medical officer must certify the disability;
- (b) the disability must not be due to the seaman's own carelessness or inexperience;
- (c) the vacancy caused by his absence must not be filled.

(3) Such leave is not debited to the leave account.

(4) (a) In the case of a person to whom the Workmen's Compensation Act, 1923 (8 of 1923) applies, the amount of leave salary payable under this rule shall be reduced by the amount of compensation payable under clause (d) of sub-section (1) of section 4 of the said Act.

(b) In case of a person to whom the Employees State Insurance Act, 1948 (34 of 1948) applies, the amount of leave salary payable under this rule shall be reduced by the amount of benefit payable under the said Act for corresponding period.

79. T.B./Cancer/Leprosy/Paralysis leave

Rules regarding grant of leave to Government servants suffering from T.B./Cancer/Leprosy/Paralysis have been incorporated in Appendix III.

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981 **CHAPTER VII- STUDY LEAVE**

80. Conditions for grant of study leave

(1) Subject to the conditions specified in this chapter, study leave may be granted to a Government servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duty.

(2) Study leave may also be granted-

(a) for a course of training or study tour in which a Govt. servant may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to Govt. from the point of view of public interest and is related to sphere of duties of the Govt. servant; and

(b) for the purposes of studies connected with the framework or back ground of public administration subject to the conditions that-

(i) the particular study or study tour should be approved by the authority competent to grant leave, and

(ii) the Govt. servant should be required to submit, on his return, a full report on the work done by him while on study leave;

(c) for the studies which may not be closely or directly connected with the work of a Govt. servant, but which are capable of widening his mind in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service.

(3) Study leave shall not be granted unless-

(a) It is certified by the authority competent to grant leave that the proposed course of study or training shall be of definite advantages from the point of view of public interest;

(b) It is for prosecution of studies in subjects other than academic or literary subjects:

Provided that a Medical Officer may be granted leave for prosecuting a course or post-graduate study in medical sciences, if the Director of Medical Education and Research certifies to the effect that such study shall be valuable in increasing the efficiency of such Medical Officer in the performance of his duties;

(c) the Department of Economic Affairs of the Ministry of Finance, Government of India agrees to the release of foreign exchange involved in the grant of study leave, if such leave is outside India.

4. Study leave out of India shall not be granted for the prosecution of studies in subjects for which adequate facilities exist in India or under any of the schemes administered by the Department Economic Affairs of the Ministry of Finance or by the Ministry of Education, Government of India.

5. Study leave shall not ordinarily be granted to a Government servant -

a) who has rendered less than five years service under the Government;

b) who is due to retire, or has the option to retire, from the Government service within three years of the date on which he is expected to return duty after the expiry of the leave.;

6. Study-leave shall not be granted to a Government servant with such frequency as to remove him from contact with his regular work or to cause cadre difficulties owing to his absence on leave.

Note:- Application for study shall be considered on merits of each case in consultation, with the General Administration Department and Finance Department.

81. Maximum amount of study leave

The maximum amount of study leave, which may be granted to a Government servant, shall be-

a) ordinarily twelve months at any one time, and

b) during his entire service, twenty-four months in all (inclusive of similar kind of leave for study or training under any other rules)

82. Application for study leave

(1) (a) Every application for study leave shall be submitted through proper channel to the authority competent to grant leave.

(b) The course or courses of study contemplated by the Government servant and any examination which he proposes to undergo shall be clearly specified in such application.

(2) Where it is not possible for the Government servant to give full details in his application, or if, after leaving India he is to make any change in the programme which has been approved in India, he shall submit the particulars as soon as possible to the Head of the Mission or the authority competent to grant leave, as the case may be and shall not, unless prepared to do so at his own risk, commence the course of study or incur any expenses in connection therewith until he receives the approval of the authority competent to grant the study leave for the course.

83. Sanction of study leave

(1) A report regarding the admissibility of the study leave shall be obtained from the Audit Officer:

Provided that the study leave, if any, already availed of by the Government servant shall be included in the report.

(2) Where a Government servant borne permanently on the cadre of one department or establishment is temporarily in another department or establishment, the grant of study leave to him shall be subject to the condition that he is permanently attached is obtained before leave is granted.

(3) Where the leave is granted for prosecution of studies abroad, the Head of the Mission concerned shall be informed of the fact by the authority granting the leave.

Note:- The Head of the Mission shall be contacted by the Government servant for issue of any letters of introduction or for other similar facilities that may be required.

(4) (a) Every Government servant not in permanent employ who has been granted study leave or extension of such study leave shall be required to execute a bond in Form 7 or Form-8, in Appendix-V as the case may be, before the study leave or extension of such study leave granted to him commences.

(b) Every Government servant not in permanent employ who has been granted study leave or extension of such study leave shall be required to execute a bond in Form-9 or Form-10, in Appendix as the case may be, before the study leave or extension of such study leave granted to him commences.

(g) The authority competent to grant leave shall send to the Audit Officer a certificate to the effect that the Government servant referred to in clause (a) or clause (b) has executed the requisite bond.

(5) (a) On completion of then course of study, the Government servant shall submit to the authority, which granted him the study leave, the certificates of examinations passed or special courses of study undertaken, indicating the date of commencement and termination of the course with the remarks, if any, of the authority in-charge of the course of study.

(b) If the study is undertaken in a country outside India where there is an Indian Mission, the certificates shall be submitted through the Head of the Mission concerned.

84. Accounting of study leave and combination with leave of other kinds

(1) Study leave shall not be debited against the leave account of the Government servant.

(2) Study leave may be combined with other kinds of leave, but in no case shall the grant of this leave in combination with leave, other than extraordinary leave, involve a total absence of more than twenty eight months from the regular duties of the Government servant.

Explanation:- The limit of twenty eight month of absence prescribed in this sub-rule includes the period of vacation.

(3) A Government servant granted study leave in combination with any other kind of leave may, if he so desires, undertake or commence a course of study during any other kind of leave and subject to other conditions laid down in rule 87 being satisfied, draw study allowance in respect thereof:

Provided that the period of such leave coinciding with the course of study shall not count as study leave.

85. Regulation of study leave extending beyond course of study

When the course of study falls short of study leave granted to a Government servant, he shall resume duty on the conclusion of the course of study, unless the previous sanction of the authority competent to grant leave has been obtained to treat the period of shortfall as ordinary leave.

86. Leave salary during study leave

(1) During study leave availed outside India, a Government servant shall draw leave salary equal to the pay (without allowances other than dearness allowance) that the Government servant drew while on duty with Government immediately before proceeding on leave, in addition to the study allowance admissible in accordance with the provisions of rules 87 to 89.

(2) (a) During study leave availed in India a Government servant shall draw leave salary equal to the pay (without allowances other than dearness allowance) that the Government servant drew while on duty with Government immediately before proceeding on such leave.

(b) Payment of leave salary at full rate under clause (a) shall be subject to furnishing of a certificate by the Government servant to the effect that he is not in receipt of any scholarship, stipend or remuneration in respect of any part-time employment.

(c) The amount, if any, received by a Government servant during the period of study leave as scholarship, stipend or remuneration in respect of any part-time

employment shall be adjusted against the leave salary payable under this sub-rule, subject to the condition that the leave salary shall not be reduced to an amount less than that payable during half pay leave.

(d) No study allowance shall be paid during study leave for courses of study in India.

87. Conditions for grant of study allowance

(1) A study allowance shall be granted to a Government servant who has been granted study leave for studies outside India for the period spent in prosecuting a definite course of study at a recognised institution or in any definite tour of inspection of any special class of work, as well as for the period covered by any examination at the end of the course of study.

(2) Where a Government servant has been permitted to receive and retain, in addition to his leave salary, any scholarship or stipend that may be awarded to him from a Government or non-Government source, or any other remuneration in respect of any part-time employment-

(a) no study allowance shall be admissible in case the net amount of such scholarship or stipend or remuneration (arrived at by deducting the cost of fees, if any, paid by the Government servant, from the value of the scholarship or stipend or remuneration) exceeds the amount of study allowance otherwise.

(b) in case the net amount of scholarship or stipend or remuneration is less than the study allowance otherwise admissible, the difference between the value of the net scholarship or stipend or any other remuneration in respect of any part-time employment and the study allowance may be granted by the authority competent to grant leave.

(3) Study allowance shall not be granted for any period during which a Government servant interrupts his course of study to suit his own convenience:

Provided that the authority competent to grant leave or the Head of Mission may authorise the grant of study allowance for a period not exceeding 14 days at a time such interruption if it was due to sickness.

(4) Study allowance shall also be allowed for the entire period of vacation during the course of study subject to the condition that:-

(a) the Government servant attends during vacation any special course of study or practical training under the direction of the Government or the authority competent to grant leave, as the case may be; or

(b) in the absence of any such direction, he produces satisfactory evidence before the Head of the Mission or the authority competent to grant leave, as the may be, that he has continued his studies during the vacation:

Provided that in respect of vacation falling at the end of the course of study it shall be allowed for a maximum period of 14 days.

(5) The period for which study allowance may be granted shall not exceed 24 months in all.

88. Rates of study allowance

(1) The rates of study allowance shall be as follows:-

Country Study Allowance per dien

Australia 1.00 (Sterling)
Continent of Europe 1.65 (Sterling)
New Zealand 1.20 (Sterling)
United Kingdom 2.00 (Sterling)
United States of America 2.75 (Sterling)

(2) The rates of study allowance prescribed in sub-rule (1) may be revised by the Government from time to time.

(3) The rates of study allowance to be granted to a Government servant who takes study leave in any country other than those specified in sub-rule(1) shall be such as may be specially determined by **Government in each case**

89.Procedure for payment of study allowances

(1) Payment of study allowances shall be subject to the furnishing of a certificate by the Government servant to the effect that he is not in receipt of any scholarship or stipend or any other remuneration in respect of any part-time employment.

(2) Study allowance shall be paid at the end of every month provisionally subject to an undertaking in writing being obtained from the Government servant that he would refund to the Government any overpayment consequent on his failure to produce the required certificate of attendance or on his failure to satisfy the authority competent to grant leave about the proper utilization of the time spent for which study allowance is claimed.

(3) (a)In the case of a definite course of study at a recognised institution, the study allowance shall be payable by the authority competent to grant leave, if the study availed of is in a country where there is no Indian Mission in other cases, on claims submitted by the Government servant from time to time, supported by proper certificates of attendance.

(b) The certificate of attendance required to be submitted in support of the claims for study allowance shall be forwarded at the end of the term if the Government servant is undergoing study in an educational institution, or at intervals not exceeding three months if he is undergoing study at any other institution

(4) (a) When the programme of study approved does not include, or does not consist entirely of, such a course of study, the Government servant shall submit to the authority competent to grant leave direct or through the Head of the Mission a diary showing how his time has been spent and a report indicating fully the nature of the

methods and operations which have been studied and including suggestions as to the possibility of adopting such methods or operations to conditions obtaining in India.

(b) The authority competent to grant leave shall decide whether the diary and report show that the time of the Government servant was properly utilised and shall determine accordingly for what period study allowances may be granted.

90. Admissibility of allowances in addition to study allowances

No allowance of any kind other than the dearness allowance and study allowance shall be admissible to a Government servant in respect of the period of study leave granted to him.

91. Travelling allowance during study leave

A Government servant to whom study leave has been granted shall not ordinarily be paid travelling allowance but the Government may in exceptional circumstances sanction the payment of such allowance.

92. Cost of fees for study

A Government servant to whom study leave has been granted shall ordinarily be required to meet the cost of fees paid for the study but in exceptional cases, the Government may sanction the grant of such fees:

Provided that in no case shall the cost of fees be paid to a Government servant who is in receipt of scholarship or stipend from whatever source or who is permitted to receive or retain, in addition to his leave salary, any remuneration in respect of part-time employment.

93. Resignation or retirement after study leave

(1) If a Government servant resigns or retires from service or otherwise quits service without returning to duty after a period of study leave or within a period of three years after such return to duty, he shall be required to refund-

(a) the actual amount of leave salary, study allowance, cost of fees, travelling and other expenses, if any, incurred by the Government, and

(b) the actual amount, if any, of the cost incurred by other agencies, such as foreign Governments, Foundations and Trusts in connection with the course of study, together with interest thereon at rates for the time being in force on Government loans, from the date of demand, before his resignation is accepted or permission to retire is granted or his quitting service otherwise:

Provided that nothing in this rule shall apply-

(i) to a Government servant who, after return to duty from study leave, is permitted to retire from service on medical grounds; or

(ii) to a Government servant who, after return to duty from study leave, is deputed to serve in any statutory or autonomous body or institution under the control of Government and is subsequently permitted to resign from service under the Government with a view to his permanent absorption in the said statutory or autonomous body or institution in the public interest.

(2) (a) the study leave availed of by such Government servant shall be converted into regular leave standing at his credit on the date on which the study leave commenced, any regular leave taken in continuation of study leave being suitably adjusted for the purpose and the balance of the period of study leave, if any, which cannot be so converted, treated as extraordinary leave.

(b) In addition to the amount to be refunded by the Government servant under sub-rule (1), he shall be required to refund any excess of leave salary actually drawn over the leave salary admissible on conversion of the study leave.

(3) Notwithstanding anything contained in this rule, the Government may, if it is necessary or expedient to do so, either in public interest or having regard to the peculiar circumstances or the case or class of cases, by order, waive or reduce the amount required to be refunded under sub-rule (1) by the Government servant concerned or class of Government servants.

MAHARASHTRA CIVIL SERVICES (LEAVE) RULES –1981

CHAPTER VIII MISCELLANEOUS

94. Temporary and officiating service taken into account for leave purposes

Temporary and officiating service, rendered under the Central Government or any State Government, will, if followed by confirmation under the Government of Maharashtra without interruption of duty, be taken into account for the purpose of the leave account provided that under the rules laid down by the other Government such service would have counted had the Government servant in question continued in the service of that Government without a break of service till confirmation, and provided that the other Government treats it in a similar manner temporary and officiating service rendered under the Government of Maharashtra.

95. Grant of leave to Government servants remunerated partly by fixed pay and partly by honoraria

(1) A Government servant who is remunerated partly by fixed pay and partly by honoraria may be granted such leave as the authority who appoints him may think fit to grant, provided that the authority is able to make satisfactory arrangements for the performance of the absentee's duties and that no extra expense is caused to Government. In such cases the Government servant may be permitted to draw leave salary equal to pay or part of the pay of his post, but the whole of the honoraria shall be paid to the person who officiates in the post.

(2) Rules regulating to grant of leave to Government servants in non-continuous and part time service are contained in Appendix IV

96. Leave to Boring Mechanics, Mukadams and Trained Coolies

Boring mechanics, mukadams and trained coolies employed in the Agricultural Department for boring work, may be granted:-

(1) leave up to one-eleventh of the period spent on duty, subject to a maximum of 60 days at a time, on monthly leave allowance equal to the earnings prior to proceeding on leave; and

(2) leave on medical certificate on half of the above allowance for a further one-eleventh of the period spent on duty, provided that not less than five years duty has been done by them.

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CHAPTER IX- REPEAL AND SAVING

97. Repeal and Saving

The corresponding rules in the Bombay Civil Services Rules, 1959, as in force in the State of Maharashtra immediately before the commencement of these rules are hereby repealed in so far as they provide for any of the matters contained in these rules:

Provided that anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.