

Disciplinary Procedure

CONTROL MECHANISMS- SUSPENSION



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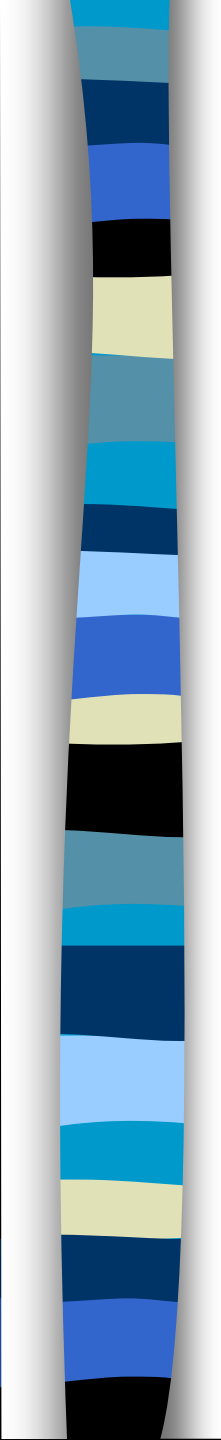
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CONTROL ?

**Executive
Action**

Suspension

CONTROL ?



Procedure

Rule: 17 or 16



SUSPENSION

WHAT?

WHO CAN ?

WHEN?

HOW ?

EFFECTIVE ?

EFFECTS ?



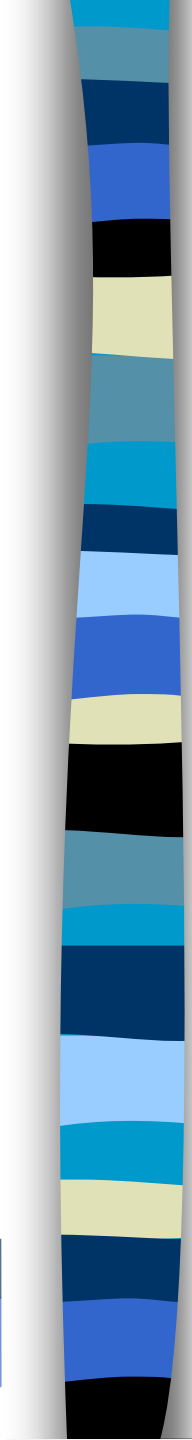


WHAT IS SUSPENSION?



SUSPENSION-RULE 13(1)

- Not defined in the rules.
- An executive action.
- Debarring for a time -being privilege
- Temporary deprivation of one's office or position.
- Not a penalty under the rules.
- No notice is required to be given.
- No explanation to be called for before passing this order.
- Challenged only on grounds of jurisdiction.
- First PE in normal circumstances.

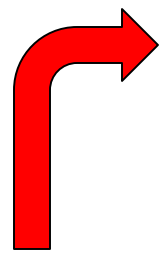


**HIGHER
AUTHORITY**



**APPOINTING
AUTHORITY**

**ANY OTHER
AUTHORITY***





SUSPENSION



**APPOINTING
AUTHORITY**

**COMPETENT
AUTHORITY**



**ANY HIGHER
AUTHORITY**



**ANY OTHER
AUTHORITY***



**WHO IS COMPETENT
TO PLACE A
GOVERNMENT
SERVANT UNDER
SUSPENSION?**



SUSPENSION-WHO CAN?

- 1) Members of State Service will be placed under Suspension only by Department of Personnel as per Standing Orders under 12 and 22 of Rules of Business, Rajasthan. Such orders are approved by Chief Secretary and Chief Minister.**
- 2) Circular dated 31-10-1977, 26-6-1985, 7-11-1998, 10-1-2001 and 19-9-2013.**
- 3) If orders are issued by any other authority, confirmation is must within 7 days. Telephonic approval of CS/DoP should be taken.**



SUSPENSION-WHO CAN?

- 1) An Authority lower than the Appointing Authority may also place a Government Servant under **SUSPENSION** in some circumstances in that event, he shall have to forthwith a report to the Appointing Authority the circumstances in which the order was made.



SUSPENSION-WHO CAN?

GOVERNMENT OF RAJASTHAN'S DECISION

Authority competent to impose *any one of the Minor Penalties* specified in **Rule 14** is also competent to place a Government Servant under Suspension.

[Order No. F.3(9) Apptts.(A)/62 dated 11 September 1962]



WHEN SUSPENSION?



SUSPENSION-WHEN?

A GOVERNMENT SERVANT SHALL BE PLACED UNDER SUSPENSION IF-

1. As a result of **PE**, if it is considered that it would not be in the public interest to retain the delinquent on the post owing to the gravity of charges of against him;



SUSPENSION-WHEN?

A GOVERNMENT SERVANT SHALL BE PLACED UNDER SUSPENSION IF-

2. A Government Servant has been arrested on criminal charges



SUSPENSION-WHEN?

A GOVERNMENT SERVANT SHALL BE PLACED UNDER SUSPENSION IF-

3. A Disciplinary Proceedings is contemplated or is Pending
Rule 13(1)(a)



SUSPENSION-WHEN?

A GOVERNMENT SERVANT SHALL BE PLACED UNDER SUSPENSION IF-

4. A Criminal Case is under investigation or is under trail **Rule 13(1)(b)**



SUSPENSION-WHEN?

5. An Officer is caught red handed in a trap proceedings organized by the Bureau of Investigations [RULE 13(1)(b)] HE SHALL IMMEDIATELY BE PLACED UNDER SUSPENSION. **(MUST)**

ORDER No.F.2(31)Karmik/Ka-2/96 Dated 14-12-2000 and Circular No. F.2(157)Karmik/Ka-3/97 Dated 7 July 2010)



SUSPENSION-WHEN?

6. **Where a Criminal Case involving moral turpitude, Embezzlement of Funds or some other grievous offence is pending under investigation or trial, he may immediately be placed under Suspension.**



SUSPENSION-WHEN?

- 7. Where the retention of the Officer in Office is likely to hamper or frustrate the inquiry or it is otherwise inadvisable that he/she should continue to perform the duties of his/her office, he may immediately be placed under Suspension.**



SUSPENSION-WHEN?

8. Where the Officer concerned is prima facie guilty of some major lapse and departmental enquiry under Rule 16 of the Rules is pending or contemplated against him/her and the gravity of charges is such that, if proved, it will most probably lead to him/her removal or dismissal from Service **HE MAY IMMEDIATELY BE PLACED UNDER SUSPENSION.**



SUSPENSION-WHEN?

9. Where a Government Servant is detained in custody whether on a criminal charge or otherwise for a period exceeding **48 Hours**. Deemed Suspension from the Date of Detention by the Competent Authority till further orders (Rule 13(2))



SUSPENSION-WHEN?

10. Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant under suspension is set aside in appeal or on review under the rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be continued. **Rule 13(3)**



SUSPENSION-WHEN?

11. Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence or by decision of a court of law and the disciplinary authority decides to hold a further inquiry against him on the allegations, the order of his suspension shall be continued until further orders.

Rule 13(4)



SUSPENSION-WHEN?

12. He is accused of involvement in a case of “dowry death” as defined in **Section 304(b) of the IPC**.
13. If a case has been registered by the police against a Government Servant under **Section 304(b) of the IPC**, competent authority shall place him under suspension in the following circumstances by invoking the provisions of Rule 13(1).



SUSPENSION-WHEN?

14. If the Government Servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately irrespective of the period of his detention.
15. If the Government Servant is not arrested, he shall be placed under suspension immediately on submission of a police report under **Section 173(2)** of the **Code of Criminal Procedure, 1973** to the Magistrate, if the report prima facie indicates that the offence has been committed by the Government Servant.
16. In case State Government sanctions prosecution.

अभियोजन की स्वीकृति

- माननीय राजस्थान उच्च न्यायालय, जयपुर बेंच ने डी.बी. सिविल रिट याचिका (पीआईएल) 18408 / 2012, सुओमोटो बनाम राजस्थान सरकार व अन्य
- डी.बी. सिविल रिट याचिका (पीआईएल) 2642 / 2005, पूनम चन्द भण्डारी बनाम राजस्थान सरकार व अन्य
- माननीय राजस्थान उच्च न्यायालय, जयपुर बेंच ने अपने निर्णय दिनांकित 22 जनवरी 2016 के अनुसार भ्रष्टाचार निरोधक अधिनियम के तहत अभियोजन स्वीकृति के दिनांक 22 जनवरी 2016 तक प्राप्त प्रकरणों का सक्षम प्राधिकारी 90 दिवस की अवधि में निर्णय कर निस्तारण करें।

अभियोजन की स्वीकृति

- यदि सक्षम प्राधिकारी द्वारा 90 दिवस की अवधि में अभियोजन स्वीकृति / मनाही के संबंध में निर्णय नहीं लिया जाता है तो इसे न्यायालय की अवज्ञा माना जायेगा और याचिकाकर्ता या अन्य कोई भी व्यक्ति ऐसे अधिकारियों को दण्डित करने के लिये न्यायालय के समक्ष कार्यवाही कर सकेगा।

अभियोजन की स्वीकृति

- जिन प्रकरणों में किसी भी कारण से यदि 90 दिवस की अवधि में निर्णय लिया जाना संभव नहीं हो तो संबंधित सक्षम प्राधिकारी वह प्रकरण मुख्य सचिव के समक्ष प्रस्तुत कर उनकी अनुमति प्राप्त करेगा और मुख्य सचिव प्रकरण में कारण अभिलिखित कर अवधि विस्तारित करते हुए उचित आदेश जारी करेंगे।
- राज्य सरकार ने माननीय न्यायालय के समक्ष पालना रिपोर्ट कर दी हैं।



SUSPENSION-HOW?



SUSPENSION-HOW?

- 1) A Government Servant shall be placed under Suspension by a Suspension Order in standardized draft with immediate effect from the date in special circumstances.
- 2) May specify the headquarter of the Government Servant during the suspension period
- 3) Suspension Order is appealable under Rule 22+30(1). Hence, a copy must be endorsed to the Appellant Authority.

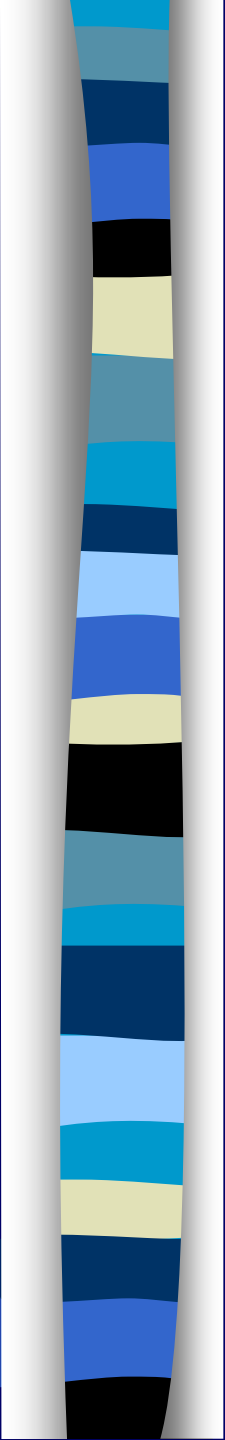


EFFECTIVENESS OF SUSPENSION?



SUSPENSION-EFFECTIVE

- 1) From the date of its issue, i.e. From the Date of Dispatch and not from the Date of Receipt.**
- 2) From the date of counter sign of the Competent Authority after handing over/taking over the charge.**
- 3) From the date mentioned in the Suspension Order in specific cases.**



EFFECTS OF SUSPENSION?



SUSPENSION-EFFECTS

DURING SUSPENSION, A GOVERNMENT SERVANT:

- 1) Continues to be a Government Servant.**
- 2) Can not leave the station without prior permission.**
- 3) Is subject to the Conduct Rules.**
- 4) Not permitted to work**
- 5) Can be asked to make his attendance daily in the Attendance Register of the concerned office situated at the station fixed as his headquarter during his period of Suspension.**

SUSPENSION-EFFECTS

6. Does not get Pay and Allowances. He gets Subsistence Allowance as per Rule 53(1)(a) of the Rajasthan Service Rules. Equal to leave salary. The grant of this allowance can not be denied altogether.
7. This grant is allowed to a Government Servant up to 6 months thereafter increase or decrease up to 50% on various grounds as defined in the Rajasthan Service Rules. DA on increased/decreased amount. All compensatory allowances will be paid during suspension.



SUSPENSION-EFFECTS

- 8. Is not to be granted any kind of leave while under suspension as per rule 55 of the Rajasthan Service Rules.**
- 9. Must furnish a certificate that he is not engaged in any other employment, business, profession or vocation as per Rule 53(2) of the Rajasthan Service Rules.**
- 10. Is entitled to get TA as per rule 27 of Rajasthan Travelling Allowances Rules, 1971.**



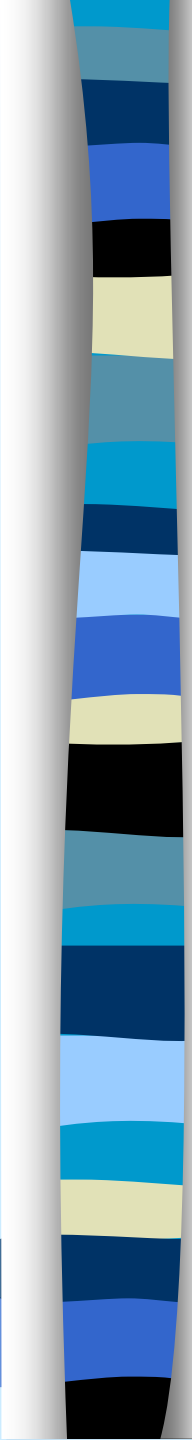
SUSPENSION-EFFECTS

- 11. Is entitled to reside in Government Accommodation as per Rule 12,17 and 18 of the Rajasthan Civil Services (Allotment of Residential Accommodation) Rules, 1958.**
- 12. Not entitled to get periodical Annual Grade Increment as per Rule 29 of the Rajasthan Service Rules. It will be given after the decision of duration of suspension.**

SUSPENSION-EFFECTS

13. Entitlement to get House Rent Allowance as per Rule 6(g) of the Rajasthan Civil Services (House Rent Allowance) Rules, 1989. He is entitled to draw HRA at the rates at which it was paid to him on the date of suspension subject to fulfillment of conditions laid down in rule 53(b) of RSR.
14. If the headquarter is changed in public interest, he shall be entitled to get HRA at new station. If it is own his own request, he shall be entitled to get HRA at the new Station at the rate he was drawing at the old station.

SUSPENSION-EFFECTS

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- 15. Is entitled to get reimbursement of medicines under Rajasthan Civil Services (Medical Allowance) Rules, 2008.**
 - 16. Can not be granted leave under Rule 55 of the RSR. However, permission to leave headquarter may be given in unavoidable circumstances for reasonably periods.**
 - 17. Leave shall not be granted to a Government Servant, if the competent authority has decided to dismiss, remove or compulsorily retire to him from Government Service as per Rule 55-A of RSR.**



SUSPENSION-EFFECTS

18. Shall not get Food Grain /Festival Advance from 9.7.2004 As per Para 3 of Order No.F.5(1)FD/Rules/2004 Dated 9.7.2004 and 14.1.2004
19. "SEALED COVER" provision of promotion for suspended Government Servant prescribed by the Government Dated 26-11-1993 has been deleted and withdrawn on 2-3-1998. Now he will be promoted in spite of disciplinary procedure. [ORDER No.F.10 (1) DoP/A-II/75 DATED 22-12-2000
20. Deduction of State Insurance as per rules from Subsistence Grant. However no deduction of GPF as per Rule 11 of GPF Rules, 1997.

SUSPENSION-EFFECTS

21. राजस्थान विसिल सेवाएं (पेंशन) नियम, 1996 के नियम 22 के तहत निलम्बन अवधि योग्यता सेवा में मान्य होगी। यदि शास्ति के आदेशों में अनुशासनिक प्राधिकारी ने इस संबंध में निलम्बन अवधि को अयोग्य माना है तो उक्त अवधि पेंशन योग्य मान्य नहीं होगी।
22. राजस्थान सिविल सेवाएं (पेंशन) नियम, 1996 के नियम 23 के तहत कर्मचारी की सेवा समाप्ति या पदच्युति से पूर्व की सेवा जब्त हो जाती है अतः ऐसे मामलों में पेंशन देय नहीं है।



REVOCACTION AND RE-INSTMENT OF SUSPENSION?



SUSPENSION-REVOCAATION/ RE-INSTATEMENT

- A. Rule 54 of RSR deals with re-instatement.
- B. Competent authority or any higher authority may at any time revoke the suspension order under Rule 13(5). There is no restriction imposed on his power under the Rule.
- C. Competent Authority may issue a specific order of re-instatement. He must consider:
 - 1) Pay and allowances to be paid.
 - 2) Treating suspension period as duty.



SUSPENSION-REVOCAATION/ RE-INSTATEMENT

- D. The order of competent authority regarding the treatment of the period of absence from duty passed under this rule is absolute and no higher sanction is necessary.**
- E. Period of absence from duty may also be converted into leave of any kind due and admissible to the Government Servant.**
- F. Any payment made under this rule shall be subject to adjustment of the amount earned by the Government Servant.**



SUSPENSION-REVOCAATION/ RE-INSTATEMENT

- G. If Government Servant is fully exonerated or the suspension period is fully unjustified, the Government Servant shall be given full pay and allowances. Period of absence shall be treated as a period spent on duty for all purposes as per Rule 54(4) of RSR.**
- H. In other cases, Government Servant shall be given such proportion of such pay and allowances as such authority may prescribe. [Rule 54(3) of RSR].**

