



**GOVERNMENT OF ODISHA**

**HOME DEPARTMENT**

**A**

**HAND BOOK**

**FOR**

**OSS OFFICERS**

**ODISHA SECRETARIAT TRAINING INSTITUTE**

**BHUBANESWAR**



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## FOREWORD

I am happy to know that the Odisha Secretariat Training Institute, Bhubaneswar is bringing out “A Hand Book for OSS officers”. The Hand Book has been put together to serve as a training material especially for the young officers who are new to the Secretariat set-up and have limited exposure to the complexities of the State administration. It is learnt that elaborate consultations with and contribution from many experts and experienced administrators have been made in the process.

Availability of skilled and dedicated work force is a precondition for the success of any organization. This is more so for an apex organization like the State Secretariat. With its years of existence, the Odisha Secretariat Training Institute has had a fairly long history of imparting training to the OSS officers arming them with the nitty gritty of how to deal with matters as varied as law and order, policy formulation, budget and finance, service condition, cadre management, development administration etc.

The Government, in order to make a robust public delivery system, is emphasizing on 5T concepts such as transparency, technology, team work, time and transformation. The administration is transforming itself with many innovations - application of IT and IT enabled services, process re-engineering, moving from output to outcomes, community participation, time-bound delivery of public services and the like -to cater to the growing needs of the people. In the governance ecosystem, there is a felt need for trained, skilled and insightful work force equipped to quickly adapt to the changes and deliver on people’s expectations.

I hope this Hand Book will serve the purpose it intends to achieve and come in handy for the trainees in preparing them for the future challenges.

  
26/05/2023

**(Deoranjana Kumar Singh)**



**Sri Debi Prasad Sarangi**  
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## **ABOUT THE HAND BOOK**

The utility and need for training in any organization is universally accepted. Training is important because it represents a good opportunity for employees to grow their knowledge base and improve their job skills to become more effective in the workplace. Orientation, in-house mentorship and external training are various steps in a training process. While working in different departments of the Government, a sound and vibrant training in all these contribute a lot right from formulating rules and regulations, execution of various welfare policies, preparation of budget for their implementation and monitoring etc.

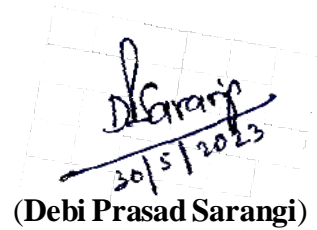
The Odisha Secretariat Training Institute (OSTI) has been a premier training institute for OSS officers. The freshers as well as Senior OSS officers are imparted in-service training on various aspects of administration in this Institute. Admittedly, each officer working in Secretariat Departments must go through the manuals/ circulars to acquaint him/ her with the different aspects of secretariat administration. In fact, efficiency of a Government officer depends on prompt, judicious and knowledgeable disposal of the office works. Therefore, continuous efforts are being made by this Institute to prepare capable and trained officers.

When I was posted in this Institute as a faculty in 2017, I searched for a Hand Book/ Reference Book for my own learning so that I can deliver the best to the fresh ASOs. But, it was hardly possible to find such a Government/ Private publication. It compelled me to think for publication of such a reference book so that both the trainer and the trainee can benefit from it. Initially it was confined to subjects of my interest only. Later, when I assumed the charge of the Principal, the subjects extended to the total curriculum of Induction Training.

The feedback of the trainee officers reveals one most important aspect of the training which often goes unnoticed. For instance, when an ASO is moved from one Section/ Department to another Section/ Department on routine transfer or on promotion, he/she faces a lot of problems

in familiarizing himself/ herself with the assigned subject matter in their new work place. For example, an ASO working in field establishment section of Works Department may not feel at home when asked to work in one of the Budget expenditure Sections of Finance Department. In order to address such difficulties faced by OSS officers in different Departments/ Sections, the need for a Hand Book comprising of working procedure along with relevant acts, rules, regulations/ practices and protocols on subjects was strongly felt.

The Government rules, regulations, procedures in public service delivery system are changing frequently. Binding all such rules, regulations in a small book is really not possible. However, maximum care has been taken to ensure accuracy and consistency in the chapters of this Hand Book. For better understanding, adequate illustrations have been given in some difficult chapters. The efforts in the Hand Book would be fruitful if the officers in Secretariat find it useful in resolving different issues on their desk with the help of these chapters. The valuable suggestions for improvement in the chapters would also be highly appreciated.



**(Debi Prasad Sarangi)**

## **ACKNOWLEDGEMENT**

This Hand Book, meant for the OSS Officers, is a product of collective efforts put in by a great many people who have contributed substantively in putting together this volume. We take this opportunity to place on record our deep appreciation for the patronage received from various quarters and the hard work put in by many who have kindly spared their valuable moments to write/revise/make corrections and offer valuable suggestions enriching the content, design and quality of the hand book. We confess, but for their encouragement, advice, counselling and direction this publication would not have been possible.

The guiding spirit behind this first of its kind enterprise is non else than our esteemed Additional Chief Secretary, Home Sri Deoranjana Kumar Singh, IAS whose unreserved support, encouragement and patronage has made it possible to cobble up this volume. We record our deep appreciation for his continuous inspiration which defies description. Besides, the constant support of Sri Asit Kumar Tripathy, IAS and Sri Sanjeev Chopra, IAS, former Additional Chief Secretary, Home has encouraged us to initiate the compilation of this Hand Book.

We take this opportunity to extend our heartfelt gratitude to Dr. Nivedita Prusty, OAS, Additional Secretary, Home Department for her seminal contribution to the larger cause of OSS cadre. Moreover, her constant support for this training institute in all aspects has surfaced in publication of this Hand Book.

Sri Sanjeev Chopra, IAS, the then Additional Chief Secretary, Home had been kind enough to facilitate preparation of the Hand Book by deploying Sri Chitta Ranjan Pradhan, former Joint Secretary, H & UD Department to assist in the preparation of the Hand Book. However, the work could not proceed duly due to COVID pandemic. We are thankful to our regular faculties in general and Sri Srikant Sundar Panda, Deputy Secretary & faculty in particular who have contributed immensely in drafting the chapters on service matters.

We gratefully acknowledge the contribution of many eminent personalities who have kindly condescended to take time out of their busy schedule and edit the drafts of many chapters. This book has immensely benefited from their rich experience and expertise and we owe a debt to all of them. Their deep insight enriched the contents of this publication and added a new dimension. The list of those eminent personalities is given below.

**Sl No Name of the Eminent Personality**

1. Sri Dharendra Nath Padhi, Former State Chief Information Commissioner, Odisha.
2. Sri Bijay Kumar Patnaik, Former Chief Secretary, Odisha.
3. Sri Loknath Sarangi, Former Special Secretary, P & C Department.
4. Sri Madhusudan Mishra, Former Additional Secretary, Home Department.
5. Sri Amiya Kumar Sarangi, Former Secretary, Odisha Legislative Assembly.
6. Sri Debendra Kumar Jena, OSD-cum Special Secretary, P & C Department.
7. Sri Satya Priya Rath, IAS, Budget Officer-cum- Additional Secretary, Finance Department.
8. Sri Sidhartha Das, IAS, Additional Secretary, Finance Department.
9. Sri Santosh Kumar Suar, OFS, FA-cum-Additional Secretary, Home Department.
10. Sri Samarendra Dhal, Additional Secretary, Home Department.
11. Smt Kabita Mohanty, Former Joint Secretary, Law Department.
12. Sri Bijay Kumar. Mohanty, Former Joint Secretary, P.R & D.W Department.
13. Sri Kalpataru Swain, Former Joint Secretary, Parliamentary Affairs Department.
14. Sri Anil Kumar Purohit, OFS, Joint Secretary, Finance Department.
15. Sri Nishikanta Mishra, OFS, Joint Director, Directorate of Treasuries & Inspection, Odisha.
16. Sri Gangadhar Mallick, OFS, AFA-cum- Deputy Secretary, Home Department.
17. Late Kishore Chandra Mahal, Former Desk officer, Finance Department.

**TEAM OSTI**

**TEAM OSTI**

1. Sri Debi Prasad Sarangi, Additional Secretary & Principal, Home (OSTI) Department.
2. Sri Prafulla Chandra Sankhua, Joint Secretary & Faculty, Home (OSTI) Department.
3. Sri Bichitra Kumar Mishra, Former Joint Secretary & OSD (Faculty), Home (OSTI) Department..
4. Sri Srikant Sunder Panda, Deputy Secretary & Faculty, Home (OSTI) Department.
5. Sri Khirod Kumar Naik, Deputy Secretary & Faculty, Home (OSTI) Department.
6. Sri Manoj Kumar Sarangi, Under Secretary & Faculty, Home (OSTI) Department.
7. Sri Tarun Kumar Biswal, Under Secretary & Faculty, Home (OSTI) Department.
8. Sri Manoj Kumar Behera, Former Deputy Secretary & Faculty
9. Sri Prabir Kumar Pradhan, Former Under Secretary & Faculty



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# 1

## **ODISHA SECRETARIAT SERVICE**

- ◆ **BACK GROUND**
- ◆ **CONSTITUTION**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## **ODISHA SECRETARIAT SERVICE**

### **BACKGROUND:**

The Odisha Secretariat Service otherwise known as OSS is one of the oldest organized services with a proven track record of performance. It is a privilege to be a part of the apex administration which not only wield considerable power and authority but also discharge the onerous responsibility of developing the state. One should draw satisfaction from the fact that this service would provide ample scope to work on a broader canvass comprising practically all aspects of the state administration.

Assistant Section Officers (ASO) constitute the entry level of OSS. Therefore, it is natural that one may be struggling to understand the structure and status of the OSS and his/ her role and place in it. For beginners, it is imperative that one has a fair idea about the Secretariat ecosystem, its structure, function and procedures.

The Council of Ministers discharge functions in the name of the Governor. A Minister is the executive head of the Department assigned to him. He is answerable to the Legislative Assembly and his role is that of giving a political direction to the Department. It is the Minister's prerogative to lay down the broad contours of a policy. But, it is the permanent executive, also called the bureaucracy, which fleshes up that policy and oversees its implementation.

The State Secretariat consists of all officers from Secretary to the official at the lowest rung of the Secretariat. Secretariat refers to a complex of Departments whose administrative heads are Secretaries and political heads are the Ministers. Below the ministers, there are several career civil servants posted in each Department who carry out the orders of their political bosses, advise them and help them by providing necessary information as and when required. Apart from All India Service officers, the work force of Secretariat also includes officers drawn from various other services/cadres such as Odisha Administrative Service (OAS), Odisha Finance Service (OFS), Odisha Secretariat Service (OSS) etc. The Odisha Secretariat Service/ Cadre starts from the grade of Assistant Section Officer (ASO). All the Section Officers(SO), Desk Officers(DO), Under Secretaries, Deputy Secretaries, Joint Secretaries and Additional Secretaries are members of this service.

Though, to a casual observer, an ASO may appear to be a small cog in the machinery of the State Government, all the papers that are handled in the Department land on the table of the ASO whether in the beginning or at the end of their journey. An ASO carries considerable responsibility. For example, if an ASO is posted in the Department of Higher Education, he may have a role in giving shape to the State's education policy while his friend ASO posted in the Health & Family Welfare Department may be dealing with State's Health Policy. On quite a few occasions some policy drafted by an ASO has become the official policy of the Government of Odisha. Ministers will make statements in the Assembly based on a brief drafted by an ASO,

and sometimes even read verbatim a statement prepared by an ASO. World at large may not acknowledge or even be aware of an ASO's contribution, but that is moment of pride that will make his/ her long hours of work worthwhile. Away from the pale of public glare, an ASO's toil would continue to contribute to nation building. A hero would still be a hero even if unsung.

An ASO is the custodian of records. He/she is the repository of information and constitutes the most vital link between the past and the present. Many a situation has been saved because an ASO recalled some vital information, which, if not highlighted, could have resulted in wrong decision.

All the officers of Secretariat Service are expected to make in-depth examination of every issue, bringing out both pros and cons and then coming up with fair and workable solutions. With their easy access to facts and figures, precedents, dissertations, analysis, expert input and professional advice, they are uniquely placed to make meaningful contribution in the process of decision making. As they continue to gain experience in matters assigned to them, they often become reliable assets to the Department where they serve. They are known for their integrity. It is sure an OSS officer will live up to the long tradition of selfless service to the State.

OSS officers are often considered the backbone of the State Secretariat. Their work usually requires them to have a command over rules and regulations, and a sense of history. The habit to do things in a correct manner, and familiarity with the precedents, while at the same time not being blind to change, is what makes a wonderful OSS officer. As an OSS officer continues to shoulder various assignments and deal with a plethora of subjects, he/ she gains substantial experience in course of time.

### CONSTITUTION:

The Odisha Secretariat Service is one of the earliest organized service cadres in the State. The origin of the service can be traced back to the year 1936, *i.e* when Odisha became a separate State by carving out certain portions from the erstwhile provinces of Bihar, Odisha and Madras. Over the years the structure of the service has undergone many changes.

The OSS constitutes the mainstay of the secretariat administration. Presently there are seven grades in the service, viz:- Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary in Group A and Desk Officer, Section Officer and Assistant Section Officer in Group B. The cadre strength as it stands today is given in the table below along with pay scales/levels under 6<sup>th</sup> and 7<sup>th</sup> Pay Commission:-

Name of the Post	No of Posts	As per 6 <sup>th</sup> CPC (ORSP Rules, 2008)		As per 7 <sup>th</sup> CPC (ORSP Rules, 2017)
		Pay Band	GP	Pay
ASO	1498	PB-2 Rs 9300-34800	Rs 4200	L-9 (Rs 35400-112400)
SO	727	PB-2 Rs 9300-34800	Rs 4600	L-10 (Rs 44900-142400)
DO	333	PB-2 Rs 9300-34800	Rs 4800	L-11 (Rs 47600-151100)
US	327	PB-3 Rs 15600-39100	Rs 5400	L-12 (Rs 56100-177500)
DS	105	PB-3 Rs 15600-39100	Rs 6600	L-13 (Rs 67700-208700)
JS	37	PB-3 Rs 15600-39100	Rs 7600	L-14 (Rs 78800-209200)
AS	10	PB-4 Rs 37400-67000	Rs 8700	L-15 (Rs 123100-215900)

While important structural changes have been made several times since 1936, one common thread running through all the stages of the evolution of the service, has been the role of this service in ensuring continuity of administration in the State Secretariat which is in common parlance called - secretariat administration and housekeeping. In the areas of policy making, where specialized services are available and also in areas where these are not available, there is a need at middle levels of the Government personnel who are especially trained to coordinate various expert opinions, ideas to present a balanced picture. Presently, officers of the OSS are largely handling these jobs, and it is because of this new role that the service, today, is different from what it was originally envisaged for. There is also a need to have a strong permanent bureaucratic set up at middle levels of the Government who would be able to provide necessary continuity to its administration and policies.

The ultimate objective of all Government business is to meet the citizens' needs and to further their welfare without undue delay. At the same time, those who are accountable for the conduct of that business have to ensure that public funds are managed with utmost care and prudence. It is, therefore, necessary, in each case, to keep appropriate record not only of what has been done but also of why it was so done. The permanent bureaucratic set up should provide a delivery system for policy formulation, continuity in policy administration, monitoring & review of the implementation of policies/ schemes, coherent institutional memory etc., which are germane to good governance at the Headquarters' of the State Government. The OSS officers as per their duties defined in the Odisha Secretariat Instructions and other relevant documents are expected to perform on all counts viz. prompt action, checks on delays, linking of all relevant material including rules, precedents etc. and put up alternative solutions along with possible consequences and conclusions.

Better skills in noting and drafting and in interpretation of rules and regulations by members of OSS is well-recognized. As a matter of fact, they facilitate maintaining the vital link between Legislature and the State Secretariat, especially when it comes to handling of Assembly Questions, Assurances, Government Bills, etc. Another important area where they substantially contribute is the work relating to cadre management of various organized services, work relating to financial management and preparation of the budget of various Departments and litigation work of the State Government. Thus, the OSS officers ensure continuity in the policies, programmes and functioning of the State Government.

The lowest functionary of the OSS *i.e.* ASO, besides routine noting and submission of cases, is required to locate and collect other files or papers, information, data and material, if any, referred to in the receipt, or having a bearing on the issues raised therein, identify and examine the issues involved in the case and record a note. The section consisting of ASO and SO or DO, while putting up a case, are required to see whether all the statements, so far as they are open to check, are correct, point out mistakes, incorrect statements, missing data or information (if any), draw attention to the statutory or customary procedure and point out the relevant law and rules, furnish other relevant data or information available in the Department, state the questions for consideration and bring out clearly the points requiring decision, draw attention to precedents, evaluate relevant data and information, and suggest, where possible, alternative courses of action for consideration.

The brief description of functions an ASO is called upon to discharge as enumerated above is by no means exhaustive. In times of emergency or calamity like the corona pandemic, an ASO may be required to

perform duties which lie outside his/ her routine assignment beyond office hours. It would be in the interest of the ASO to develop a buoyant attitude to learn from emerging and new situations even if unrelated to his/ her assigned work, cultivate the basics of approaching various problems and arm himself/ herself with a rich fund of knowledge on rules and regulations so that he/ she can prove himself/ herself as a go-to-man for advice.

Last, but not the least, a word on intervention of technology in process re-engineering. Information technology in managing office processes has become a fait accompli across Government offices from the Secretariat down to Panchayats. The state administration have already traversed a long way from the archaic working environment where all the clerical and paper work like letters, correspondences, files, records, etc were carried out manually and involved lots of paper work. It is not uncommon to come across volumes of registers, vast number of physical files and printed materials stacked in the racks of Departments. However, there is a determination in Government circle to switch over to the digital platform and to provide all public services online. In this long march to digitization of office procedures, our Government have crossed many a milestone. Several sector specific applications like IFMS, OSWAN, OSWAS, i3MS and HRMS etc have considerably impacted the work environment in government and have become the models across the nation being adopted by the Centre as well as States. As the frontline workers, ASO will be tested for his/ her acclimatization, proficiency and faster delivery. It is sure that the OSS officers would rise to the occasion and adopt the changes in administration very quickly.

**OSS cadre is honoured and every member of this cadre feels proud of the fact that Smt. Droupadi Murmu, Her Excellency, Hon'ble President of India was once a member of this cadre.**

#### **FREQUENTLY ASKED QUESTIONS:**

**Q:** Under which rule(s), the recruitment and conditions of service of a member of OSS cadre are regulated?

**Ans:** The Odisha Secretariat Service (Methods of Recruitment & Conditions of Service) Rules, 2016.

**Q:** Can each ASO get the opportunity to be promoted to the post of Additional Secretary?

**Ans:** Yes. Provided that the ASO should have proper merit cum seniority.

**Q:** Is it a transferable job?

**Ans:** Yes. An ASO can be transferred within a Department (*i.e.* -from one Section to another Section) and also from one Department to another Department including to GA (Vigilance) Department located at Cuttack as well as to different Commissions as would be decided by the Government in Home Department.



## 2

### **ORGANISATIONAL STRUCTURE**

- ◆ **RULES OF BUSINESS**
- ◆ **SECRETARIAT**
- ◆ **DEPARTMENTS**
- ◆ **DIRECTORATES**
- ◆ **DISTRICT OFFICES**
- ◆ **CONSTITUTIONAL BODIES**
- ◆ **STATUTORY BODIES**
- ◆ **AUTONOMOUS BODIES**
- ◆ **PUBLIC SECTOR UNDERTAKINGS**
- ◆ **INFORMATION AND FACILITATION COUNTERS**
- ◆ **FREQUENTLYASKED QUESTIONS**



## ORGANISATIONAL STRUCTURE

Article 166 (3) of the Constitution provides that the Governor shall make rules for transaction of business of the State Government. As part of this constitutional obligation, the Governor allocates business among the Ministers in consultation with the Chief Minister. The Governor is the executive authority of the State. In exercise of his powers, the Governor is aided and advised by a council of Ministers headed by the Chief Minister. In order to transact the said business, a set of rules and instructions have been framed in the name “Odisha Government Rules of Business” or shortly abbreviated as “Rules of Business”.

### **RULES OF BUSINESS:**

These Rules comprises two schedules and a set of instructions issued under rule 14 of these Rules. Matters relating to departmentalization of government functions, classification and distribution of government business, constitution of Cabinet Committee, its powers and functions, powers of Chief Minister and other Minister(s) and organization of a Department and the responsibilities of a Secretary in managing the affairs of the Department constitute the broad areas which are covered under the schedules. The set of instructions relate to matters of special importance framed with a view to facilitating smooth transaction of Government business.

### **FIRST SCHEDULE:**

The First Schedule contains allocation of business among different Departments. The responsibility for allocating business among departments lies with the GA & PG Department. Thus, creation/ merger/ abolition of departments along with re-allocation of subjects fall within the functional domain of this Department. It is, therefore, important that officers working in a Department should have a thorough knowledge about the business/ subjects allocated to them.

### **SECOND SCHEDULE:**

The Second Schedule specifies matters which should be brought before the Cabinet.

### **INSTRUCTIONS:**

The instructions have been organized in to seven parts each dealing with specific matter as given below:

- Part - I     Definitions
- Part - II    General matters including powers and functions of the Governor, Chief Minister, Minister-in-Charge, Chief Secretary, Additional Development Commissioner, Agriculture Production Commissioner,

- Part - III Procedure of the Cabinet
- Part - IV Special functions of Finance Department
- Part - V Proposals for Legislation (dealt with in a separate chapter)
- Part - VI Special functions of P & C Department
- Part - VII Miscellaneous


The functions of Government machinery are carried out through various Departments of the Secretariat. Presently there are 41 Departments functioning in the State Secretariat. The function of a Secretariat Department is either Department specific or conventional *i.e.*, common to all. Some of the common areas handled across Departments are establishment, budget, accounts, assembly matters etc. whereas specific areas include subjects coming under general services, social services and economic services.

### **SECRETARIAT:**

Secretariat is the apex body of State administration. The Secretariat work is confined to framing of policies, laying down of rules, principles and procedures, financial control, work connected with legislation, general direction and also evaluation of work done and delegation of adequate financial and administrative powers to sub-ordinate authorities.

### **DEPARTMENT:**

A Department is responsible for formulation of policies of the Government in relation to business allocated to it and also for the execution and review of those policies. The organizational structure of Departments has been modeled on functional lines with a hierarchy of officers discharging specific jobs/ tasks as follows:-

- (i) Each Department is normally headed by a Secretary who acts as the administrative head of the Department and principal advisor to the Minister on all matters. **Remember**, he/ she is a Secretary to the Government and not to the Minister in charge of the Department. He/ She exercises general supervision and control over the staff under him/ her and it is his/ her duty to ensure prompt transaction of business by observing rules and instructions framed for the purpose in his/ her department.
- (ii) For efficient disposal of the business allotted to it, a Department is divided into branches and sections. A Section is generally the lowest organizational unit in a Department with a well defined area of work.
- (iii) The work in a Department is normally divided into sections with Special Secretary/ Additional Secretary/ Joint Secretary/ Deputy Secretary/ Under Secretary in charge of each section(s). Such a functionary is normally vested with maximum measure of independent functioning and responsibility in respect of the subject coming within the purview of his section. However, the overall responsibility of administration lies with the Secretary of the Department. 

**DIRECTORATES:**

Directorates are the chief executive organs of the Government. In the Secretariat, policy formulation is being done by a group headed by generalists. While in the Directorates, policy implementation functions are headed by specialists. Directorates are arranged on the principle of division of labour. Further, in order to have subject-wise focus, several Directorates under different Administrative Departments have been established. The Directorates are responsible for the detailed implementation of plans/ programmes. The Director assigns specific responsibilities to the field establishments and gives necessary direction on implementation of various schemes. Thus, the Directorates act as a vital link between the field establishments and the Secretariat.

However, in order to streamline the functioning of Directorates and speed up the process of decision making, Government have been pleased to integrate the different Directorates with their respective Administrative Departments in G.A & P.G Department Resolution No 23525/Gen, Dated 21.08.2019. As per new set up, there will be a single platform (i.e- OSWAS) and every proposal initiated by the Directorate shall not be required to be re-initiated or re-examined *de novo* in the Department.

**DISTRICT OFFICES:**

District as a basic unit of field administration is a legacy which has been inherited from the British Era. It is the lowest administered unit of the Union. The District Collector is the chief representative of the Government in the district and acts as the head of district administration. The collector has three major functions namely revenue, magisterial and developmental. Apart from these major functions, a large number of miscellaneous functions are also entrusted to him by the State and the Central Government like conduct of election, dealing with calamities, census, supervising local government institutions, etc. At present, the role of Collector has become multifarious and marks a visible shift in the direction of development as he implements all the development programmes. Since he is the head of the district, he coordinates the activities of all departments under specialists like engineers, doctors, agriculture and allied department officers by holding series of meetings among them at periodic intervals. He is also acting as the friend, philosopher and guide of panchayat raj institutions.

**CONSTITUTIONAL BODIES :**

Constitutional bodies derive their powers and authorities from the Constitution of India. Since they get their power from the Constitution, any change in the structure/ function of the constitutional bodies would require a constitutional amendment. Notable instances of constitutional bodies functioning in connection with the affairs of the State include Odisha High Court, Odisha Public Service Commission, Comptroller and Auditor General etc.

**STATUTORY BODIES :**

Such bodies are established under a statute or an Act of the State Legislature. State Information Commission, Odisha Electricity Regulating Commission, Human Rights Commission, Board of Secondary Education, Council of Higher Secondary Education etc. are some of the important statutory bodies functioning in the State.

**AUTONOMOUS BODIES :**

Such bodies are set up whenever it is felt that certain functions need to be discharged outside the Governmental set up with some amount of independence and flexibility without day-to-day interference of the

Governmental machinery. Although such bodies are given autonomy to discharge their functions in accordance with the Memorandum of Associations etc., the Government's control exists since the State Government funds these bodies. Example: Government of Odisha Corporations, Boards, Universities etc.

### **PUBLIC SECTOR UNDERTAKINGS:**

Public Sector Undertaking are set-up in the form of companies or corporations incorporated the provisions of the Companies Act, 1956 in which the Governor of Odisha or his nominee(s) hold the shares and which are managed by the Board of Directors, which includes officials and non-officials. Example: OMC, OSRTC, OPTCL, GRIDCO, IPICOL, OTDC etc.

### **INFORMATION AND FACILITATION COUNTERS :**

The structure of the Government set up outlined above seeks to facilitate effective delivery of public services and development administration. The Government of Odisha has, time and again, tried innovative methods to reach out to the people at the bottom of the pyramid. As part of this ongoing exercise, the Government has brought about a new legislation in the name of "the Odisha Right to Public Service Act, 2012" not only to bridge the gap between aspirations of the citizen and the quality of service delivered but also guarantees the delivery of public services in a time bound manner. The ORTPS Act, 2012 in Odisha is an exemplary initiative by the State Government to check corruption in public service delivery. The law enables the citizens to demand public services as a right and also includes a provision for penal action against officials failing to provide the services within the stipulated time. The idea is to generate a demand for services and to provide citizens with a platform for getting their grievances redressed in a time bound manner.

The objectives of the Act are:

- (a) Better service delivery to citizens;
- (b) Ushering in transparency and accountability;
- (c) Empowerment of people through information;
- (d) Improved efficiency within Government;
- (e) Improved interface with citizens.

The said Act has been published in the Odisha Gazette vide the Law Department Notification No 11902/Legis, Dated 01.11.2012. As per provisions of the said act, *Janaseva Kendras* have been opened across the State to reach out to the people living in remote and inaccessible areas of the State and to provide required service.

Different Departments of the Government are working on a mission mode to identify services of various kind ranging from online payment of Government dues including land revenue, water tax, electricity dues, approval of building plan, issue of trade license to issuance of birth and death certificate etc. Many such services have already been made available online which guarantee least human interference and utmost transparency. As of now, the number of services brought under ORTPS Act by various Departments is given below for appreciation.

<b>SI No</b>	<b>Name of the Department</b>	<b>No of services delivered under ORTPS Act</b>
1	Commerce & Transport (Transport)	32
2	Revenue & Disaster Management	34
3	Finance	7
4	Home	33
5	Health & Family Welfare	9
6	Social Security & Empowerment of Persons with Disabilities	1
7	ST & SC Dev., Min & Backward Classes Welfare	3
8	Housing & Urban Development	26
9	School & Mass Education	19
10	Higher Education	27
11	Fisheries & ARD	17
12	Industries	7
13	Micro, Small & Medium Enterprise	29
14	Labour & Employees' State Insurance	27
15	Panchayati Raj & Drinking Water	3
16	Excise	3
17	General Administration & Public Grievance	3
18	Agriculture & Farmers' Empowerment	6
19	Skill Development & Technical Education	7
20	Co-operation	11
21	Forest & Environment	20
22	Food Supplies & Consumer Welfare	6
23	Tourism and Culture	3
24	Energy	8
25	Handlooms, Textiles & Handicrafts	8

The details of services brought under this Act can be accessed in website of each Department.

**FREQUENTLY ASKED QUESTIONS**

**Q:** Which Department decides constitution or closure/ merger of a Department?

**Ans:** GA & PG Department.

**Q:** Which Department assigns subjects among different Departments?

**Ans:** GA & PG Department.

**Q:** What is delegation of power?

**Ans:** It is an arrangement made under para 4 of the Instructions contained in the Rules of Business according to which the decision making level among Minister, Secretary and other officers of a Department in respect of various matters or class of matters is specified by issue of a standing order.

**Q:** What procedure is to be followed when a matter concerns more than one department?

**Ans:** In such cases, final order shall be issued only after obtaining concurrence of concerned Departments. In case of disagreement between/ among concerned departments, Ministers may arrive at an agreement through consultation or if no agreement is arrived at, orders of the Chief Minister would be final.

**Q:** What procedure is followed for communication of displeasure of the Government to higher officers like Collector, Director etc.?

**Ans:** Communication of displeasure shall be made in the form of confidential letter or memorandum with due approval of the Minister in charge and the Chief Minister and shall be issued under the signature of the Chief Secretary.

**Q:** What is the procedure to be followed in respect of matters involving financial implication?

**Ans:** Rule 10 of the Rules of Business envisages that concurrence of Finance Department is mandatory if the subject matter involves financial implications. In matters like creation/ grading of posts, relinquishment of revenue, grant of land on concession etc. prior consultation of Finance Department is necessary.



## 3

### **OFFICE MANAGEMENT**

- **AUTHORITY & FUNCTION OF OFFICERS**
- **RECEIPT & DISTRIBUTION OF DAKS**
- **CLASSIFICATION**
- **ACKNOWLEDGEMENT**
- **CONFIDENTIAL FILES/ PAPERS**
- **FILE REFERENCE TO OUTSIDE SECRETARIAT**
- **CONSULTING FINANCE DEPARTMENT**
- **CONSULTING REVENUE & DM DEPARTMENT**
- **CONSULTING LAW DEPARTMENT**
- **RECORDING OF FILES**
- **COMPLIANCE NOTE**
- **REFERENCE TO OPSC**
- **PUBLICATION OF ADVERTISEMENT**
- **COMPOSITE OFFICES**
- **COMMITTEE PROCEDURE**
- **FREQUENTLY ASKED QUESTIONS**

## OFFICE MANAGEMENT

The office management involves planning, design, implementation of work in an organization and its offices. This includes creating a focused work environment, and guiding and coordinating the activities of office personnel to achieve business goals. These activities are evaluated and adjusted to improve and maintain efficiency, effectiveness, and productivity.

With a view to increasing efficiency and reducing delays in transaction of business among departments of Government, a number of circulars and orders have been issued time and again on organization and procedural matters. The circulars/ orders/ instructions issued from time to time in these matters have been compiled in the name of “**The Odisha Secretariat Instructions**” which was published nearly 50 years ago can be accessed from GA & PG Department official website.

These instructions contain 19 chapters and 21 appendices. In view of introduction of IT and ITES in secretariat administration, most of the chapters have become redundant now. However, subject matters such as ‘Noting’, ‘Drafting’, ‘Budget’, ‘Assembly Procedure’, ‘Legislation’ and ‘Recruitment & Promotion’ etc have been dealt with separately in this Hand Book. Matters which have not been covered but are still being followed in Secretariat departments are discussed below.

### **AUTHORITY & FUNCTION OF OFFICERS:**

In the chapter on “Organizational Structure”, we have already discussed how departments of the Secretariat have been organized. Now we shall discuss how the powers and functions being discharged by a Department are distributed among the various levels of officers.

- ◆ The Secretary being the administrative head is responsible for smooth working of the Department. With the approval of Minister-in-charge, Special, Additional, Joint, Deputy, or Under Secretary may be authorized to dispose of specified classes of cases without the intervention of the Secretary. However, the Secretary retains the right of intervention in any such case at any stage. Each Department issue Office Order delegating both administrative as well as financial powers among its officers time to time. The Officers of a Department must acquaint themselves with such delegation.
- ◆ In financial sanctions, the Secretary may, by order in writing, authorize an Officer serving under him to exercise, as may be specified in that order all or any of the powers conferred on him. (*Rule 10 of DFPR, 1978*)
- ◆ In cases dealt with by a Special/ Additional Secretary, authorized to discharge the functions of a Secretary, the instructions contained in the above proviso will apply only to the extent specified in the order of authorization.



- ◆ Within their respective spheres, it is for the Secretary/ Special / Additional/ Joint/ Deputy or Under Secretary to decide whether a particular case should be submitted to higher officer, or it can be disposed of by himself under the authority, expressed or implied, delegated to him.
- ◆ Whenever a proposal of a head of a department is proposed to be turned down, orders of the Minister or Deputy Minister in charge should be taken, unless the matter can be disposed of in accordance with some general decision taken by him previously. It is desirable that, whenever, possible, the Secretary, Additional Secretary or Deputy Secretary in charge of the section dealing with the proposal should have a personal discussion with the head of the department before recommending its rejection. If the head of the department wishes to press his proposals, he should have facilities for placing his views before the Minister in charge in the presence of the Secretary, Additional Secretary, or Deputy Secretary of the department concerned. **(Chap I.6)**

#### **RECEIPT & DISTRIBUTION OF DAKS:**

- ◆ Except covers addressed by name, which should be sent unopened to the addressees, all daks, including registered and insured articles, will be received and opened normally by the Secretary of the Department unless arranged otherwise.
- ◆ Local communications, other than those in closed covers, shall be received by the diarist and submitted to the Secretary for perusal.
- ◆ Correspondence of any kind addressed to the Minister will be received by his Personal Assistant or any other class III officer of the Minister's office designed for the purpose.
- ◆ All communications shall be initialed and dated by the officer receiving them, after having them stamped by the office stamp. The receipts so initialed by the concerned officer, are then scanned in diary section and sent to concerned officer through OSWAS.
- ◆ All officers must give the perusal of dak highest priority. Personal Assistants and stenographers should treat the receipts moving up and down as 'Immediate'. The officers and the SO/DO concerned should keep a careful watch on any hold-up in the movement. **(Chap V.1)**

#### **CLASSIFICATION:**

- ◆ ASO posts in Secretariat Departments have been created on the basis of assessment of man hour required for disposal of different types of receipts. The receipts are classified as 'A', 'B' and 'C'. An 'A' class receipt is considered equivalent to two 'B' class receipts while each 'C' class receipt is considered equivalent to half 'B' class receipt. Ordinarily, 1100 'B' class receipts justify one post of ASO. However, the Government is yet to revisit this parameter. **(Chap V.2)**

#### **ACKNOWLEDGEMENT:**

- ◆ All letters, petitions etc., from private or non-official persons or bodies, as well as from officers not in the service of the Government or in the Secretariat should be acknowledged at once.

- ◆ Communications from the Government of India and other State Governments and administrations, except when they are being transferred to another department, and reminders and such routine papers as requisitions for copies of documents, etc., need not be acknowledged. Where petitions or letters involving any point of law or relief in a court of law or before a statutorily constituted authority is received, acknowledgement of the said petitions or letters should not be made in the routine prescribed form.
- ◆ When a petition addressed to Government is received, if there is sufficient material for an immediate rejection of it, it should be recommended for such rejection. Similarly, if there are obvious reasons for calling for a report from the local officer, that also should be recommended at once. But if the petitioner has not supplied sufficient material for an immediate decision on the desirability of either rejection or local reference, the petition must then be returned to the petitioner. Every effort should, however, be made to inform the petitioner clearly at the time of returning his petition, what further information is wanted so that the case may not again require a reference to the petitioner before the disposal of his petition.
- ◆ No action should be taken on anonymous or pseudonymous petitions and complaints, but, if some specific allegations have been made therein, confidential inquiries may be made under the orders of an officer not below the rank of a Joint Secretary. (Chap V.54)

#### **CONFIDENTIAL FILES/ PAPERS:**

- ◆ All papers, including office notes received or dealt with in the Secretariat, are of confidential nature the contents, of which should not be divulged or spoken outside the office. Breach of this rule is an offence punishable with imprisonment which may extend to two years or fine or both, under section 5(4) of the Indian Official Secrets Act, 1923 (XIX of 1923). This rule applies with greater force to documents specially classed as “Confidential” and all are cautioned to observe strictest secrecy in regard and all are cautioned to observe strictest secrecy in regard to them and, on no account, to divulge their contents in or outside the office. (Chap V.66)

#### **FILE REFERENCE TO OUTSIDE SECRETARIAT:**

- ◆ Normally Secretariat files should not be sent to a Head of Department or an office outside the Secretariat. If any information or the view of a Head of Department or any officer outside the Secretariat is required, he may be addressed in a self-contained letter or memo. When it becomes necessary, only so much of the extracts from the file as will be necessary may be sent.
- ◆ Only in very exceptional cases, where the Secretary considers that the file is to be referred to the Head of Department or any other officer outside the Secretariat, he may send the file to that officer. But in that case, the office notes and other papers which should not be sent outside the Secretariat should be retained by removing them from the file and the other papers sent.
- ◆ In case of sending a file outside the Secretariat, the Secretary himself will see that the papers and notes not required to be sent out of the Secretariat are retained and the file is sent to the proper quarters. In no case, the Secretary will authorize an officer under him to send a file outside the Secretariat. Files sent outside the Secretariat shall be sent in closed covers properly sealed and addressed to the officer by name. (Chap VI.11)

**CONSULTING FINANCE DEPARTMENT:**

- ◆ While making reference to Finance Department seeking views, concurrence etc. care should be taken so that delay can be minimized. A case should receive thorough examination in the administrative department before it is referred to the Finance Department.
- ◆ While referring a case to Finance Department, the department referring the case should present a complete self contained note, fully referenced, stating precisely the points on which concurrence or advice of the Finance Department is sought for.
- ◆ However, Finance Department have issued a set of instructions in their **Letter No 40172/F, dated 24.12.2018** to be followed by all departments while referring files to Finance Department. (**Chap VI.16**)

**CONSULTING REVENUE & DM DEPARTMENT:**

- ◆ All applications for the alienation of lands within the State, whether by lease, gift, or otherwise, to public bodies, associations, companies, firms syndicates, or individuals, which are not warranted by the ordinary rules of revenue administration in force are to be referred to Revenue & D.M Department.
- ◆ Applications for the alienation of land revenue will be dealt with initially on their merits in the administrative department concerned with the object for which the grant of land or alienation of revenue is required.
- ◆ No sanction can be accorded to any such application without the consent of the Revenue and the Finance Departments, even if the lands are in the charge of any other department.
- ◆ The administrative department will first consult the Revenue & D.M Department. That department will consult the Board of Revenue or, in the case of State lands in the charge of the Public Works or any other department, the department concerned. The Revenue Department will then consult the Finance Department.
- ◆ Finally if it is decided to grant the application, the Revenue & D.M Department will return the case to the administrative department with a memorandum notifying that department of the terms and conditions on which the Revenue & D.M Department will hand over the land or make the assignment.
- ◆ The administrative department will then send a copy of the memorandum of the Revenue & D.M Department to the officer concerned, accompanied by such other orders as may be necessary. (**Chap VI.35**)

**CONSULTING LAW DEPARTMENT:**

- ◆ Normally, the administrative department should consult the Law Department on the following subjects, namely :-
  - (a) proposed legislation;
  - (b) notifications, rules, orders or byelaws to be issued under any enactment by, or with, the sanction of the administrative department ; and

- (c) Notifications which it is proposed to issue under or with reference to the rules for the nomination and election of members of the Orissa Legislative Assembly, or the rule for the election of members of the Parliament.
- ◆ All administrative departments shall consult the Law Department on:-
    - (a) the construction of statutes, acts, regulations and statutory rules, orders and notifications;
    - (b) any general legal principle arising out of any case ; and
    - (c) the institution or withdrawal of any prosecution at the instance of any administrative department except in cases which are simple and clear and where no point of law is involved.

(Chap VI.38)

### RECORDING OF FILES:

Secretariat files are recorded in accordance with the procedure laid down in chapter VII of the Odisha Secretariat Instructions.

- ◆ The records of the Secretariat are primarily arranged in annual series for each department and, in each branch or section as the case may be.
- ◆ Before, marking a case for record, the ASO must be careful to see that the papers of the file are complete and arranged, no orders have been overlooked and that no point requiring orders has escaped attention and he should give a certificate, countersigned by the SO/ DO, that he has verified that all papers received and issued are on the file and that all necessary orders for their disposal have been passed. He should also indicate the total number of papers received in and issued from the file.
- The SO/ DO is responsible to classify the proceedings.
- The records may be categorized into following three types:-
  - (i) **‘A’ class proceedings** which are usually of sufficient importance and are, therefore, to be retained **permanently** for constant reference. **For example:**
    - (a) important cases involving questions of policy;
    - (b) correspondence relating to important resolutions moved in the Assembly;
    - (c) correspondence of important character relating to either State or Union legislations;
    - (d) orders establishing important precedents;
    - (e) general instructions, rulings and important orders;
    - (f) important interpretations of rules and regulations.
  - (ii) **‘B’ class proceedings** which includes other important proceedings to be recorded in manuscript or print and preserved for **5, 12, 25, 35** years or **permanently**, according to the degree of importance and frequency of reference. Files or papers containing important notes or demy-official correspondence on any particular point which are of sufficient importance for preservation should be classed as ‘B’.

- (iii) **‘C’ class proceedings** includes papers to be destroyed immediately after disposal or retained for a period not exceeding **three years**. No arrangement of such papers is required. (Chap VII.2)

#### COMPLIANCE NOTE:

- ◆ Article 151 (2) of the Constitution envisages that the Comptroller and Auditor-General(C&AG) of India shall prepare reports relating to the accounts of the state and submit them to the Governor of the State who shall cause them to be laid before the Legislature.
- ◆ Accordingly, the A.G, Odisha, prepares following reports for the State Government in each financial year for the purpose and submitted to the C & AG, India for approval and transmission to the Governor as soon as the March final accounts are closed.

- (i) **Appropriation Accounts:** This account is prepared for each demand which includes original and supplementary sanctioned budget, re-appropriated amount, expenditure actually incurred, savings or excess grant under voted/ charged appropriation and amount surrendered etc. along with comments and audit observations of the C & AG of India. The comments and observations are mainly intended to show unnecessary supplementary grant, defective budgeting, cases of financial loss, write off, irregular grant-in-aid, injudicious re-appropriation etc. which requires prompt action.

The purpose of the audit report is two-fold. For the Government, it shows the extent to which its subordinates are complying with its rules and orders. It suggests also if any change or modification in the existing rules is desirable. For the Legislature, through its Public Accounts Committee, it reveals whether the executive Government has followed the wishes of the Legislature expressed by the voting of grants and whether money placed at the disposal of the executive Government was regularly and promptly spent.

The departments of Government should attend to the various points raised in the Appropriation Accounts and audit report immediately on its receipt without waiting for any formal intimation from the Finance Department/ AG, Odisha/ PAC.

- (ii) **Finance Accounts:** This is a separate compilation of C & AG, India which presents the accounts of the receipts and outgoings of the State Government for the year together with a report on the financial results disclosed by the different accounts and other data coming under examination, that is to say, both the revenue and the capital accounts, the accounts of the public debt and the liabilities and assets of the State Government. It supplements the report of the Auditor-General on the account of the audited expenditure of Government for the year separately presented in the form of appropriation account for each grant. (Chap VII.16)

#### REFERENCE TO OPSC:

The Odisha Public Service Commission (OPSC) shall be consulted on all matters provided under Article 320(3) of the Constitution of India at the earliest opportunity.

- ◆ Under the proviso to the said Article 320(3), the Governor of Odisha has made the Orissa Public Service Commission (Limitation of Functions) Regulations specifying the cases where consultation with the Commission is not necessary.
- ◆ All references to the Commission shall be made by an official letter addressed to the Secretary to the Commission accompanied by all relevant papers or copies of papers including confidential character rolls where necessary. No Secretariat file containing notes and minutes shall form part of the records sent to the Commission.
- ◆ In cases where recommendations of heads of departments are required to be communicated to the Commission, they should pass through the appropriate department of Government.
- Advice of the Commission shall normally be accepted by the Departments. If the department concerned has received the recommendations of the Commission and has arrived at its own conclusions as to the orders which should be issued, it shall, before issuing the orders, in case where any general principle arises which is likely to affect Government servants under any other department, consult the GA & P.G Department and also such other department or departments as may be concerned. All subsequent transactions will be carried out by the originating department.

**(Chap XIII)**

**PUBLICATION OF ADVERTISEMENT:**

- Advertisements and Notices of all Departments meant for publication in newspapers should route through I & PR Department. While sending the advertisement/ notice, the Department concerned should indicate the date and number of times of its publication. After publication of the Advertisement/ Notice, the I & PR Department shall send it with a bill to the concerned Department for its payment.
- (Chap XIII-3)**

**COMPOSITE OFFICES:**

- ◆ Certain departments of Government combine the functions of a Secretariat Department as well as a head of department like PR & DW, I & PR etc. Such departments are also known as composite offices.
- ◆ In such departments, Secretaries, Additional and Joint Secretaries function as heads of departments. Since work in such department is done in the levels of both Secretariat and head of department, confusion arises as to cases in which Government orders are to be obtained and cases that can be disposed of at the level of the head of department.
- ◆ In order to avoid such complications, a set of instructions relating to working of such composite offices have been outlined in Chapter XVII of Odisha Secretariat Instructions. This procedure have been laid down with a view that a composite office can be separated easily whenever it is considered desirable to do so.

- ◆ In the meanwhile, the Government in G.A & PG Department have integrated the Directorates with their respective Administrative Departments in order to streamline the functioning of Directorates and speed up the process of decision making vide their Resolution No 23525/Gen, Dated 21.08.2019. As per new set up, there will be single file system through OSWAS and every proposal initiated by the Directorate shall not be required to be re-initiated or re-examined de novo in the Department. The process is still in its infancy and will take definite shape after details of the integration is worked out in due course.
- ◆ As per procedure, in such composite offices, letters containing orders of Government, or issued from Government level, shall be signed by the designation Secretary/ Special/ Additional/ Joint/ Deputy/ Under Secretary, as the case may be, and such letters shall not be signed by the designation of the head of department or any other officer subordinate to him in the head of department level. Similarly, letters or orders which are issued from head of department level shall not be signed by officers by the designation of the Secretariat status. However, such composite offices shall evolve the procedure of functioning of their own offices so that the papers in the said offices be dealt in the Secretariat and head of Department levels and records thereof be maintained separately. (Chap XVII)

### **COMMITTEE PROCEDURE:**

Committees are very often constituted in different departments with a variety of purpose; to advise, to co-ordinate, to inquire, to negotiate or to administer. The following guiding points may be kept in view while dealing with such Committees.

- (i) The official notification, or resolution, or Office Order, as the case may be, for appointment of the Committee shall contain the circumstances in which the committee has been setup, the terms of reference, time period of the Committee and other limiting factors, if any;
- (ii) The Chairman may decide the Committee's agreement to a plan of work, frequency, length, date and time of meeting;
- (iii) The minutes of the meetings should be recorded properly;
- (iv) In order to ensure consistency of style and content of the final report, the work should be entrusted to one hand, as far as possible. Every member should record their comments at appropriate stages.
- (v) The final report should contain:-
  - (a) A short introductory section comprising terms of reference, date of appointment, membership, circumstances in which the committee was set up, steps taken to gather facts and opinions, number of meetings held, and a brief indication of the layout of the report including page or paragraph reference to a summary of recommendations;
  - (b) A list of chapter heading and of subjects to be dealt with in each chapter;
  - (c) The argument, evidence, facts or statistics;
  - (d) Summary of recommendations which is of great assistance in studying the report and should always be included.

(Chap XVIII)

**FREQUENTLY ASKED QUESTIONS:**

- Q:** Whether the observations of a Committee constituted for a purpose can be implemented directly?
- Ans:** No. The observations of the Committee can be implemented only after obtaining approval of the competent authority.
- Q:** Whether the observations of OPSC are binding in part of an Administrative Department?
- Ans:** If the Administrative Department feels that in implementing the observations of the OPSC will seriously disturb the settled principle then they may seek the views of the GA & PG Department.
- Q:** Can a confidential file be sent physically to the A.G, Odisha?
- Ans:** Yes. A confidential file or papers can be sent to the AG, Odisha only with approval of the Secretary of the Department. However, before it is sent, other irrelevant papers of the file should be removed.
- Q:** Is it obligatory in part of the Administrative Department to furnish compliance note on Appropriation Accounts or Finance Accounts?
- Ans:** The C & AG of India prepares different reports like Appropriation Accounts, Finance Accounts, Audit Reports etc for the State Government as per provisions under Article 151(2) of the Constitution. The reports include department wise specific comments/ observations. It is mandatory for respective Departments to furnish compliance on the comments/ observations made in the reports to the Public Accounts Committee for consideration.





## 4

### **ADMINISTRATIVE LAW**

- ◆ SCOPE
- ◆ DEVELOPMENT
- ◆ RULE OF LAW & ADMINISTRATIVE LAW
- ◆ RULE OF LAW UNDER THE CONSTITUTION
- ◆ SEPARATION OF POWERS & ITS RELEVANCE
- ◆ CONSTITUTIONAL LAW & ADMINISTRATIVE LAW
- ◆ CLASSIFICATION OF ADMINISTRATIVE LAW
- ◆ LEGISLATIVE FUNCTIONS
- ◆ JUDICIAL FUNCTIONS OF ADMINISTRATION
- ◆ PRINCIPLES OF NATURAL JUSTICE
- ◆ FREQUENTLY ASKED QUESTIONS

## ADMINISTRATIVE LAW

Administrative law deals with the powers and functions of the administrative authorities, the manner in which the powers are to be exercised and remedies which are available to the aggrieved persons when those powers are abused by these authorities. Until the 20th century, administrative law was not accepted as a separate branch of law. In fact, administrative law is not a codified law. It has no sections rather it has references of other statutes.

Eminent administrative law scholars of United Kingdom and United States like Albert Venn Dicey, Sir William Ivor Jennings and Kenneth Culp Davis and many others have defined it in different ways which may be searched online for better understanding. However, administrative law may be defined as a branch of public law governing organizations, procedures, powers, duties and responsibilities of the organs of the public authorities other than legislatures and courts. It includes law relating to the rule-making power and quasi-judicial function of the administrative bodies, legal liabilities of public authorities and power of the ordinary courts to supervise administrative authorities. It governs the executive and ensures that the executive treats the public fairly.

In a democracy form of government, it is not possible to divide completely and definitely the functions of legislature, executive and judiciary. It is very difficult to say precisely where legislation ends and administration begins. Though enacting a law is functioning of the legislature, but the administrative authorities legislate under the powers delegated to them by the legislature and this delegated legislation is a part of the administrative law. Since an ASO is associated with top administration in different Departments of the Government, he/ she must be aware the delicacies of the administrative law.

### SCOPE:

The boundaries of administrative law extend only when administrative agencies and public officials exercise statutory or public powers, or when they perform public duties. This type of functions are called public law function which is different from private law function. The former governs the relationship between the state and the individual, whereas the later governs the relationship between individual citizen and some forms of relationships with the state, like relationship based on government contract.

### DEVELOPMENT:

It may be argued that administrative law existed in ancient India *i.e.* during “*Mauryas*” and “*Guptas*” period. The rule of “*Dharma*” was observed by kings and administrators and nobody claimed any exemption from it. The basic principle of natural justice and fair play were followed by the “kings” and “adhikaris”. Yet, there was no administrative law in existence in the sense in which we study it today.

During the British rule, the powers of the Government had increased. Many acts, statutes and legislation were passed by the British government regulating public safety, health, morality transport and labour relations. Practice of granting administrative licence began. In many statutes, provisions were made with regard to

holding of permits and licences and for the settlement of disputes by the administrative authorities and the tribunals.

Since independence, the activities and the functions of the Government have further increased. In our constitution, provisions are made to secure to all citizens social, economic and political justice, equality of status and opportunity. The State is given power to impose reasonable restrictions even on the fundamental rights. **For example**, *the State can acquire private land under Land Acquisition Act. Thus, the Government is the best authority to decide whether a particular purpose is a public purpose and whether the land can be acquired for the purpose or not. Hence, on the one hand, the activities and powers of the Government vis-a-vis the administrative authorities have increased and on the other hand, there is great need for the enforcement of the rule of law and judicial review over these powers, so that the citizens should be free to enjoy the liberty guaranteed to them by the constitution. For that purpose, provisions are made in the statutes giving right of appeal, revision etc. and at the same time extra-ordinary remedies are available to them under Article 32, 226 and 227 of the Constitution of India.*

The Principle of judicial review is also accepted in our constitution, and the order passed by the administrative authorities can be quashed and set aside if they are *malafied* or *ultravires*. This was held by the Supreme Court in *State of Gujarat versus M. I. Haiderbux* that under the provisions of the Land Acquisition Act, 1994, the rules, regulations or orders passed by these authorities can be declared *ultravires*, unconstitutional, illegal or void.

#### **RULE OF LAW & ADMINISTRATIVE LAW:**

The expression 'Rule of law' has been derived from the French phrase "*la principe de legalite*", i.e. a Government is based on the principles of law. The basis of administrative law is the 'Doctrine of the Rule of law'. It was expounded for the first time by Sir Edward Coke, and was developed by Prof. A. V. Dicey in his book "The law of the Constitution" published in 1885. Dicey regarded rule of law as the bedrock of the British Legal System. His doctrine is accepted in the constitutions of U.S.A. and India. According to Prof. Dicey, rules of law contain three principles indicated below:

- (i) Supremacy of Law;
- (ii) Equality before Law;
- (iii) Predominance of Legal Spirit.

#### **RULE OF LAW UNDER THE CONSTITUTION:**

The doctrine of "Rule of Law" has been adopted in Indian constitution. The ideals of the constitution, justice, liberty and equality are enshrined in the preamble. The constitution has been made the supreme law of the country and other laws are required to be in conformity with the constitution. Any law which is found in violation of any provision of the constitution is declared invalid. Part III of the Constitution guarantees the fundamental rights. Article 13(1) makes it clear that all laws in force in the territory of India immediately before the commencement of the constitution, those are inconsistent to be void. While Article 13(2) provides that the State should not make any law which takes away or abridges the fundamental rights and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Article 21 guarantees right to life and personal liberty. It provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Besides, Article 19 guarantees six fundamental freedoms to the citizens of India:

- (i) freedom of speech;
- (ii) freedom of expression;
- (iii) freedom of assembly;
- (iv) freedom to form associations or unions;
- (v) freedom to live in any part of the territory of India;
- (vi) freedom of profession, occupation, trade or business.

The right to these freedoms is not absolute, but subject to the reasonable restrictions which may be imposed by the State.

Article 20(1) provides that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence not be subject to a penalty greater than that. According to Article 20(2), no person shall be prosecuted and punished for the same offence more than once. Article 20(3) makes it clear that no person accused of the offence shall be compelled to be witness against himself.

In India, the constitution provides for encroachment of one organ upon another, if its action is mala fide, as the citizen can challenge under Article 32 of the Constitution. It is regarded as a part of the basic structure of the constitution and, therefore, it cannot be abrogated or destroyed even by the Parliament. It is also regarded as a part of natural justice. It has been upheld by different High Courts and Apex Court in *Kesavananda Bharti vs State of Kerala*, *Menaka Gandhi vs Union of India*, *Indira Gandhi Nehru vs Raj Narain*, *A.D.M Jabalpur vs Shivakant Shukla* (popularly known as Habeas Corpus Case).

### **SEPARATION OF POWERS & ITS RELEVANCE:**

In the context of separation of powers, there is no ambiguity about each wing's power, privilege and duties. The parliament has to enact law, the executive has to enforce them and the judiciary has to interpret them. The judiciary is vested with the power to keep a check on the laws made by the legislature. There is supposed to be no overlapping. However, the theory of checks and balance has been observed in the constitution. *For example*, the parliament has the judicial power of impeachment and punishing for contempt. The President has the legislative powers to promulgate ordinance.

The Indian judiciary has gained the public confidence in discharging its constitutional functions. As an institution, the judiciary has always commanded considerable respect among the people of the country. In fact, the rank of a country in the civilization is generally determined according to the degree in which justice is actually administered. This sacred function rests with men of high efficiency, honesty and integrity. The people have reasons to feel disappointed with functioning of the legislature and the executive. But unfortunately, the judiciary is fast losing its credibility in the eyes of the people for one of the main reasons that justice delivery systems have become costlier and highly time consuming.

**CONSTITUTIONAL LAW & ADMINISTRATIVE LAW:**

We can interpret administrative law as distinct from constitutional law. Constitutional law describes the various organs of the government at rest, while administrative law describes them in motion. In other words, the structure of the legislature and executive comes within the purview of the constitutional law but their functioning comes within the sphere of administrative law. In other words, constitutional law deals with fundamentals while administrative law deals with details. The constitution is the supreme law of the land. No law is above the constitution and can be enacted in violation of its provisions. Administrative law is, therefore, subordinate to the constitutional law. While constitution touches all branches of law and deals with general principles relating to organisation and powers of the various organs of the State; administrative law deals with the powers and functions of the administrative authorities. It is primarily concerned with the procedural aspects of official actions and puts in place a control mechanism by which administrative agencies stay within bounds.

Since the ASOs are a part of the highest policy framing body of the state they must be aware of the contours of administrative functioning. The Government Departments may misunderstand their legal position as the law which they have to administer is frequently complex and uncertain. Abuse is, therefore, inevitable, and it is necessary that the law should provide means to check it. In addition to this, it is also the concern of administrative law to see that public authorities can be compelled to perform their duties if they make default.

**CLASSIFICATION OF ADMINISTRATIVE LAW:**

Pure administrative function can be divided into three categories:

- (i) Administrative discretion;
- (ii) Ministerial action;
- (iii) Administrative instruction.

**Administrative discretion:**

In Layman's language, discretion means choosing from amongst the various available alternatives without reference to any pre-determined criterion. But when the word 'discretion' is qualified by the word 'administrative', it has somehow different overtones. 'Discretion' in this sense means choosing from amongst the various available alternatives but with reference to the rules or reason and justice and not according to personal whims. Such exercise should not be arbitrary, vague and fanciful but legal and regular. It is true that Government cannot function without the exercise of some discretion by the officials. It is necessary not only for individualization of the administrative power but also it is humanly impossible to lay down a rule for every conceivable eventuality in the complex art of modern Government. But it is equally true that absolute discretion is a ruthless master. It is more destructive of freedom than any of man's other inventions.

**Ministerial action:**

Ministerial function is that function of agency which is taken as a matter of duty imposed upon it by the law devoid of any discretion or judgment. Therefore, a ministerial action involves the performance of a definite duty in respect of which there is no choice, no wish and no freedom. In this, the higher authority dictates and lower authority carries out. Collection of revenue may be one such ministerial action. In addition, if the statute

requires that the agency shall open a bank account in a particular bank or shall prepare the annual report to be placed on the table of the minister, such action of opening the bank account and the preparation of the annual report shall be classified as ministerial. When an administrative agency is acting ministerial it has no power to consult its own wishes but when it is acting administratively its standards are subjective and it follows its own wishes.

### **Administrative Instruction:**

Administrative instruction means power to issue instruction flow from the general executive power of the administration. In any intensive form of Government, the desirability and efficacy of administrative instruction issued by the superior administrative authorities to their subordinates cannot be over emphasized. 'Administrative instruction' is a most efficacious technique for achieving some kind of uniformity in administrative discretion and to manipulate in an area which is new and dynamic. These instructions also give a desired flexibility to the administration devoid of technicalities of the rule-making process. Administrative instruction may be specific or general and directory or mandatory. Its type depends largely on the provisions of the statute which authorizes the administrative agencies to issue instructions. The instructions which are generally issued not under any statutory authority but under the general power of administration are considered as directory and hence are unenforceable not having the force of law.

### **LEGISLATIVE FUNCTIONS OF ADMINISTRATION:**

The constitution has assigned legislative function to be performed by the legislature. The parliament or the legislature pass statutes that set out broad outlines and principles and delegate authority to an executive branch official to issue delegated legislation that provide procedures for implementing the substantive provisions of the statute. Such legislation by the executive branch or a statutory authority or local or other body under the authority of the competent legislature is called delegated legislation. There are several reasons why delegated legislation is important.

- (i) **Firstly**, delegated legislation avoids overloading the limited legislature's timetable as delegated legislation can be amended without having to pass an act through legislature, which can be time consuming.
- (ii) **Secondly**, it allows law to be made by those who have the relevant expert knowledge. By way of illustration, a local authority can make law in accordance with what their locality needs as opposed to having one law across the board which may not suit their particular area.
- (iii) **Thirdly**, delegated legislation can deal with an emergency situation as it arises without having to wait for an act to be passed through Legislature to resolve the particular situation.
- (iv) **Finally**, it can be used to cover a situation that the Legislature had not anticipated at the time it enacted the legislation, which makes it flexible and very useful to law-making.

### **JUDICIAL FUNCTIONS OF ADMINISTRATION:**

In view of the rapid growth and expansion of industry, trade and commerce, ordinary law courts are not in a position to cope up with the work-load. Ordinary judges, brought up in the traditions of law and jurisprudence, are not capable enough to understand technical problems, which crop up in the wake of

modern complex economic and social processes. Therefore, there is a need for devolution of adjudicatory authority on administration. As such, the development of administrative law in a welfare state has made administrative tribunals a necessity. Hence, a number of administrative tribunals have been established in the country, which can do the work more rapidly, more cheaply and more efficiently than the ordinary courts.

A Tribunal shall be guided by the principles of natural justice and subject to the other provisions of the act and rules. From regulating its own procedure, the Tribunal shall function under the Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

### PRINCIPLES OF NATURAL JUSTICE:

In India, there is no statute laying down the minimum procedure which administrative agencies must follow while exercising decision making powers. This minimum fair procedure refers to the principles of natural justice. Natural justice is a concept of common law and represents higher procedural principles developed by the courts, which every judicial, quasi-judicial and administrative agency must follow while taking any decision adversely affecting the rights of a private individual. Natural justice implies fairness, equity and equality. The principles of natural justice are firmly grounded on Article 14 & 21 of the constitution. However, the principle of natural justice may be explained as the followings:-

- (i) ***Nemo judex in causa sua*** (Rule against Bias): No one should be made a judge in his own cause or the rule against bias. Thus, an administrator exercising adjudicatory powers must not have any personal or proprietary interest in the outcome of the proceedings. Bias means an operative prejudice, whether conscious or unconscious in relation to a party or issue. It is difficult to prove the state of mind of a person. Therefore, what the courts see is whether there is reasonable ground for believing that the deciding factor was likely to have been biased. Bias can take many forms: - Personal Bias, Pecuniary Bias, Subject-matter bias, Departmental bias, Pre-conceived notion bias etc.
- (ii) ***Audi alteram partem*** (Hear the other party): No one should be condemned unheard. That means a person must be given an opportunity to defend himself. This rule covers various stages through which administrative adjudication pass starting from notice to final determination. In fact, post-decisional hearing affords an opportunity to the aggrieved person. It is acceptable in the following situations: -
  - (a) where the original decision does not cause any prejudice or detriment to the person affected;
  - (b) where there is urgent need for prompt action;
  - (c) where it is impracticable to afford pre-decisional hearing.
- (iii) ***Speaking order or reasoned decision***: Unless there is specific requirement of giving reasons under the statute, it is not mandatory for the administrative agencies to give reasons for their decisions. Reasons are the link between the order and mind of the maker. Any decision of the administrative authority affecting the rights of the people without assigning any reason tantamount to violation of principles of natural justice. The requirement of stating the reasons serves the following purpose: -
  - (a) It ensures that the administrative authority will apply its mind and objectively look at the facts and evidence of the case.

- (b) It ensures that all the relevant factors have been considered and that the irrelevant factors have been left out.
- (c) It satisfies the aggrieved party in the sense that his view point has been examined and considered prior to reaching a conclusion.

The appellate authorities and courts are in a better position to consider the appeals on the question of law. In short, reasons reveal the rational nexus between the facts considered and the conclusions reached.

**N.B.:** the template of a draft speaking order has been given in the chapter “Noting and Drafting” which may be referred.

### FREQUENTLY ASKED QUESTIONS

**Q:** Do administrative agencies have executive, legislative and judicial power?

**Ans:** Yes, administrative agencies have executive, legislative, and judicial power.

**Q:** What is the difference between a regulation and a statute?

**Ans:** The Legislature enacts statutes. The People of the State may also enact statutes and constitutional provisions. Administrative agencies adopt, amend and repeal regulations under the authority granted to them by either constitutional provisions or statutes. Unless the Legislature has created an exemption, agencies must follow the procedures in the Administrative Procedure Act when adopting, amending or repealing regulations.

**Q:** Can you ask for a change in an agency’s regulations? How?

**Ans:** Yes. An agency may be asked to repeal or amend an existing regulation, or to adopt a new regulation by petitioning the agency, using the method described in Government Code sections.

**Q:** What is a petition?

**Ans:** A petition is simply a letter that requests the change and contains certain information. Specifically, the petition must identify the nature of the regulation change, the reason for the request, and the agency’s rulemaking power

**Q:** What is a law?

**Ans:** A law is an idea, placed in bill form, that has passed by the Parliament or Legislature or both as the case may be and has not been vetoed by the President or Governor.

**Q:** What are statutes?

**Ans:** Statutes are laws that apply to all citizens and cover a variety of topics, including the following: the Legislature, the executive branch, state departments, the judiciary and courts, tax policy, public safety and police authority, towns, cities, counties, commerce and trade, private property and private rights, civil injuries and remedies, and crimes against people and property and the penalties associated with them.



**Q:** What is a rule?

**Ans:** A rule can be defined in different ways depending on which branch of Government is referred to.

- (a) Procedural rules: In the legislature, rules refer to the regulating principles or methods of procedure. Each body adopts the rules under which it operates and the joint rules which govern joint conventions.
- (b) Administrative rules: In the executive branch of state government, rules are operating principles or orders created by an office of the state under authority granted by the legislature. These administrative rules have the force and effect of law.

**Q:** What is an act?

**Ans:** Act is the official name for a bill that has been enrolled for presentation to the Governor.



## 5

### RIGHT TO INFORMATION

- ◆ OBJECTIVES
- ◆ SALIENT FEATURES
- ◆ RIGHT TO INFORMATION RULES
- ◆ INFORMATION
- ◆ APPROPRIATE GOVERNMENT
- ◆ PUBLIC AUTHORITY
- ◆ INFORMATION EXEMPTED FROM DISCLOSURE
- ◆ *SUO MOTU* DISCLOSURE
- ◆ PUBLIC INFORMATION OFFICER
- ◆ STEPS TO BE FOLLOWED BY THE PIO
- ◆ STEPS TO BE FOLLOWED BY THE FAA
- ◆ OTHER IMPORTANT POINTS
- ◆ IMPOSITION OF PENALTY
- ◆ FREQUENTLY ASKED QUESTIONS:

## RIGHT TO INFORMATION

An informed citizenry is an essential precondition for the success of any democracy. People armed with information can effectively participate in the affairs of the Government, make intelligent choices in the sphere of social, economic and political life and contribute meaningfully to nation building. As a tool of empowerment, it has the potential to transform our polity by injecting transparency in Government functioning, containing corruption and making Government and its instrumentalities accountable to its citizens.

Article 19(1) (a) of the Constitution guarantees to its citizens the fundamental right to free speech and expression. Our judiciary has recognized access to information held by or under the control of any public authority as part of the fundamental right to freedom of speech and expression. In the famous case of *Ministry of Information & Broadcasting vs Cricket Association of Bengal & another*, the Supreme Court gave clear cut directive that freedom of speech and expression provided under Article 19 of the Constitution clearly includes **Right to Information** as without information the freedom of speech and expression cannot be fully used by the citizens. Keeping this in mind, the Central Government had enacted the “Freedom of Information Act, 2002”.

However the Act was found deficient in many respects and failed to serve the purpose it intended to serve. Limited scope of the Act in terms of coverage, absence of an effective independent appeal mechanism, failure to include public education and monitoring provisions in the Act, breadth of exemptions were some of the major shortcomings which necessitated enactment of a more progressive, participatory and meaningful legislation.

In order to remove these deficiencies, “Freedom of Information Act, 2002” was finally repealed and replaced by the “The Right to Information Act, 2005” (22 of 2005) which has become fully operational from 12th October, 2005. This new law empowers Indian citizens to seek any accessible information from a public authority and makes the Government and its functionaries more accountable and responsible.

### OBJECTIVES:

- (i) To empower the citizens;
- (ii) To promote transparency and accountability in the working of Government;
- (iii) To contain corruption;
- (iv) To enhance people’s participation in the democratic process.

### SALIENT FEATURES:

The Act has been organized into six chapters comprising of 31 sections. While the 1<sup>st</sup> Chapter (Sec 1 to Sec 2) contains definitions of important terms used in the Act, the 2<sup>nd</sup> Chapter (Sec 3 to Sec 11) contains

the main operative part including the obligations of the Public Authority. The 3<sup>rd</sup> Chapter (Sec 12 to Sec 14) and 4<sup>th</sup> Chapter (Sec 15 to Sec 17) elaborate the constitution, terms and conditions of service of Chief Information Commissioner, Central Information Commission, New Delhi and State Chief Information Commissioners respectively. The 5<sup>th</sup> Chapter lays down the powers and functions of the Commission including penalties while all the miscellaneous provisions, important by themselves are contained in the last Chapter *i.e* 6<sup>th</sup> Chapter .

### **RIGHT TO INFORMATION RULES:**

Section 27 of the RTI Act, 2005 empowers the State Governments to make rules to carry out the provisions of the said Act. Accordingly, the Government of Odisha has framed a set of rules in the name of “The Odisha Right to Information Rules, 2005” and “The Odisha Right to Information (Amendment) Rules, 2006, and notified by the Information and Public Relations Department in the Odisha Gazette vide Notification No.27163/I&PR dated 01.10.2005 and S.R.O. No. 251/2006, dated 29.05.2006 respectively. The rule broadly lays down an elaborated structure of procedures for disposal of the RTI applications, building institutional mechanism for operationalisation of the Act, realization of cost from the applicant for providing information and function and duties of Public Information Officer. However, it must be kept in mind that the central purpose behind framing of these rules is to implement the provisions of the Act. It is, therefore, imperative on the State Government to issue appropriate guidelines consistent with the provisions of the Act for its smooth implementation. Let us now acquaint ourselves with some important aspects of the provisions under this Act.

### **INFORMATION:**

According to the definition, Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force. [Sec 2(f)]

### **APPROPRIATE GOVERNMENT:**

As per provisions under Sec 2 (a) (ii) of the Act, the Government of Odisha is the Appropriate Government for the State of Odisha, while the I & PR Department under the Rules of Business is the authorized Department.

### **PUBLIC AUTHORITY:**

A “public authority” is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government are also public authorities. Non-Government organizations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The substantial financing by the Central Government or a State Government may be direct or indirect. The Act does not define substantial financing. Various courts/Information Commissions have been deciding on this issue on case to case basis, depending upon the merits of each case. [Sec 2(h)]

**INFORMATION EXEMPTED FROM DISCLOSURE:**

Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which are exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interests.

The information which, in normal course, is exempt from disclosure under subsection (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after a lapse of 20 years, to give any citizen-

- (i) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) Information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
- (iii) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section(1) of Section 8 of the Act.

**SUO MOTU DISCLOSURE:**

Section 4 requires every public authority to ensure *suo motu* disclosure of information. In fact, public authorities are the repository of information which the citizens have a right to access under the Act. The Act casts important obligations on public authorities so as to facilitate the citizens' access the information held under their control. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate supply of information under the Act.

- (i) Every public authority should provide as much information *suo motu* to the public through various means of communications so that the public have minimum need to use the Act to obtain information. Internet being one of the most effective means of communication, the information may be posted on the website.
- (ii) Every public authority should publish following sixteen categories of information. [Sec 4(1)(b)]:
  - (a) the particulars of its organization, functions and duties;
  - (b) the powers and duties of its officers and employees;
  - (c) the procedure followed in the decision making process, including channels of supervision and accountability;
  - (d) the norms set by it for the discharge of its functions;
  - (e) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

- (f) a statement of the categories of documents that are held by it or under its control;
- (g) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (h) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (i) directory of its officers and employees;
- (j) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (k) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (l) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (m) particulars of recipients of concessions, permits or authorizations granted by it;
- (n) details in respect of the information, available to or held by it, reduced in an electronic form;
- (o) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (p) the names, designations and other particulars of the Public Information Officers.

**PUBLIC INFORMATION OFFICER:**

Section 5 of the Act mandates all public authorities to designate as many Public Information Officers (PIOs) as necessary to provide information under the Act. Where a public authority designates more than one PIO, an applicant is likely to face difficulty in approaching the appropriate PIO. The applicants would also face problem in identifying the officer senior in rank to the PIO to whom an appeal under sub-section (1) of Section 19 of the Act can be made. Therefore, all public authorities with more than one PIO should create a RTI Cell within the organization headed by a Nodal PIO to receive all the RTI applications and first appeals and to route them to the concerned PIO/ First Appellate Authority (FAA).

However, Rule 3 of the RTI Rules, 2005 envisages:-

- (i) designation/appointment of adequate numbers of Public Information Officers(PIO) not below the rank of Under Secretary in case of Departments of Government;
- (ii) designation of adequate number of officers as Public Information Officers and Additional Public Information Officers(APIO) in subordinate offices including Heads of the Departments;
- (iii) Designation of a senior officer as Appellate Authority.

**STEPS TO BE FOLLOWED BY THE PIO: (Section 7)**

The PIO of a public authority plays a pivotal role as defined under Section 7, in making the right of citizens to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default under Section 20(1) and 20(2). It is, therefore, essential for a PIO to study the Act carefully and understand its provisions correctly. Besides the issues discussed elsewhere in this document, a PIO should keep the following aspects in view while dealing with the applications under the Act. On receipt of a valid Application in form A, the PIO should “as expeditiously as possible, and in any case within thirty days of receipt of the application, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in Section 8 and 9”. Provided that where the information sought concerns the life and liberty of a person, the same shall be provided within forty eight hours of receipt of the request.

Since the Act has already in operation in Odisha since 2005, the institutional mechanism has been put in place to process the RTI application. Most of the Departments have constituted RTI Cell for central monitoring of RTI applications. Besides, Section / Branch wise separate PIO has already been notified by the Departments in Secretariat. Therefore, normally an RTI application will be received in a Section from RTI Cell.

**Step 1. Receipt of the application:**

Soon after receipt of the application from RTI Cell, verify

- (i) Although the Act has not made any application form mandatory, the Odisha Government, in exercise of powers under section 27, formulated the Rules prescribing the submission of an application in **Form A**;
- (ii) Whether the applicant has given his/ her proper identity with address for communication;
- (iii) Check whether the applicant has submitted the required fee (*i.e* Rs 10/). Please remember the fee can be given in shape of cash/ demand draft/ banker’s cheque/ Indian Postal Order or through any electronic mode as adopted by the Department;
- (iv) If the applicant is a person belonging to Below Poverty Line (BPL) category, he/she is not required to pay the fee but has to submit a copy of his/her BPL certificate;
- (v) The PIO is not supposed to provide information to any Corporation, Association, Company etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation/ Association/ Company/ NGO etc. indicating his name and such employee/office bearer is a citizen of India, information can be supplied to him/her on personal capacity;
- (vi) **Remember**, the information seeker is not required to give reasons for seeking the information; [Section 6(2)]
- (vii) If a person, who desires to obtain any information is required to make a request in writing or through electronic means in english or odia and is not able to make such request in writing, the PIO should render reasonable assistance. Where access to a record is required to be provided to a sensorily

disabled person, the PIO should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved;

- (viii) If the application is neither accompanied by the prescribed fee nor a BPL certificate, it cannot be treated as an application under the RTI Act and can be rejected.

### **Step 2. Propriety of the information:**

If the application received has been made properly, then verify

- (i) Whether the information sought for by the applicant is specific;
- (ii) Whether the information sought fall under the exempt category as provided under Sections 8 and 9 of the Act;
- (iii) Normally, the information to the applicant should ordinarily be provided in the form in which it is sought;
- (iv) However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied;
- (v) **Remember**, the PIO is also not required:-
  - (a) to create information that is not a part of the record of the public authority;
  - (b) to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions;
  - (c) to re-shape the information, If the applicant expects the information in some particular proforma devised by him/ her;
  - (d) to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant;

### **Step 3. Transfer of the application: (Section 6)**

If the information sought by the applicant is held by another Public Authority; or the subject matter of which is closely connected with the functions of another Public Authority, immediately transfer the application, in original, to the concerned Public Authority within five days from receipt of the application;

- (i) **Remember**, sections of one department are not separate public authorities. Therefore, if the information sought by the applicant is held by another section, the application is to be transferred on the same day as the time is limited to 30 days;
- (ii) **Part Information**: If a person makes an application to a public authority for information, a part of which is available with that public authority and rest of the information is scattered with more than one



public authority, in such case, the application has to be dealt with in terms of Section 6(3) and information as available should be given to the applicant while transferring the application, the Applicant also be advised to make separate application to concerned authority/ authorities for convenience and quick availability. If no part of information is available, the applicant may be informed accordingly.

#### **Step 4. Third Party Information: (Section 11)**

This Section explains the procedure for supplying third party information. If the applicant seeks any information which relates to or has been supplied by third party and that third party has treated that information as confidential, then the concerned PIO shall consider whether the information should be disclosed or not. However, in such case, the PIO may follow the procedure outlined below.

- (i) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information shall not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (ii) If the PIO intends to disclose the information, he shall within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information;
- (iii) He shall request the third party to make a submission in writing or orally, regarding whether the information may be disclosed;
- (iv) The third party shall be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any;
- (v) The PIO shall make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information;
- (vi) After taking the decision, the PIO should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under Section 19 against the decision;
- (vii) The third party can prefer an appeal to the First Appellate Authority (FAA) against the decision made by the PIO within thirty days from the date of the receipt of notice;
- (viii) If not satisfied with the decision of the FAA, the third party can prefer a Second Appeal to the Information Commission;
- (ix) If an appeal has been filed by the third party against the decision of the PIO to disclose the third party information, the information should not be disclosed till the appeal is decided.

#### **Step 5. Cost to be realized for providing information:**

The Odisha Right to Information Rules, 2005 read with the Odisha Right to Information (Amendment) Rules, 2006 have prescribed the cost to be realized from the applicant for providing the information in its appended schedule. Therefore,

- (i) Ensure the type/ quantum of information to be provided;
- (ii) If a part or whole of the information sought by the applicant is held by the PIO, then the concerned PIO shall intimate the applicant the cost of providing information in **Form B** as provided in the Odisha RTI Rules, 2005;
- (iii) If the requisite cost to provide information is not received within fifteen days from the date of receipt of the letter, the application shall stand rejected under Section 4(3) of the Rules.

#### **Step 6. Rejection of application:**

In the Odisha Right to Information Rules, 2005, a format has been developed to intimate the applicant regarding its rejection. Therefore, if the request in the application is to be rejected, the PIO shall intimate the applicant the reasons of such rejection in **Form C** prescribed under the Rule.

#### **Step 7. Other obligations of PIO**

- (i) The nodal PIO shall maintain a register in Form- F for recording the details of application received and information supplied.
- (ii) Besides, the nodal PIO shall maintain a cash register in Form G for recording the details of money received.
- (iii) The total cash received shall be deposited in to Government account by a treasury challan under the following receipt head of account “*0070-Other Administrative Services- 60- Other Services- 101- Receipts from Central Government for administration of Central Government Acts and Regulations-0002- Administration Cost reimbursable- 02178- Fees and Fines under RTI Act, 2005*”

#### **STEPS TO BE FOLLOWED BY THE FIRST APPELLATE AUTHORITY: (FAA)**

The FAA has also a very important role under the Act. The independent and judicious examination of appeals by the FAA would lead to higher satisfaction to the appellants. This would, in turn, result in less number of second appeals to the Information Commission.

- (i) If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within the specified time, he can make an appeal to the FAA under Section 19(1). Appeal can also be made if the applicant is aggrieved by the decision of the PIO regarding supply of information or the quantum of fee decided by the PIO. The applicant may prefer the first appeal within thirty days from the expiry of such period or from the receipt of such a decision of the PIO.
- (ii) The FAA may admit the appeal after expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (iii) A third party can also prefer an appeal to the FAA against the order of the PIO to disclose third party information. Such an appeal shall be made within thirty days from the date of the order.

- (iv) **Disposal of Appeal** : While disposing off first appeal, the FAA should act in a fair and judicious manner. It is important that the order passed by the FAA after giving appropriate notice, hear the Appellant and the PIO. It should be in the form of a speaking order giving justification for the decision.
- (v) If the FAA while deciding an appeal, comes to a conclusion that the appellant should be supplied with the information in addition to what has been supplied by the PIO, he may either
  - (a) pass an order directing the PIO to give such information to the appellant; or
  - (b) he himself may give information to the appellant. In the first case the appellate authority should ensure that the information ordered by him to be supplied is provided to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information along with the order passed by him in the matter.
- (vi) If, for any reason, the PIO does not implement the order passed by the FAA and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the higher authority competent to take administrative action against the PIO and also advise the Appellant to move the Information Commission.
- (vii) **Time limit for disposal of appeal**: The FAA should dispose of the appeal within 30 days of receipt of the appeal. In some exceptional cases, the appellate authority may take 45 days for its disposal. However, in such cases, the FAA should record, in writing, the reasons for not deciding the appeal within 30 days.

### OTHER IMPORTANT POINTS

Besides the above, there are certain other important points to be observed by the PIO while processing/disposing of RTI applications and the FAA in dealing with appeals.

- (i) The decisions of the Information Commission are binding under Section 19(7) *ibid*. Every public authority should ensure that the orders passed by them are implemented. If any public authority is of the view that an order of the Information Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ Petition keeping in view provisions under Section 23.
- (ii) The Information Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the PIO as provided in the Act. It may be noted that penalty is imposed on the PIO, and hence it is to be paid personally by the PIO. However, the compensation, ordered by the Information Commission to be paid to an applicant would have to be paid by the public authority.
- (iii) While deciding an appeal under Section 19, the Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Information Commission may pass an order to provide information to an applicant in a particular form; appoint a PIO; publish certain information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction

of records; enhance the provision of training for its officials; provide an annual report as prepared in compliance with clause (i) of subsection (1) of section 4 of the Act.

- (iv) The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. Under Section 4(1)(d) every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (v) Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

#### **IMPOSITION OF PENALTY:**

An applicant under the Act has a right to complain to the Information Commission under Section 18 and also to appeal to the Commission. Under Section 19, where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the PIO has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or intentionally denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of Rs 250/- per each day till application is received or information is furnished subject to the condition that the total amount of such penalty shall not exceed Rs 25,000/- under Section 20(1) or the Information Commission may recommend disciplinary action against the concerned PIO under Section 20(2) of the Act.

**Remember** the PIO shall be given a reasonable opportunity by the Information Commission of being heard before any penalty is imposed on him/ her. The burden of proving that he/ she acted reasonably and diligently and in case of denial of a request that such denial was justified shall be on the PIO. In such case the PIO has to furnish a show cause memorandum.

#### **FREQUENTLY ASKED QUESTIONS:**

- Q** : What are your observations when you respond to an application?
- Ans** : The PIO is obliged in his/ her response vide Section 7(3) (b) and Section 7(8) to inform the applicant of further fee to be paid, if any, and the applicant's right with respect to review of the decision as to the amount of fees charged or the form of access provided, including the particulars of the FAA, time limit, process and any other forms, the fees for the appeal and, where there is a rejection, the reasons for rejecting.
- Q:** : What happens if the application does not clearly specify the information being asked for?
- Ans** : While receiving the application you should get a clarification from the applicant what exactly is required, and if necessary request him to rewrite the application. Otherwise, an effort should be made to contact the applicant over telephone, if possible, to seek clarifications. In case that is

not possible, then the applicant should be contacted by post and requested to send a clarification as soon as possible. [Section 5(3)]

**Q** : What should you do if the application contains a large number of queries, which are unrelated to each other?

**Ans** : The Act provides for payment of a specified fee for a single application. Where the applicant asks multiple questions relating to the same matter/ issue, these should be treated as a single application. However, where information is sought for a multiple set of unrelated issues the first set of related questions should be processed and, for the remaining, the applicant should be advised to file separate applications for each independent issue/ subject.

**Q** : What happens if the applicant requires information in a form that would be very time consuming/ costly to provide?

**Ans** : The PIO has the option either to provide information in the form that is available with him or in the form asked for. If he feels that the latter would disproportionately divert the resources of the office, he may refuse to provide information in the format asked for. However, this does not allow the PIO to refuse the information altogether on this ground.

**Q** : What is the PIO's liability in terms of penalties, if the information asked for is with some other officer who, despite best efforts, does not respond or does not respond in time?

**Ans** : Section 5(5) clearly states that any officer whose assistance has been sought for shall render all assistance to the PIO seeking his/ her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a PIO. Therefore, the liability for delay or other violation shifts to the officer who has delayed or otherwise contravened provisions of the Act. The PIO is not liable for the delay or violation by others.

**Q:** Can one summarily reject applications that appear to be frivolous, vexatious, or appear to be aimed at harassing or blackmailing officials?

**Ans** : The Act is very clear and specific about the types of information that can be exempted. It does not permit applications being summarily rejected because they appear to be frivolous and / or vexatious. Besides, what might appear frivolous or vexatious to the PIO might be of critical importance to the applicant. However, each case has to be examined in terms of the provisions of the Act.

**Q** : On what basis does one decide whether the information asked for can be provided or not?

**Ans** : All the exclusions allowed under the law are listed under section 8(1), section 9, section 24(1) & 24(4). Any information that is not specifically excluded under these sections cannot be denied to an applicant. However, it must be kept in mind that all these exemptions are subject to the general proviso at the end of section 8(1) regarding the parliamentary/ state legislature test, and regarding public interest override and freer access to information that is older than 20 years, as further specified in section 8(2) & (3).

- Q** : Is it necessary to file a first appeal before the FAA, before filing the second appeal before this Commission?
- Ans** : Yes, a first appeal before the FAA should be filed before moving second appeal before the Information Commission. If a second appeal is filed without enclosing a copy of the first appeal, the same is liable to be returned. However, a complaint can be filed directly under Section 18.
- Q** : Can a complaint be filed directly before the Commission? If yes, the grounds on which a complaint may be filed?
- Ans** : Yes, a complaint may be filed directly in the Commission under section 18 of the RTI Act, by a person:-
- (a) who has been unable to submit a request to a PIO either by reason that no such officer has been appointed under the Act, or because the APIO has refused to accept his/her application for information or appeal under this Act for forwarding the same to the PIO or senior officer specified in sub section (1) of section 19 or the Commission;
  - (b) who has been refused access to any information requested under this Act;
  - (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
  - (d) who has been required to pay an amount of fee which he/ she considers unreasonable;
  - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
  - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
- Q** : Is there any time limit for filing a complaint?
- Ans** : No, however, a complaint should be filed within a reasonable period, as soon as a cause of action in the matter has arisen.
- Q** : What is the difference between an Appeal and a Complaint under the RTI Act?
- Ans** : A second appeal under section 19 (3) of the Act is filed against an order of the FAA in a public authority or when the FAA does not make a decision within the specified time. A complaint under section 18 of the Act may be filed directly on the grounds mentioned in sub-section (1) of this section. The main difference between a complaint and a second appeal is that in the case of an appeal, the Information Commission may pass orders directing the PIO to provide the requested information to the appellant in appropriate cases whereas such orders cannot be passed while dealing with a complaint.
- Q** : Is the complainant or the appellant entitled to hearing in the penalty proceedings under section 20 of the RTI Act?
- Ans** : No.

**Q** : When should 'Inspection' be allowed by the PIO?

**Ans** : In case where voluminous information is sought, the PIO may advise the applicant to inspect record, minimize and prioritize the requirement.

If the applicant is not sure what documents are needed, the inspection of records is being frequently resorted to. After the inspection, the applicant may seek copies of the limited documents which may be required. Wherever the applicant desires, inspection of record should be allowed especially in those cases where providing photocopies may lead to disproportionate diversion of resources.

**Q** : **What should a PIO do if an applicant seeks copies of the records which have been destroyed?**

**Ans** : If information is sought in respect of records that have been destroyed as per the schedule of their destruction, a PIO is expected to provide a copy of the destruction memo and the instructions in respect of the record maintenance practice. The PIO may be required to provide an affidavit giving the reasons for non-availability of the records.

**Q** : Is a FAA expected to give a personal hearing in every case?

**Ans** : There is no provision in the Act calling for a mandatory hearing by the FAA. If the applicant desires a hearing, the FAA may consider it favourably to meet the ends of justice and establishing the right to information.



**6****ASSEMBLY PROCEDURE**

- ◆ **SALIENT FEATURES**
- ◆ **ADDRESS BY THE GOVERNOR**
- ◆ **PERIOD OF NOTICE**
- ◆ **QUESTIONS**
- ◆ **HALF-AN-HOUR DISCUSSION**
- ◆ **ADJOURNMENT MOTION**
- ◆ **CALLING ATTENTION MOTION**
- ◆ **NO DAY YET NAMED MOTION**
- ◆ **SHORT DURATION DISCUSSION**
- ◆ **NO CONFIDENCE MOTION**
- ◆ **LEGISLATION**
- ◆ **RESOLUTION**
- ◆ **FINANCIAL BUSINESS**
- ◆ **QUESTION OF PRIVILEGE**
- ◆ **REMOVAL OF SPEAKER/ DEPUTY SPEAKER**
- ◆ **COMMITTEES**
- ◆ **FREQUENTLY ASKED QUESTIONS**



## ASSEMBLY PROCEDURE

Odisha became a separate province on the 1st day of April, 1936 by Government of India (Constitution of Odisha) Order, 1936. It comprised portions of the then Bihar and Odisha Province, Madras Presidency and the Central Provinces. Odisha Legislative Assembly has been constituted under the provisions of Article 168(1) of the Constitution. The Assembly continues for the five years from the date appointed for its first meeting beginning with the address of the Governor under Article 176(1) of the Constitution unless sooner dissolved,. For smooth conduct of the business, a set of rules “The Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly” was adopted on 6th August, 1955.

The Speaker presides over the House. He regulates the debates and proceedings of the House, and is charged with the maintenance of order and discipline of the House. The Speaker is conferred with various powers in relation to admissibility of questions/ resolutions/ motions. He is also empowered to select amendments in relation to bills and motions, and can refuse to an amendment which in his opinion is frivolous. The Speaker also enjoys certain general powers not provided either in the Constitution or in these rules. These powers include power of interpretation of these rules and giving necessary directions on matters for which there is no specific provision.

### SALIENT FEATURES:

- ♦ The Governor summons the Vidhan Sabha to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one Session and the date appointed for its first sitting in the next Session.
- ♦ Every Member is required to make and subscribe an oath or affirmation under Article 188 of the Constitution. (**Rule- 5**)
- ♦ The election of Speaker is held on the date fixed by the Governor observing procedure. (**Rule -6**)
- ♦ The election of Deputy Speaker is held on the date fixed by the Speaker observing procedure. (**Rule- 7**)
- ♦ The Speaker nominates a panel of Chairmen among the members (not more than seven) of the Assembly to preside over the house in absence of the Speaker. (**Rule-8**)
- ♦ Subject to Article 174 of the Constitution, the Assembly shall have not less than three sessions with minimum of 60 days in every calendar year. (**Rule-11**)
- ♦ The sitting of the house normally commences at 10.30 AM and concludes at 7 PM with 2 hours of lunch break. However, the House can sit on such day(s) and time as per directions of the Speaker. (**Rule-13-15**)

**ADDRESS BY THE GOVERNOR:**

- ♦ Article 175 and 176 of the Constitution provides the power and privilege of the Governor commencement of the first Session of each year.

**PERIOD OF NOTICE:**

- ♦ Every form of business that is desired to be transacted in the House requires prior notice, and different periods of notice have been prescribed for different classes of business as follows:-
  - (a) **Questions:** *Fourteen clear days, i.e.* the day on which the notice is received and the day on which the notice is set down in the list of business, are excluded. However, the Speaker may, for sufficient reasons, reduce the period of notice with the consent of the Chief Minister. (**Rule-37**)
  - (b) **Resolutions:** *Fifteen clear days.* The Speaker may, with the consent of the Minister to whose department the resolution relates, allow it to be entered on the list of business with shorter notice than fifteen days, provided it is balloted. (**Rule-98-B**)
  - (c) **Amendments to Resolutions:** *Three clear days.* The Speaker may allow an amendment to be moved at shorter notice, or without notice. (**Rule-103**)
  - (d) **Private Member Bills:** *Thirty clear days.* The Speaker may, for sufficient reasons, allow the motion for leave to introduce a Bill to be made at shorter notice. (**Rule-66**)
  - (e) **Amendments to Bills:** *Two clear days.* The Speaker may allow an amendment to be moved at shorter notice, or without notice. (**Rule-81**)
  - (f) **Adjournment Motions:** *One hour* before the commencement of a sitting.
  - (g) **Notice for raising half-an-hour discussion:** *Three days.* However, The Speaker may waive the requirement of this notice with the consent of the minister concerned.
  - (h) **Calling Attention Motion:** Previous permission of the Speaker.
  - (i) **Questions of Privilege:** One day before the commencement of a sitting of the day or without notice.
  - (j) **No-Confidence Motion:** Notice may be handed in writing before the commencement of the sitting and if admitted, discussion takes place within ten days from the day on which leave is given by the house.

**QUESTIONS:**

A member of the house can put questions to the minister concerned for the purpose of obtaining information on matters of public importance. For answering the questions, the departments are divided into groups and dates are fixed for each group. There are three categories of questions, namely

- (i) Starred;
- (ii) Un-starred;
- (iii) Short Notice Starred Question.

**Starred Questions:**

A starred question is one whose answer is desired to be given orally in the house with the idea to have an opportunity to follow up the minister's answer and elicit further information by way of supplementary questions. A member wishing to give notice of such a question must distinguish it by an asterisk mark "\*" or with the words "Starred Question".

**Un-starred Questions:**

An un-starred question is one which is not orally asked in the house, but its answer is laid on the table and the member putting such a question is given a copy of the answer.

**Short Notice Starred Questions:**

Subject to the approval of the Speaker and consent of minister concerned, a member may ask a question, relating to a matter of public importance, at a notice shorter than 14 days stating briefly the reasons for asking the question at short notices. Short notice questions are asked immediately after the questions, included in the list of starred questions, have been disposed of or at the end of the question hour. It shall be distinguished by placing two asterisks.

**Provision for questions:**

- ♦ Normally the first hour of every sitting is available for answering questions;
- ♦ For asking a question, a notice is to be given to the secretary, OLA indicating the designation of the minister and the date for inclusion in the list for answer.
- ♦ A member can give notice for maximum 3 starred questions and 5 un-starred questions for one day.
- ♦ The right of a member to ask a question is governed by conditions given under Rule 44(2).
- ♦ The Speaker shall decide the admissibility of the question.
- ♦ The Speaker has the authority to convert a starred question into an un-starred question; if he is of the opinion that the information required is voluminous or a written reply would be more appropriate, but he cannot convert an un-starred question into a starred question.
- ♦ In absence of a member putting a starred question, a written answer shall be laid on his/her table.
- ♦ On admission of a question, its copy is forwarded to the Administrative Department.
- ♦ A list of questions for answer on a day is prepared.
- ♦ As per direction of the Speaker, a half-an-hour in one sitting is allowed for asking and answering such questions.
- ♦ Only two short notice starred questions are set down for answer on one day.
- ♦ The Speaker, in consultation with the minister concerned shall decide the admissibility, date and time for answering the short notice question. (*Rule-36-56*)

**HALF-AN-HOUR DISCUSSION:**

- ♦ The Speaker may allot half-an-hour on three sittings in a week for discussion on a matter of public importance.

- ♦ Notice shall be supported by at least two members.
- ♦ The member giving the notice shall make a short statement and the minister concerned shall reply shortly.
- ♦ There shall be neither formal motion before the Assembly nor any voting. (**Rule-57**)

#### **ADJOURNMENT MOTION:**

It is a motion intended to secure a discussion on a definite matter of urgent public importance of recent occurrence by interrupting the normal business of the house.

- ♦ Some restrictions have been laid down under Rule 60 to move an adjournment of the Assembly.
- ♦ This requires the consent of the Speaker.
- ♦ Notice for an adjournment motion has to be accompanied by a brief explanatory memorandum explaining the motion. Such notice has to be given to the Secretary and copies of the notice have to be handed over to the Speaker and the minister concerned.
- ♦ After consent of the Speaker, the member concerned has to ask for the leave to move the adjournment of the house. If objection is taken to leave being granted, the Speaker shall request those members who are in favour of leave being granted to rise in their places. If not less than 14 members rise, the Speaker shall intimate that the leave is granted otherwise the Chair intimates that leave is not granted.
- ♦ No speech during the debate can be for more than 15 minutes without permission of the Speaker.
- ♦ A period of two hours is allotted for the discussion and at the end of two hours the discussion automatically terminates. No question can be put and when this happens it is said that the adjournment motion was 'talked out'.
- ♦ Normally this motion is taken up at 4 PM. (**Rule-58-64**)

#### **CALLING ATTENTION MOTION:**

It is a motion where, a member with prior permission of the Speaker can call the attention of a minister to any matter of urgent public importance. The minister, in response, makes a brief statement or asks for time to make a statement at a later hour or date.

- ♦ Where a notice is signed by more than one member, it shall be deemed to have been given by the first signatory only and he alone shall be allowed to read the notice.
- ♦ There shall be no debate on such statement at the time it is made but each member in whose name the notice stands may ask a question provided that names of not more than three members shall be shown in the list of business.
- ♦ Notices for a sitting received one hour before the commencement of the sitting shall be deemed to have been received for that day. Notices received within one hour before the commencement of the sitting shall be deemed to have been given for the next sitting.
- ♦ Not more than two matters shall be raised at the same sitting.

- ♦ In the event of more than one matter being presented for the same day, priority shall be given to the matter which in the opinion of the Speaker, is more urgent and important.
- ♦ For disposal of such motion, half-an-hour in one sitting is normally allowed.

**(Rule-58-64)**

#### **NO DAY YET NAMED MOTION:**

If the Speaker admits notice of a motion given in writing addressed to the Secretary and no date is fixed for the discussion, it is known as “no day yet named motion”.

- ♦ The Speaker, after consultation with leader of the House, allots time for discussion of such motion. **(Rule-113)**

#### **SHORT DURATION DISCUSSION:**

Any member wishing discussion on a matter of urgent public importance may give notice in writing to the Secretary specifying clearly the matter to be raised with an explanatory note. This is known as “short duration discussion”. The notice shall be supported by the signatures of at least two other members. **(Rule-116)**

#### **NO CONFIDENCE MOTION:**

No confidence motions are intended to express want of confidence in, or disapproval of the policy in a particular respect of a minister or the ministry as a whole.

- ♦ The member intending to move such a motion has to give notice in writing to the Secretary before the commencement of the sitting.
- ♦ If, in the opinion of the Speaker, the motion is in order, he reads it to the House and asks those in favour of leave being granted to the motion to rise in their places. If not less than fourteen members do so favouring the motion, the Speaker intimates that leave is granted.
- ♦ In the event of leave being granted, discussion takes place on the day appointed by the Speaker for the purpose; such day, however, must be fixed within a period of ten days from the day on which the leave is granted. **(Rule-117 & 118)**

#### **LEGISLATION:**

As you know, legislation is the most important function of the legislature. A bill, introduced in proper form becomes an act after it is passed by the legislature and assented to by the Governor or President as the case may be. Discussion on a bill takes place in a number of stages as discussed below:

##### **Leave to Introduce:**

A bill can be introduced by the member-in-charge (either by a minister or by a member other than the Minister). In the former case it is known as a **Government Bill** and in the latter case it is known as a **Private Member’s Bill**.

- ♦ Thirty days’ notice for private member’s bill has to be given. However, the Speaker can allow the motion for leave to introduce a bill at shorter notice.

- ♦ In both the cases, the notice has to be accompanied by a copy of the text of the bill together with full statements of the objects and reasons of the bill duly signed by the member giving such notice.
- ♦ However, the leave to introduce a Government bill is obviated, if the Speaker on the request being made to him may order the publication of the bill together with the statement of objects and reasons in the Odisha Gazette.
- ♦ If the bill, as per provisions of the constitution, requires prior sanction/ recommendation of the Governor/ President, as the case may be, the notice must be accompanied by such sanction/ recommendation.

**Motion for consideration:**

When the Bill is moved for consideration, a general discussion on the principle involved in the bill takes place. But if the bill is moved for being referred to a Select Committee, discussion does not normally take place. After introduction of the bill, the member-in-charge of the bill may make one of the following motions:

- ♦ That it be taken into consideration;
- ♦ That it be referred to a Select Committee;
- ♦ That it be circulated to seek the opinion of the House

**Consideration of the Report of Select Committee:**

When a bill is reported by the Select Committee, a general discussion takes place on the motion that the bill as reported be taken into consideration.

**Discussion of clauses:**

After the motion for consideration has been carried, discussion takes place on each clause along with amendments, if any, moved thereto.

**Motion for passing:**

After the clauses have been carried, amended or rejected, the motion to pass the bill is moved, and on this motion again discussion takes place.

- ♦ After the bill is passed by the assembly, three copies there of shall be signed by the Speaker and presented to the Governor.
- ♦ In case of Money Bill, the Speaker shall endorse a certificate required under Article 192(4) of the Constitution. (*Rule-65-97*)

**RESOLUTION:**

A resolution may be in the form of an opinion, or a recommendation; or may be in the form so as to record either approval or disapproval by the house of an act or policy of Government, or convey a message; or in such other form as the Speaker may consider appropriate.

- ♦ It should be clearly and precisely expressed and should raise substantially one definite issue. It should not contain arguments, inferences, ironical expressions or defamatory statements. It should not be under adjudication by a Court of Law having jurisdiction in any part of India.

- ♦ Any member or a minister may move a resolution relating to a matter of general public interest in the form of a self-contained proposal on which the assembly is capable of expressing its decision.
- ♦ The Speaker shall decide the admissibility of the resolution.
- ♦ On admission, the copy of the resolution shall be sent to the concerned Administrative Department as well as to all members.
- ♦ Soon after the resolution is moved it is discussed at a sitting and finally a copy of the Resolution passed by the Assembly is forwarded to the concerned department.

*(Rule 98-110)*

### **FINANCIAL BUSINESS:**

The **Annual Financial Statement** or the statement of the estimated receipt and expenditure of the Government, known as the Budget is presented to the assembly with a speech by the Finance Minister. The budget is then dealt with in two stages:-

- (i) General discussion;
  - (ii) Voting of demands for grants.
- ♦ There shall be an interval of two days between presentation of the budget and general discussion.
  - ♦ The general discussion on the Budget takes place for such period as the Speaker, in consultation with the Leader of the House, may determine or on the report of Business Advisory Committee adopted by the House as the case may be.
  - ♦ The Finance Minister has a general right of reply at the end of the discussion. Other Ministers may also take part in the discussion to answer any criticism that may have been made of the departments under their charge.

### **Voting of demands for grants**

- ♦ The Speaker shall, in consultation with the Leader of the house, allot such days not less than 14 days for the discussion and voting of demands for grants.
- ♦ No demand for a grant can be made except on the recommendation of the Governor.
- ♦ Members may move cut motions to omit or reduce any item in a grant or reduce any grant. A token cut may be proposed, but when that is done, the object of the cut has to be specified clearly and precisely. But no motion can be moved to increase any grant.
- ♦ The charged expenditure is subject to discussion, but not to the vote of the assembly.
- ♦ The debate on motions must be confined to the administrative matters for which the Government is responsible and not with matters requiring legislation.
- ♦ On the last day of the days allotted for the voting of demands for grants, the Speaker fixes a time to pass all the outstanding demands for grants termed as **guillotine**.
- ♦ When the demands for grants have been voted by the assembly, the **Appropriation Bill**, providing for the appropriation out of the **Consolidated Fund** is introduced and discussed in the house.

- ♦ No amendment to an Appropriation Bill can be proposed.

### **Supplementary Statement of Expenditure**

- ♦ When the expenditure for a particular service for the current financial year is found to be insufficient or when a need arises for additional expenditure upon some new service not completed in the Annual Financial Statement, the Governor causes the Supplementary estimates/Grants to be laid before the House.

### **Excess Grant**

- ♦ If, in respect of any financial year, money has been spent on any service in excess of the amount granted, a demand for the excess grant shall be presented to the Assembly as per provisions under Article 205 of the Constitution.

### **Vote on Credit & Exceptional Grant**

- ♦ At any time during the financial year a motion may be made for “Vote on Credit” or “Exceptional Grant” as contemplated under Article 206 of the Constitution.
- Procedure for approval of Supplementary Statement of Expenditure, Excess Grant and Exceptional Grants and Votes on Credit are regulated by the same procedure as that applicable to the demands for grants with such modifications as the Speaker may deem necessary.
- ♦ A ‘vote-on-Account’ is a vote on demand for grant given in advance in respect of the estimated expenditure for part of a financial year pending completion of the procedure relating to voting of the annual budget and passing of the Appropriation Bill in relation thereto.
- ♦ A motion for a ‘Vote-on-Account’ states the total sum required and the various amounts required for each department or items of expenditure which comprise such sum. These various sums are stated in a Schedule. Amendments may be moved for reduction of the whole grant or for reduction or omission of the items comprising the grant.

***Rule 120-133***

### **QUESTION OF PRIVILEGE**

- ♦ A question of privilege concerning member of the house or a committee of the house may be raised by a member with the consent of the Speaker by giving notice to the Secretary.
- ♦ Not more than one question, restricted to a specific matter of recent occurrence, can be raised at the same sitting.
- ♦ If the Speaker gives his consent, he shall call the member concerned after questions and before the list of business for the day to rise and make a short statement pertinent to the question of privilege.
- ♦ If objection to leave being granted is taken, the Speaker asks those in favor of leave being granted to rise in their places and if not less than 10 members rise, the Chair intimates that leave is granted.
- ♦ Thereafter on a motion being made, the question is referred to the Committee of Privileges.
- ♦ A question of privilege may, with the permission of the Speaker, be raised at any time.



- ♦ Again, the Speaker may refer any question of privilege to the Committee of privileges for examination, investigation and report. Discussion may take place on the report of the Committee.
- ♦ The Speaker may also allow a discussion before deciding whether the question raised is one of privilege or not.

**Rule 139-156**

### **REMOVAL OF SPEAKER/ DEPUTY SPEAKER**

- ♦ Article 179 of Constitution provides that a member holding office as a Speaker or Deputy Speaker of an Assembly may be removed from his office by a Resolution.
- ♦ Such Resolution given shall be read to the Assembly by the person presiding over the Assembly who shall request the members in favour of leave being granted to move the Resolution. If not less than 28 members are in favour, the Resolution shall be moved otherwise the member giving the notice shall be informed accordingly.

**Rule 119**

### **COMMITTEES:**

There are a number of committees of the house; some are elected by the house and some other nominated by the speaker. In addition to the committees of the house there are a number of committees constituted by departments of the government to which members are nominated either in their ex-officio capacity or in their personal capacity.

### **COMMITTEE ON PUBLIC ACCOUNTS:**

The Public Accounts Committee (PAC) examines the accounts showing appropriation of sums granted by the Assembly for expenditure by the Government, Appropriation Accounts and Reports of the Comptroller and Auditor-General of India.

- ♦ The committee shall consist of twelve members who shall be annually elected by the assembly from amongst its members according to the principle of proportional representation by means of the single transferable vote;
- ♦ While examining, the committee satisfies itself that the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged, that the expenditure conforms to the authority which governs it and that every re-appropriation has been made in accordance with the provisions made in this behalf under the rules framed by the competent authority.
- ♦ The committee also examines such trading, manufacturing and profit and loss accounts and balance sheets of State corporations as the Governor may have required to be prepared and the Comptroller and Auditor- General's Report thereon.
- ♦ It may scrutinize the Comptroller and Auditor-General's Report in cases where the Governor may have required him to conduct an audit of any receipts or to examine the accounts of stores and stock.

- ♦ In case, expenditure incurred is in excess of the budget provision approved by the legislature, the committee examines the propriety of such excess expenditure and recommends for its regularization required under Article 205 of the constitution.

*(Rule 134, 135)*

### **COMMITTEE ON ESTIMATES:**

The committee shall consist of twelve members who shall be annually elected by the Assembly from amongst its members according to the principle of proportional representation by means of the single transferable vote.

- The functions of the committee are:—
  - (a) to report what economies, improvements in organization, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected;
  - (b) to suggest alternative policies in order to bring about efficiency and economy in administration;
  - (c) to examine whether the money is well laid out within the limits of the policy implied in the estimates; and
  - (d) to suggest the form in which the estimates shall be presented to the Assembly;
  - (e) Besides, the committee also scrutinizes the supplementary demands for grants before the same are presented to the house.

*(Rule 137)*

### **COMMITTEE ON PUBLIC UNDERTAKINGS**

The committee shall consist of twelve members who shall be annually elected by the Assembly from amongst its members according to the principle of proportional representation by means of the single transferable vote.

- The functions of the committee are:-
  - (a) to examine the reports, if any, of the Comptroller and Auditor General on the Public Undertakings;
  - (b) to examine in the context of the autonomy and efficiency of the Public Undertakings whether the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices; and
  - (c) to exercise such other functions as may be vested on the committee on public accounts and the committee on estimates in relation to the public undertakings.
- The Committee shall not examine and investigate any of the following, namely—
  - (a) Matters of major government policy as distinct from business or commercial functions of public undertakings;
  - (b) Matters of day-to-day administration; and
  - (c) Matters for the consideration of which machinery is established by any special statute under which a particular public undertaking is established.

*(Rule 138-A)*

**COMMITTEE ON WELFARE OF SC & ST**

The committee shall consist of twelve members who shall be annually elected by the Assembly from amongst its members according to the principle of proportional representation by means of the single transferable vote.

The functions of the committee are:-

- (a) to report to the assembly on the action taken by the government on the measures proposed by the committee;
- (b) to report to the assembly on the working of the welfare programmes for SCs & STs;
- (c) to examine such other matters as are specifically referred to it by the assembly or the speaker; and
- (d) to examine the measures taken by the State Government to secure due representation of the SCs, STs and backward classes in services and posts under its control having regard to the provisions of Article 335 of the constitution. *(Rule 138-C & D)*

**BUSINESS ADVISORY COMMITTEE:**

The committee consists of eight members including the speaker who is chairperson. The members are nominated and hold office till a new committee is constituted.

- ♦ The function of this committee is to recommend time allocations for different categories of business before the house as may be referred to it by the speaker in consultation with the leader of the house.
- ♦ The committee selects the demands for grants/ supplementary demands for grants for discussion and fixes dates for such discussion.
- ♦ The report of the committee is presented to the house by the speaker and if adopted operates as the time allocation order of the house. *(Rule 30-34)*

**SELECT COMMITTEE:**

When a bill introduced in the legislature needs more time, information, amendments and specific changes that may not have existed in the original bill, it is referred to a Select Committee. It is constituted under the chairmanship of the minister-in-charge of the department to which the bill relates and consists of twelve members belonging to Government and opposition parties.

- ♦ The committee may, in course of its functioning, seek expert legal, political and/ or social opinion as it may feel necessary in formulating its recommendations.
- ♦ After complete deliberations, the committee submits either an interim or final report on the bill with its recommendations.
- ♦ There is no prescribed time limit for the committee to complete the discussions.

*(Rule 73-76)*

**COMMITTEE OF PRIVILEGES:**

The speaker nominates a committee of privileges consisting of seven members. This committee shall hold office until a new committee is nominated.

- ♦ The Committee shall examine every question referred to it and shall determine whether a breach of privilege is involved in the case referred to it.
- ♦ If there is a breach of privilege, the committee shall examine the nature of the breach, the circumstances leading to such breach and recommend as it may deem fit in the form of a report.
- ♦ After submission of the report by the committee, the speaker shall permit a half-an-hour debate and put the question before the assembly.
- ♦ When the motion is agreed, the chairman, or any member of the committee, or any other member may move that the assembly agrees or disagrees or agrees with amendments as the case may be with the recommendations contained in the report.
- ♦ The speaker has the discretion to refer any question of privilege to the committee for examination, investigation and report. (*Rule 139-156*)

#### **COMMITTEE ON SUBORDINATE LEGISLATION:**

The committee is nominated by the speaker for a year. It consists of maximum seven members including the chairperson.

- ♦ The function of the committee is to see whether the powers, to make regulations, rules, sub-rules, bye-laws, etc., conferred by the constitution or delegated by the legislature, are being properly exercised within the scope of such delegation. It may also examine such other matters of a similar nature as the speaker may refer to it.
- ♦ The committee reports its opinion on these rules etc. to the assembly.

(*Rule 157-163*)

#### **COMMITTEE ON GOVERNMENT ASSURANCES:**

The committee is nominated by the speaker for a year. It consists of maximum seven members including the chairperson.

- ♦ The committee shall report on the extent to which assurances made to the assembly have been implemented.

(*Rule 164 & 165*)

#### **COMMITTEE ON PETITIONS:**

The committee is nominated by the speaker with maximum seven members including the chairperson.

- ♦ The committee examines every petition referred to it;
- ♦ The committee also considers representations, and letters received through any authentic mode of communication from various individuals, associations etc. and give directions for their disposal. (*Rule 171-174-C*)

#### **RULES COMMITTEE:**

The committee is nominated by the speaker and consists of maximum eight members including the speaker who is the ex-officio chairperson of this committee. The committee considers matters of procedure

and conduct of business in the house and to recommend any amendments or additions to the rules that may be deemed necessary.

- ♦ It holds office for such period as the speaker may specify or until a new committee is nominated.

*(Rules 175 -178)*

### **DEPARTMENTALLY RELATED STANDING COMMITTEE:**

To scrutinize the demands for grants, several departmentally standing committees are constituted. A committee shall consist of twelve members who shall be annually elected by the assembly from amongst its members according to the principle of proportional representation by means of the single transferable vote.

- ♦ The speaker, in consultation with the leader of the house and the leader of opposition, decides the departments to be covered by the standing committees.
- ♦ The functions of the committee are as under:
  - (a) To scrutinize the demand for grants and advise in the matter of formulating policies underlying the budget estimates;
  - (b) To examine the working of the department and review the implementation of its plans and programmes;
  - (c) To examine the bills pertaining to the department concerned;
  - (d) To examine such other matters relating to a department as assigned by the speaker.

*(Rules 175 -178)*

### **COMMITTEE ON PAPERS LAID ON THE TABLE:**

The committee on papers laid on the table consists of maximum seven members nominated by the Speaker for one year. The committee examines all papers laid on the table of the house by ministers so as to ensure:

- (a) Whether provisions of the constitution, acts, rules have been complied with while laying the papers on the table;
- (b) Whether there is undue delay in laying the papers. *(Rules 174-D to G)*

### **FREQUENTLY ASKED QUESTIONS**

**Q** : Does the speaker have the right to vote?

**Ans** : Yes. The speaker has a casting vote in the event of a tie.

**Q** : What is question hour?

**Ans** : Rule 36 of the “*Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly*” provides that unless the speaker otherwise directs, the first hour of every sitting of the house shall be available for the asking and answering questions. Thus, it is taken up from 10.30 hrs to 11.30 hrs every sitting known as question hour.

**Q** : Whether there is any restriction regarding the number of notices that each member may give with regard to questions?

**Ans :** A member is permitted to give maximum 8 notices of questions both starred and un-starred combined for any day.

**Q :** Who decides the admissibility of questions?

**Ans :** Admissibility of questions is governed by *Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly*, directions by the speaker as also the past precedents.

**Q :** What is a half-an-hour discussion?

**Ans :** A member may raise discussion on a matter of sufficient public importance which has been the subject of a recent question (starred/ un-starred/ or short notice question) and the answer which needs further elucidation. Such discussion is known as half-an-hour discussion.

**Q :** What are the different types of bills?

**Ans :** Bills initiated by ministers are called government bills while bills introduced by members other than ministers are known as private members' bills. Depending on their contents, bills may further be classified broadly into (a) original bills, (b) amendment bills, (c) consolidating bills, (d) expiring laws (continuance) bills, (e) repealing bills, (f) bills to replace ordinances; (g) Constitution (amendment) bills; and (h) money and financial bills.

**Q :** Who decides whether a bill is an ordinary bill or a money bill?

**Ans :** In case any question arises whether a bill is a money bill or not, the decision of the speaker is final.

**Q :** What is the difference between a bill and an act?

**Ans :** A bill is a draft legislative proposal before the house. It becomes an act only when it is passed by the assembly and assented to by the Governor.

**Q :** What is a motion?

**Ans :** In parliamentary parlance, "motion" means a formal proposal made to the house by a member seeking a decision of the house.

**Q :** What is 'zero hour'?

**Ans :** The time immediately following the question hour and lying of papers and before any listed business is taken up in the house is known as 'zero hour'. Since it starts around 12 noon, this period is termed as 'zero hour'.

**Q :** What is a point of order?

**Ans :** A "point of order" is an extraordinary process which, when raised, has the effect of suspending the proceedings before the house. It relates to the interpretation or enforcement of the *Rules of Procedure and Conduct of Business* in the house. Raising a point of order is "meant to assist the speaker in enforcing the rules, directions and provisions of the constitution for regulating the business of the House".

**Q :** Can a member raise questions on the address by the Governor?

**Ans :** No member can raise questions on the address by the Governor.

**Q** : What is the difference between “breach of privilege” and “contempt of the house”?

**Ans** : When any of the privileges, either of the members individually or of the house in its collective capacity, is disregarded or attacked by any individual or authority, the offence is called a “breach of privilege”. While, “contempt of the house” may be defined as any act or omission which obstructs or impedes the house in the performance of its functions, or which obstructs or impedes any member or officer of such house in discharging his/her duties.



## 7

### **PROCESS OF LEGISLATION**

- ◆ **CONSTITUTIONAL PROVISIONS**
- ◆ **STEPS OF LEGISLATION**
- ◆ **PROMULGATION OF ORDINANCE**
- ◆ **PRIVATE MEMBER BILL**
- ◆ **FREQUENTLY ASKED QUESTIONS**



## PROCESS OF LEGISLATION

Law making in relation to a Legislature, refers to the process by which a legislative proposal brought before it, is translated into the law of the land. The process of law making begins with the introduction of a Bill in the Legislative Assembly. This Chapter gives a brief outline of the distribution of legislative powers between the Union and the States and the stages a proposal for legislation passes through including pre-legislation, legislation and post legislation formalities.

The Constitution of India provides for a federal form of Government. It establishes a dual polity with the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. The Union is not just a loose league of States nor are the States mere agencies of the Union deriving powers from it. Both the Union and the States are created by the Constitution; both derive their respective legislative, executive and financial authority from the constitution. The one is not subordinate to the other in its own field.

### CONSTITUTIONAL PROVISIONS:

- As regards the subject of legislation, Article 246 of the Constitution envisages a threefold distribution of legislative powers between the Union and the States. The subjects of the legislation under three lists are indicated in Schedule VII of the Constitution.
  - (i) Union Lists comprises 100 subjects including defense, foreign affairs, banking, insurance, currency etc;
  - (ii) State Lists comprises 61 subjects including public order and police, local government, public health, sanitation, agriculture, fisheries etc;
  - (iii) Concurrent List comprises 52 items such as criminal law, civil and criminal procedure, marriage, contracts, torts, labour welfare, economic and social planning etc.
- The State Legislature is to legislate with respect to the matters enumerated in the State List while the Parliament has the power to legislate matters relating to the Union List. However, in case of matters enumerated in the Concurrent List, both the Union and the States can legislate. In case a Union law is inconsistent with to State law on a subject in the concurrent list, the Union law shall prevail. If, the State law has been reserved for assent of the President and has received such assent, the State law shall prevail notwithstanding such repugnancy. The Parliament is, however, competent to override such State law by subsequently making a law on the same subject.
- Having regard to the complexities involved in the process of legislation, the Government in General Administration & Public Grievances Department has issued a set of instructions which are enumerated

in Chapter V of the “Odisha Government Rules and Business”. The details of the processes are also contained in Section-II of Chapter IX of “The Odisha Secretariat Instructions”.

### STEPS OF LEGISLATION:

- Law making is a time-consuming process involving a number of stages. The first stage is policy formulation. Government often formulates policies outlining what it intends to achieve and the methods and principles it will use to achieve them. It states the goals and planned activities of the Department. A policy document is not a law but enforcement of policy decisions require framing of new laws to enable Government to put in place the necessary institutional and legal frameworks to achieve its goals. In the process of legislation, Law Department plays a vital role. Although, Law Department is not the originating/ initiating Department for legislation, it puts the proposed legislation into technical shape. Now we shall discuss various steps in the process of legislation.

#### Step 1:

The Administrative Department(AD) shall initiate the proposal for legislation. If the proposal involves financial implication, the AD shall prepare a financial statement (in prescribed format) in consultation with Finance Department. Thereafter, the AD shall prepare a draft Cabinet Memorandum (**the procedure for drafting the memorandum has been laid down in the guidelines issued by PA Department vide their letter No 6057/PAD, dated 30.08.2005**) containing a summary of the proposal setting out the facts of the case and the legislative measures proposed for onward transmission to the Law Department.

#### Step 2:

The Law Department will revise the draft cabinet memorandum wherever necessary. They shall keep the following points in view while examining the proposed legislation,:

- (i) The expediency of the matter from legal point of view;
- (ii) Competency of the State legislature for such enactment;
- (iii) Sanction of the President, if necessary, as per provisions of the Constitution,
- (iv) Consistency with provisions of the Constitution especially relating to fundamental rights.

#### Step 3:

After correction of the draft Cabinet Memorandum as advised by the Law Department, the proposal shall be placed before the Cabinet after obtaining approval of the Chief Minister.

#### Step 4:

Following Cabinet approval, the AD shall prepare an Office Memorandum and endorse it to the Law Department with a request to draft the Bill for its introduction in the Legislative Assembly.

#### Step 5:

The Law Department, in its turn, prepare the Bill and obtain the approval of Minister, Law. If the Law Department consider it necessary, they may consult the Advocate General. The draft Bill, so approved, shall be endorsed back to the AD.

**Step 6:**

The AD will submit the draft Bill to the Government for final approval. A “Statement of Objects and Reasons” for such legislation shall be attached to the Bill duly signed by the Member-in-Charge. Thereafter, the draft Bill along with the “Statement of Objects and Reasons” shall be sent to the Law Department at least fifteen days before commencement of the session.

If, as per the advice of the Law Department, prior recommendation of the Governor for introduction of the Bill is necessary, the AD shall obtain such recommendation prior to such introduction and the same shall be communicated in writing to the Secretary, OLA along with a copy of the Bill by the Member-in-charge. Such communication should be in the format prescribed under Instructions 36(1), Part V, of the Instructions issued under the Odisha Government Rules of Business.

**Step 7:**

It shall be responsibility of the Law Department to send the draft Bill to the Government Press for its printing, ensure proof reading and scrutiny in the Legislative Section before it is finally sent to Assembly Secretariat.

**Step 8:**

Once the Bill is received in the Assembly Secretariat, it shall be their responsibility to get the fair copies of the Bill from the Press and ensure distribution of the copies of the Bill among the members. Assembly Secretariat should send a copy of the Bill to the Governor, Chief Minister, the AD, the Law Department and the Government of India for information.

**Step 9:**

After observing all the formalities associated with final passage of the Bill by the Legislative Assembly, the Secretary of the Legislative Assembly shall send two (printed) assent copies on thick paper authenticated by the Speaker to Law Department.

**Step 10:**

On receipt of the authenticated Bill, the Secretary, Law Department shall give a certificate to the effect that “*no legal reasons exist why the assent of the Governor to the Bill should not be given, or the same should not be reserved for the consideration of the President*” and send along with the certificate, the authenticated copies of the Bill to the AD.

**Step 11:**

The Secretary of the AD shall give necessary administrative certificate to the Bill and forward it to the Governor through Minister-in-Charge and the Chief Minister for assent.

**Step 12:**

After receipt of Governor’s or President’s assent, the Administrative Department shall send the file along with assented copies to the Law Department for publication of the Bill in the Official Gazette as an Act of the Legislature.

## PROMULGATION OF ORDINANCE

- An Ordinance is promulgated when the Assembly is not in session and there is exigency which necessitates to make a law.
- The Governor is empowered under clause (1) of Article 213 of the Constitution of India to promulgate Ordinances when the Governor is satisfied that the circumstances exist which render it necessary for him to take immediate action.
- The procedure for such promulgation is discussed below.
  - (i) The procedure outlined at Step 1 through Step 6 above meant for legislation shall be followed while preparing for promulgation of Ordinances.
  - (ii) After approval of the proposed Ordinance by the Cabinet, the draft Ordinance will be sent to the Law Department for preparation of the final draft Ordinance and after receipt of two copies of the draft final Ordinance from the Law Department, the concerned AD will process the file through Chief Minister for obtaining signature of the Governor and thereafter, send the signed copy of the Ordinance to the Law Department for its publication.
  - (iii) Where the law proposed to be promulgated is in conflict with any Central law, prior instruction of the President is to be obtained by the Governor and after receipt of the Presidential instruction; the Governor shall promulgate the Ordinance.
  - (iv) An Ordinance shall remain in force for a maximum period of six weeks from the commencement of the next Assembly session wherein the Ordinance needs to be replaced by an Act of the State legislature in the process as required for enactment of a law. *An additional Memorandum will be prepared for the House indicating the circumstances in which the Ordinance is promulgated.*
  - (v) In case, the Ordinance cannot be replaced by an Act of the State Legislature within the period mentioned above, the Ordinance shall lapse. The AD may, therefore, take adequate precautions for replacement of the Ordinance with a Bill sufficiently ahead before its lapse.

## PRIVATE MEMBER BILL

- A non official/ private member seeking to introduce a Bill needs to give notice of his intention to move for leave to introduce the Bill to the Secretary, Legislative Assembly who shall forward two copies of the Bill together with the statement of objects and reasons to the Law Department and the concerned AD.
- The Law Department will examine it and communicate its opinion to the AD.
- The AD shall examine the Bill from administrative point of view and place the proposal in form of a Memorandum before the Chief Minister for a decision whether to support or oppose the Bill. The Governor should accordingly be advised. The AD should also mention if Presidential sanction is necessary. Prior consultation with Finance Department would be necessary, in case the provisions of the Bill involve expenditure from the Consolidated Fund of the State.

- As per decision of the Chief Minister, the AD shall move the Governor/ the President for obtaining recommendation or sanction. Where the recommendation or sanction is obtained or refused, the AD shall intimate such recommendation/ sanction/ refusal to the Secretary, Legislative Assembly in writing who shall intimate the decision to the Member-in-Charge of the Bill.

### FREQUENTLY ASKED QUESTIONS

**Q** : Do the procedural matters require legislative approval?

**Ans** : No.

**Q** : What is the difference between an Act and a Rule?

**Ans** : Acts are passed by the Parliament or the Legislature of a State and assented by the President/ the Governor. But, rules are framed by the Executives to implement the provisions of the Act which are prescribed in the Act. Rules provide the detail procedure which have not been provided for in the Act. However, Rules by no means can go beyond the power conferred by the Act, or extend the same.

**Q** : What is the difference between a Bill and an Act?

**Ans** : A bill is the draft of a legislative proposal, which when passed by the legislature and assented to by the Governor, becomes an Act of Legislature.

**Q** : Can a Bill lapse after it is laid before the legislature?

**Ans** : A Bill pending in the legislature will lapse on dissolution of the house. A Bill passed by the Assembly but pending assent of the Governor does not lapse. Adjournment of a sitting/ Prorogation of a session do not affect the status of the Bills pending before the House and the same can be resumed when the House meets again.

**Q** : Can a Department go for legislation without involving the Law Department?

**Ans** : No.

**Q** : Can a proposal for legislation be initiated at the level other than the Secretariat Department?

**Ans** : No

**Q** : Can an Ordinance be promulgated when the Assembly is in session?

**Ans** : No. Ordinances can be promulgated when the legislature is not in session and immediate action is required.

**Q** : Does abrogation (repeal) of an Act require approval of the Legislature?

**Ans** : Yes.

**Q** : What is the procedure followed for amendment of an Act. Is it mandatory condition for all kinds of amendment?

**Ans** : Same procedure as required to pass an Act is followed for amendment of an Act.

Yes.



## 8

### **NOTING AND DRAFTING**

- ◆ NOTING
- ◆ GUIDELINES FOR PREPARING NOTES
- ◆ FUNCTIONAL APPROACH TO NOTING
- ◆ NOTING ON FILES
- ◆ DRAFTING
- ◆ LETTER
- ◆ DEMI OFFICIAL LETTER
- ◆ OFFICE MEMORANDUM/ ENDORSEMENT
- ◆ RESOLUTION
- ◆ UN-OFFICIAL MEMORANDUM/ NOTE
- ◆ OFFICE ORDER
- ◆ ORDER
- ◆ NOTIFICATION
- ◆ PRESS COMMUNIQUE
- ◆ ADVERTISEMENT
- ◆ CABINET MEMORANDUM
- ◆ SPEAKING ORDER
- ◆ GUIDELINES
- ◆ FREQUENTLY ASKED QUESTIONS

## NOTING AND DRAFTING

The State Secretariat acts as the nerve centre of the State administration. Essentially a policy framing body, this apex institution also performs a broad spectrum of other functions like giving directions and guidance to the field organisations for implementation of Government policies, laying down various rules and regulations for the guidance and control of various public agencies, drafting legislation, framing rules and regulations and also formulating principles of procedures and financial control etc.

While the Minister is privileged to lay down the contours of a policy, it is the executive which works out the details of modalities for operationalisation of the policy and oversee its implementation. The OSS officers populate the lower and middle rungs of this permanent institution. Aided by a rich tradition of institutional memory, they act as a bridge between the past and the present and facilitate continuity in administration. By virtue of their training and privileged access to various shades of opinions, ideas and experiences of experts, they are able to present a balanced view of things by analysing, dissecting and co-ordinating various options. Such comprehensive analysis finally leads to policy formulation.

It is, therefore, important that the ASOs should hone their skills in preparing notes and drafting communications and also in interpretation of rules and regulations. Typical communications have their own phraseology and set patterns are followed in drafting such correspondences. Similarly, most subjects have their distinct set of idioms, diction and vocabulary. For instance, writing a note on subjects relating to mining or forestry is not quite the same thing as writing a note on service matters like promotion. Similarly drafting a policy has little in common with fixing someone's pay or formulating budget proposals. Therefore, the tone and tenor of a note is, to a large extent, determined as much by the subject matter as by the purpose for which such note is produced. Necessary instructions for preparation of office notes have been given in Chapter V, Section III of Odisha Secretariat Instructions.

### NOTING:

- ◆ In a Government organisation, noting is an important component of processing of cases. Senior officers generally depend on the views of their team members, expressed through noting, before making decisions. A note is, therefore, a means to arrive at a speedy and correct decision.
- ◆ Since Government officers are accountable for making their decisions, they have to maintain records about the considerations that weighed with them in making decisions. Noting on files serves this need well.
- ◆ By noting we mean the process of recording remarks on a case in a note sheet to facilitate disposal of a case/receipt. A note includes a précis of previous papers, a statement or an analysis of the questions requiring decision, suggestions regarding the course of action and final orders passed thereon.

- ◆ The process of writing notes is an important part of office procedure and as stated above needs skills to prepare an effective note.

### GUIDELINES FOR PREPARING NOTES:

The following guidelines may be kept in view while preparing notes:

- Remember, the objects of noting are:
  - (i) to state the facts clearly and concisely, drawing attention to previous decisions, precedents, correspondence or rules and orders having a bearing on the subject;
  - (ii) to state points on which orders are required; and
  - (iii) to suggest action to be taken.
- When the line of action on a receipt is obvious or is based on a clear precedent or practice or has been indicated by the Branch Officer, in the directions given by him on a receipt, a draft reply, where necessary should be put up for approval without much noting. In other cases, the section will put up a note.
- A note should be
  - (i) **Complete:** It should answer all questions that have been raised and all other possible questions that may arise while considering the case. Answer to questions such as what, why, how, when, where and who will help in making the note complete;
  - (ii) **Clear:** To the extent possible, a simple and direct style of writing should be adopted. Use of complex sentences or complicated and ambiguous language should be avoided. Short, familiar words, should be preferred over the gaudy, the inane and the farfetched. Short sentences in active voice serve to remove obscurity. Concrete expressions should replace abstract ones.
  - (iii) **Concise and to the point:** All notes should be clearly intelligible and couched in simple language; they should not contain wordy, trite or unnecessary expressions; should include only relevant statements and avoid repetition of words or of ideas.
  - (iv) **Coherent:** It should be logically arranged, sticking to one idea for each paragraph and linking together sentences and paragraphs.
  - (v) **Correct:** All facts, figures and circumstances should be correct and faithfully represented;
  - (vi) **Courteous:** It should be temperately written and should be free from personal remarks. It should be devoid of harsh language. If apparent errors or inconsistent statement in the note of another Department are to be pointed out or if the opinion expressed therein has to be criticised, care should be taken to see that the observations are couched in courteous language. All notes should be written in third person.
  - (vii) **Organised properly:** Orderly presentation of ideas is a reflection of clear thinking. A note should be structured into numbered paragraphs of moderate size with each para devoted to one issue or one aspect of the issue under examination. The first para should state the main point followed by paragraphs giving evidence and discussing it. The final paragraph should evaluate the arguments and contain recommendations for action.



**(viii) Concluded:** In case a lengthy note is inevitable, the note should be concluded with a paragraph bringing out clearly but briefly the points requiring decision. Paragraphs of notes should be serially numbered. If required, headings, bullets or other such formats should be used.

- It is to be assumed that the 'paper under consideration'(PUC) and the previous notes, if any, will be read by the officer to whom the case is submitted. The reproduction of verbatim extracts from or paraphrasing of the PUC or of notes by other Department on the same file shall, therefore, be avoided.
- Points already covered and analysed in a PUC should not be repeated in a note.
- If any remark is recorded by an officer on a receipt, it should be reproduced in the note.
- When passing orders or making suggestions, an officer should confine his notes to the actual points he proposes to make. He should not repeat or reiterate the ground already covered in the previous notes. If he agrees to the line of action suggested in the preceding note, he should endorse the proposal.
- A self-contained summary of the case should always be put up with every file submitted to a Minister. Such a summary should bring out briefly, but clearly, all the relevant facts, including the views expressed on the subject by other Departments, if any, consulted in the matter, and the point(s) on which the orders of the Minister are sought.
- A note should draw attention, where necessary, to statutory or customary procedure and to point out the law and rules and where they are to be found. Relevant extracts of a rule or instructions need not be reproduced in the note. Copies of such extracts should be placed on a file and attention to it should be drawn in the note.
- Any officer who has to note upon a file on which a running summary of facts is available will, in drawing attention to the facts of the case, refer to it in his own note. In case a running summary of facts are not available, then a self-contained summary will be prepared and put up with the case to be submitted to superior officer.
- When a paper under consideration raises several major points, each requiring detailed examination and order, each point should be noted upon separately in the notes.
- No letter or case should be submitted for orders, as far as possible, with more than one note from the office or from each section in which it is dealt with. If the note is put up by an ASO, the SO/ DO will, if he accepts it, add his initials. If he does not accept it he should modify or rewrite it, or if the note is incorrect, inadequate, or perfunctory, he may either remove it from the file and/ or return it to be rewritten.
- The Officer preparing the note shall append his legible signature with date at the end of his/her note.

#### **FUNCTIONAL APPROACH TO NOTING:**

- (i) **No noting cases:** These are cases which necessitates no action. Such receipts should be filed at the dak stage itself.
- (ii) **Routine/Repetitive cases:** For processing cases of repetitive nature, a **standard** skeleton note may be developed showing pre-determined points of check or aspects to be noted upon. Grant of

annual increment or submissions of monthly returns are examples of repetitive work. In respect of other routine cases, a fair reply should be put up without noting.

(iii) **Problem solving cases:** In such cases a note should cover the following aspects:

- ◆ Identifying the problem;
- ◆ Tracing the background or locating the circumstances under which the problem has arisen;
- ◆ Referencing relevant rules, policy or precedent;
- ◆ Finding possible solutions;
- ◆ Proposing, with reason, the best alternative;
- ◆ Consequences of the suggested solution.

(iv) **Policy and Planning cases:** Such notes are normally dealt with at higher levels of the organisation. They require thorough examination of the various aspects critical to the problem sought to be addressed. Such notes should be developed systematically and structured in the following manner: -

- ◆ **Problem:** State how the problem has arisen? What are the critical factors?
- ◆ **Additional Information:** Give additional information to size up the problem. If sufficient information is not available in the section, it should be collected before attempting a note.
- ◆ **Rule, policy etc:** Relevant rules, regulations, policy, standing orders, practices are required to be referred to wherever available. Logical interpretation of such rules etc. bringing out their bearing on the problem has to be put across in a cohesive manner.
- ◆ **Precedents:** Precedent cases having a bearing on the issue under consideration should be put up. If there are varying precedents or any precedent differs in certain respects from the case under examination, the difference should be brought out so as to arrive at a correct decision.
- ◆ **Critical analysis:** The case should be examined on merit. Possible alternative solutions along with the best alternative should be found out. Views of other departments, where necessary, should be obtained. Attention should be paid to other aspects like the financial and other implications, impact on environment, socio economic repercussions and the modality for implementing the decision and the authority to take a decision.
- ◆ **Concluding para:** The concluding para should suggest a course of action for consideration. In cases where a decision is to be taken by a higher authority like Committee, Board etc. the point or points on which the decision of such higher authority is sought should be specifically mentioned.

(v) **Self-contained note:** Whenever orders of an authority are to be solicited on any matter, a self-contained note shall be submitted. The following instructions shall be observed in the preparation and submission of self-contained notes:

- ◆ The contents of the note should be concise and to the point and will be divided into paragraphs, each dealing with a particular aspect of the subject and each paragraph duly numbered.

- ◆ The note shall contain a concise background of the case and the orders relevant to the subject matter and reference to the statutory or customary procedure or previous decisions or precedents, if any. If the case is based on the provisions of any rules, regulations, statute or past precedents, action to be taken will also be suggested.
- ◆ If the inclusion of any information in the note is likely to obscure the main point at issue or makes the note unnecessarily lengthy, a separate statement or appendix giving the information will be placed on the file.
- ◆ The last paragraph of the note should invariably state precisely the question or questions for consideration or point on which the orders are solicited.

#### **NOTING ON FILES RECEIVED FROM OTHER DEPARTMENTS:**

- (i) If the reference seeks the opinion, ruling or concurrence of the receiving department and requires detailed examination, such examination may be done separately through routine notes on a separate file (which will be created by the receiving Department). OSWAS has a separate facility for noting in respect of files received from other departments. Only the final result will be recorded on the file by the officer responsible for commenting upon the reference.
- (ii) The receiving department shall open subject-wise file each year in which such routine notes will be kept. The inter-departmental note recorded on the file of the originating department will bear the subject, file number to facilitate retrieval for future reference and storage in electronic environment.
- (iii) Where the reference requires information of a factual nature or other action based on a clear precedent or practice, the concerned ASO in the receiving department may note on the received file straightway.
- (iv) Where a note is recorded by an officer after obtaining the orders of a higher officer, the fact that the views expressed therein have the approval of the latter should be specifically mentioned, in the note to be recorded on the file of the originating Department.

#### **DRAFTING:**

Frequent interaction among different entities within a Government organisation, with Union Government and between State Governments is a regular feature occasioned by a variety of administrative necessities, situations and conventions. Different forms of written communications are used to facilitate such interactions. In the office environment, a communication is basically a process of sharing or exchange of information, ideas, knowledge, views, opinions etc required in connection with carrying out assigned functions.

- ◆ Drafts are ordinarily prepared by the ASO who noted on the case, after orders have been passed upon it. But, they may be put up at any stage, if it appears that the consideration and disposal of the case would be facilitated by submitting it with a draft.
- ◆ Where the orders of Government have been passed in any matter, it is the duty of the Secretary/ Additional/ Joint/ Deputy Secretary to pass and issue the draft conveying the orders or decision and it is not ordinarily necessary for him to submit the draft to the Minister or the Chief Minister. He can,

however, use his discretion to do so and should do so in important matters, if he has any doubt about the phraseology to be employed or the exact order to be conveyed.

- ◆ Before issue of a draft, the ASO must verify following things like reference, figures, address, titles etc.
- ◆ It is, therefore, essential that you should have a thorough grounding on use of different forms of communication and how they are drafted.

## **DIFFERENT FORMS OF WRITTEN COMMUNICATION:**

### **LETTER:**

- ◆ This form is used for all formal correspondences with the Central Government, State Governments, various constitutional bodies, heads of attached and subordinate offices, public enterprises, statutory authorities, public bodies and members of the public.
- ◆ It is generally not used for correspondence between different departments of the Secretariat and between sections of the same department.
- ◆ The format of a letter should be structured as follows:
  - (i) **Letter Head:** This bears the name of the Government, *i.e.* - Government of Odisha and name of the Department, if necessary name of the branch or section;
  - (ii) **File number, place of despatch and date of communication;**
  - (iii) **Name, designation with full address of the sender;**
  - (iv) **Designation of the addressee with full address;**
  - (v) **Subject matter in brief;**
  - (vi) **Reference:** If you are sending the communication in reply to a previous letter, you will have to mention in the beginning the number and date of reference of the previous letter. If a number of letters have already been exchanged, you will have to give a reference to the latest main communication on the subject;
  - (vii) **Salutation:** If you are addressing to official authorities, you should begin with the salutation 'Sir' or 'Madam' as the case may be and those addressed to non official individual or groups of individuals with Dear Sir/ Sirs. Those addressed to firms will begin with the salutation Dear Sirs.
  - (viii) **Main text of letter:** The language used should be clear, and to the point. In case you are dealing with a number of issues a separate paragraph should be used for each point.
  - (ix) **Subscription and signature:** You should end all official letters with the subscription "Yours faithfully" followed by the signature and designation of the person signing the letter.
  - (x) **Enclosure:** If there be any enclosure to the letter, this should be mentioned at the bottom of the letter on the left hand side.
  - (xi) Here you must also note that official letters emanating from a Department and conveying the views and orders of the Government must specifically be expressed to have been written under the direction of Government. *Viz;* **I am directed to.....**

**Illustration-1:**

A letter has several forms. An illustration of a letter written by the Joint Secretary to Government, Home Department addressing to the Engineer-in-Chief, PH regarding shifting of Odisha Secretariat Training Institute, Bhubaneswar is given for reference.

*Government of Odisha*  
\_\_\_\_\_ *Department*

\*\*\*\*

No \_\_\_\_\_/, Bhubaneswar Dated \_\_\_\_\_

*From*

*Sri \_\_\_\_\_,*  
\_\_\_\_\_ *Secretary to Government.*

*To*

*The Engineer-in-Chief, Public Health,*  
*1<sup>st</sup> Floor, UNNATI Bhawan,*  
*Satya Nagar, Bhubaneswar.*

*Sub: Shifting of Odisha Secretariat Training Institute from the existing site at Unit-II, Bhubaneswar to 5<sup>th</sup> floor, A-2 Block, Toshali Bhawan, Satya Nagar, Bhubaneswar- regarding.*

*Sir,*

*In inviting a reference to the above subject, I am directed to intimate that the GA & P.G Department have allotted a space measuring 4120 sq. ft in the 5<sup>th</sup> floor, A-2 Block at Toshali Bhawan, Satya Nagar, Bhubaneswar provisionally for functioning of the Institute. (Copy enclosed) The Executive Engineer, (R&B), Division No-I, Unit No 1, Bhubaneswar has already initiated the special repair work within the premises. The special repair work includes construction of 2 nos of toilets.*

*I would, therefore, request you to kindly issue necessary instructions to the Assistant Engineer, (PH) Toshali Bhawan Sub-Division, Satya Nagar, Bhubaneswar to inspect the site and initiate the construction work at an early date so that the training institute can be shifted smoothly.*

*Yours faithfully,*

**Illustration-2:**

Besides above, **Express Letter** and **Joint Letter** are also used very often in Government offices depending upon their requirement. Normally, Express Letter is used to emphasize the matter of a subject while Joint Letter is used by joint authorities to avoid confusion. A model express letter addressed to all

Municipal Commissioners/ Engineer-in-Chief, PHEO etc. regarding prohibition of human entry into sewer and septic tank with strict instructions for observance of the norms prescribed.

**Express Letter:**

*Government of Odisha*

*H & UD Department*

\*\*\*\*

No \_\_\_\_\_, Date \_\_\_\_\_

*From*

\_\_\_\_\_  
*Additional Secretary to Government*

*To*

*The Municipal Commissioners/ Engineer-in-Chief, PHEO,  
Engineer-in-Chief, JICA/ Managing Director, WATCO,  
Member Secretary, OWSSB/ The Executive Officers of all ULBs.*

*Sub: Prohibition of human entry into sewer and septic tank - Strict observance of the norms prescribed.*

*Madam/Sir,*

*AS YOU ARE AWARE, MANUAL ENTRY INTO SEWER AND SEPTIC TANK IS STRICTLY PROHIBITED UNDER THE PROVISIONS OF THE "PREVENTION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013".*

*INSTRUCTIONS HAVE BEEN ISSUED TO ALL THE ULBS FOR ENFORCEMENT OF THE PROVISIONS OF THE AFORESAID ACT. THIS DEPARTMENT LETTER NO.23449 DATED 17.10.2017, LETTER NO.479 DATED 06.10.2018, LETTER NO.5303 DATED 08.03.2019 AND NOTIFICATION NO.2116 DATED 27.01.2020 (COPY ENCLOSED) HAVE BEEN ISSUED TO ELIMINATE THE POSSIBILITY OF HUMAN CASUALTY AND REDUCE THE OCCUPATIONAL HAZARDS INVOLVED IN CLEANING OF SEWER AND SEPTIC TANKS. IN THE SAID BACKDROP, IT IS ONCE AGAIN IMPRESSED UPON ALL CONCERNED THAT:*

- (i) *ENTRY OF ANY PERSON(S) INTO A SEWER OR SEPTIC TANK OTHER THAN A PROPERLY EQUIPPED SEWER ENTRY PROFESSIONAL (SEPJ, DULY AUTHORISED BY THE EMERGENCY RESPONSE SANITATION UNIT [ERSUJ CONCERNED, SHALL BE*

*STRICTLY PROHIBITED AND SHALL BE DEEMED AS CONTRAVENTION OF THE PROVISIONS OF SECTION 7 OF THE ABOVE ACT AND BE HELD CRIMINALLY LIABLE.*

- (ii) *IN NO CASE ENTRY INTO INSPECTION CHAMBER OR SEWER NETWORK SHALL BE ALLOWED WITHOUT THE EXPRESS PERMISSION OF THE CONCERNED RESPONSIVE SANITATION AUTHORITY [RSA] AND HAVING THE PRECAUTIONARY MEASURES DULY IN PLACE.*
- (iii) *THE AUTHORITY (WITHIN THE JURISDICTION OF THE ULB CONCERNED), PRIVATE SANITATION SERVICE ORGANISATION (PSSO) OR INDIVIDUAL CONCERNED WHO HAS ENGAGED ANY PERSON FOR ENTERING INTO SEWER AND SEPTIC TANK IN VIOLATION OF THE PROVISIONS OF THE ACT SHALL BE HELD LIABLE FOR ANY LAPSES ON THIS SCORE.*

*THIS MAY BE TREATED AS MOST URGENT.*

*Yours faithfully,*

*Additional Secretary to Government*

**Joint Letter:**

A model joint letter addressed to Collectors of certain districts by Principal Secretaries of F.S & C.W Department and H & U.D Department regarding issue of Ration Card in favour of the identified core sanitation workers on priority basis.

*Government of Odisha  
Housing & Urban Development Department*

\*\*\*\*\*

No \_\_\_\_\_, Date \_\_\_\_\_

*From*

\_\_\_\_\_ IAS. \_\_\_\_\_ IAS

*Principal Secretary to Government, Principal Secretary to Government*

*Food Supplies & C. W Dept*

*Housing & Urban Development Dept*

*To*

*The Collectors and District Magistrates,*

*Cuttack/ Ganjam/ Sambalpur/ Puri/ Sundargarh.*

*Sub: Issue of Ration Card in favour of the identified Core Sanitation Workers on priority basis.*

Sir,

As you are aware, the Core Sanitation Workers are one of the most marginalized persons who traditionally suffer from multiple vulnerabilities largely attributed to extreme forms of poverty, illiteracy and social exclusion. By virtue of their occupation, they are regularly exposed to toxic materials and hazardous waste which carry adverse consequences for their health and life. The State Government in Housing and Urban Development Department have launched the scheme "Garima" for their safety and dignity vide this Department Notification No. 1120 Dated 11.09.2020 [published in the Extraordinary Issue of the Odisha Gazette] so as to bring about a visible change in their socio economic profile. Apart from providing for a number of welfare measures for the Core Sanitation Workers, the scheme seeks to leverage benefits provided under various welfare schemes being administered by other Departments of Government.

Enumeration of the Core Sanitation Workers is going on in all the ULBs. In course of enumeration in the five cities (Cuttack, Berhampur, Rourkela, Sambalpur and Puri), it is noticed that several Core Sanitation Workers do not have ration card. A list of the identified Core Sanitation Workers who do not have Ration Card is enclosed herewith. This deprives them of leveraging the health benefits provided under BSKY.

It is therefore requested to look into the matter on priority basis and necessary steps may be taken for issuance of new ration cards under State Food Security Scheme (SFSS) to the eligible families after necessary field verification with reference to inclusion 8: exclusion criteria notified by FSft CW Department, if not covered under NFSA or SFSS earlier.

Yours faithfully,

Principal Secretary to Government  
Food Supplies & C.W. Dept.

Principal Secretary to Government  
Housing ft Urban Development Dept

#### **DEMI OFFICIAL LETTER:**

- ◆ A DO letter is usually written for mutual exchange of views or information or opinion without going through the formality of prescribed procedures. This form is generally used in correspondence between Government officers for inviting their personal attention on an issue.
- ◆ Since a DO letter is written in the first person in a personal and friendly tone, it should be addressed by an officer in a Department who is ordinarily holding the same position or rank or a rank not more than one or two levels below the officer to whom such communication is addressed. Communications to non-officials can also take the form of a DO letter.



- ◆ It is normally written on the printed letter pad of the officer which contains the name, designation of the officer writing the letter with file number and date of despatch etc. While the name and designation of the addressee is shown below the signature on the extreme left of the page.
- ◆ A demi-official letter generally begins with the words “I am desired to” or ‘Will you kindly/ please refer to my/ Mr X’s letter No \_\_\_\_\_ on the subject \_\_\_\_\_ etc.
- ◆ **Remember-** Demi-official letters to the Judges of the High Court, the Chairman of OPSC, the Member, Board of Revenue and to Secretaries, Additional Secretaries and Joint Secretaries to the Government of India, or to other officers of the Government of India, of similar status shall not issue except over the signature of a Secretary or Additional Secretary.
- ◆ All demi-official correspondence should not, as a matter of routine, be treated to be part of the correspondence on the file.
- ◆ Demi-official letters should end with the subscription “Yours sincerely” or “Sincerely yours”.

### Illustration-3:

A model DO letter from Principal Secretary, Home Department to the Collector & District Magistrate relating to field visit of ASO trainees is given below.

Sri \_\_\_\_\_, IAS  
Principal Secretary to Government,  
Home Department.

Tel: 0674 2531515

FAX : \_\_\_\_\_

Email: \_\_\_\_\_

DO No: \_\_\_\_\_

Date: \_\_\_\_\_

Dear \_\_\_\_\_

*Sub: Advance visit programme of Assistant Section Officers of Odisha Secretariat.*

*You may be aware, the Home Department have recruited nearly 500 ASOs to man the Secretarial posts. The foundation training of the new ASO trainees have commenced. As part of their curriculum, the trainees are expected to undertake field visits for getting exposure to activities of various Departments under different development schemes of the Government. These field visits will sensitize them to the nuances of developmental administration which will enrich their experience which is otherwise limited to Secretariat desk jobs.*

*The field functionaries of your district, relevant to the travel plan appended herewith, may be instructed accordingly to extend necessary cooperation for smooth field visit of trainee officers. This apart, they may be asked to provide available logistic support (boarding). The expenses are reimbursable from Home (Principal, OSTI) Department on submission of bills/ vouchers on that account.*

*An early action in this regard will be appreciated.*

*Yours sincerely,  
(Name of the Officer)*

Sri \_\_\_\_\_

Collector & District Magistrate, \_\_\_\_\_

**Illustration-4:**

A model DO letter from Hon'ble Chief Minister, Odisha to Prime Minister of India regarding Continuation of "Pradhanmantri Garib Kalyan Anna Yojana (PMGKAY)" beyond 30 November, 2021.

Naveen Patnaik,  
Chief Minister, Odisha

DO No \_\_\_\_\_

Date \_\_\_\_\_,

Lok Seva Bhawan,  
Bhubaneswar.

Dear Prime Minister ji,

Sub: Continuation of "Pradhanminatri Garib Kalyan Anna Yojana (PMGKAY)" beyond 30 November, 2021.

*I would like to convey my sincere thanks for providing seven months' rice free of cost under "Pradhanmantri Garib Kalyan Anna Yojana (PMGKAY)" for distribution to NFSA beneficiaries in the State from May 2021 to November 2021 during the COVID-19 pandemic period. Provision of food grains free of cost to people at this critical juncture ensured that not a single needy and vulnerable person was deprived of food grains during the pandemic.*

*Odisha has prioritized distribution of seven months' quota of PMGKAY-III food grains to the NFSA beneficiaries and completed it by 5<sup>th</sup> of November 2021. Similar facility was also extended to all the beneficiaries of the State covered under its own Food Security Scheme.*

*The effect of COVID-19 has not waned away yet completely despite a fast-paced vaccination drive undertaken across the State as cases of new infection continue to surface. Also, other economic activities are yet to reach the pre- pandemic level as a result of which people still struggle to lead a normal life with sustainable means of livelihood.*

*Under the prevailing situations, it is felt highly necessary that the Government must provide relief to the vulnerable during these critical hours. A serious cause of concern in this ongoing pandemic scenario is the challenge of food security to the needy and vulnerable.*

*Since adequate food grains are available at present with the Government, I would request you to kindly consider extension of additional allocation of rice at least for next 8 (eight) months*

*under PMGKAY for distribution among the beneficiaries under NFSA till the pandemic situation improves and complete normalcy is restored in the State.*

*With regards.*

*Yours sincerely,*

*(Naveen Patnaik)*

***Sri Narendra Modi,***

***Hon'ble Prime Minister of India,***

***New Delhi/***

### **OFFICE MEMORANDUM/ ENDORSEMENT:**

- ◆ The Office Memorandum and Endorsement are the ordinary forms of official communication employed between departments of Government. This form is generally used for inter departmental correspondences.
- ◆ It is written in the third person and bears no salutation or subscription except for the name and designation of the officer signing it.
- ◆ Generally important Government instructions, procedure and clarification etc. are issued in the form of Office Memorandum. The use of this form in correspondence with Heads of the Departments and subordinate offices should be avoided.
- ◆ Memorandum form may also be adopted in conveying orders to subordinate authorities when the subject matter is not complicated, the orders are straightforward and no ambiguity is likely to arise from their being so expressed.
- ◆ The endorsement form should be utilised when transmitting copies of original documents for information or with brief instructions, but should not be employed in addressing non-official persons or institutions.

### **Illustration-5:**

*GOVERNMENT OF ODISHA*

*FINANCE DEPARTMENT*

\*\*\*

*No. \_\_\_\_\_/F,*

*Dated \_\_\_\_\_*

*File No*

*OFFICE MEMORANDUM*

*During the COVID-19 pandemic, Government Offices have remain closed/ partially open due to the lock down and most of the offices did not have normal functioning.*

*For the purpose of smooth functioning, the Administrative Departments as well as their subordinate Offices have engaged persons directly on contractual basis, on contract through outsourcing agencies and retired Government servants with due approval of competent authority. As normal office work has not been carried out in the lock down period, different Administrative Departments have sought clarification on payment of their remuneration during the lock down period from Finance Department.*

*After careful consideration, Government have been pleased to decide that:-*

- (i) Persons, who are engaged on outsourcing basis, are to be paid their entitlement as per the terms and conditions of engagement till the contract period ends. If the contract period ends within the lock down period, then the entitlements to be paid till the end of the contract period.*
- (ii) Persons, who are engaged directly by the office but not through outsourcing agencies may be paid as per the existing terms but automatic renewal should not be done. Further engagement, if required, should be only after the lock down is lifted.*
- (iii) In case of retired Government employees of different grades, as they are in receipt of pension, in general, there shall be no payment of remuneration if they have not worked during lock down. Further, any fresh engagement should only be done following due procedure after the lock down is lifted. Retired Government servants re-employed on pay minus pension basis are excluded from the above stipulation.*

*The instructions above should be followed scrupulously by all concerned in all State Government Office establishments. For any clarification, Finance Department may be referred.*

*Principal Secretary to Government*

#### **RESOLUTION:**

- ◆ A Resolution is something resolved or determined or simply put a decision. It may be a course of action or procedure or method.
- ◆ When the decisions of Government or orders of general applicability have to be communicated on questions of policy or other important matters which have been the subject of discussion or enquiry, they should be drafted in resolution form. To be more specific, this form is extensively used for public announcement of policies like industrial policy, policies on mineral administration or forest conservation, education policy, energy policy etc. But there is no rigidity about using such form to communicate matters of lesser importance.
- ◆ A resolution generally consists of three parts, viz.-
  - (i) the **preamble**;
  - (ii) the **resolution** ; and
  - (iii) the **order**.

- ◆ It is always drafted in the third person. The first portion (preamble) of the text of the resolution is merely an introduction to the object or reasons for announcement, decision, or order. It is then followed by actual announcement or orders for the disposal of the issue under consideration.
- ◆ At the end, under the heading 'Order' is entered the names of the departments or officials to whom the resolution is to be conveyed. It is generally signed by the Secretary or Additional Secretary to Government. The normal form is, "Ordered that a copy of the resolution be forwarded to ..... Ordered also that the resolution be published in the official Gazette for general information".
- ◆ The subscription should be in the form :- "By order of the Governor of Odisha".

**Illustration-6:***GOVERNMENT OF ORISSA**FINANCE DEPARTMENT*

\*\*\*\*

No \_\_\_\_\_/F, Dated \_\_\_\_\_

*RESOLUTION**SUBJECT: Reconstitution of Anomaly Committee.*

*In partial modification of Finance Department Resolution No. 8488-F., dated the 16th February 2009, the State Government have been pleased to reconstitute the Anomaly Committee to consider anomalies, if any, pertaining to pay in revised pay structure under O.R.S.P. Rules, 2008. The said Committee shall consist of the following:*

- |       |   |                 |
|-------|---|-----------------|
| (i)   | <i>Additional Development Commissioner-<br/>cum- Secretary to Government, P. &amp; C. Department.</i> | <i>Chairman</i> |
| (ii)  | <i>Principal Secretary, Finance Department</i>  | <i>Member</i>   |
| (iii) | <i>Principal Secretary, Home Department</i>   | <i>Member</i>   |
| (iv)  | <i>Additional Secretary to Government<br/>Finance Department (In-Charge of PC.Cell)</i>               | <i>Convenor</i> |

2. *The Committee will devise its own procedure for conduct of its business. It may call for such information and take such evidence as may be considered necessary. Departments of Government and Officers subordinate to them shall furnish such information/documents and assistance as may be required by the Committee. The Committee may co-opt. Member from other departments if considered necessary.*

3. *The Committee shall submit its recommendations within a period of 6 months from the date of issue of this Resolution.*

*ORDER- Ordered that the Resolution be published in an extraordinary issue of Orissa Gazette and copies forwarded to all Departments of Government / all Heads of Department / Accountant-General (Audit/Accounts), Orissa, Bhubaneswar/ Deputy Accountant-General, Orissa, Puri.*

*By order of the Governor*

*(Signature)*

*Principal Secretary to Government*

**UN-OFFICIAL MEMORANDUM/ NOTE (INTER DEPARTMENTAL NOTE):**

- ◆ This form of communication is widely known as Un Official Receipt (UOR) and Un Official Issue (UOI).
- ◆ This form is generally employed for obtaining advice, views, concurrence or comments of other Departments / Heads of Departments on a proposal or in seeking clarification on the existing rules, instructions etc. or for requisitioning papers/ information etc.
- ◆ The inter departmental note issued by the department seeking information is known as UOI while for the department intended to furnish information it will be considered as an UOR.
- ◆ No salutations or complimentary closing words should be used. Such form can also be followed among sections of a department. This form is not used for correspondence with district or subordinate offices.
- ◆ Such form of communication can be done in either of the following ways viz;
  - (i) by sending files itself to a department with a note recorded thereon,
  - (ii) by sending a self-contained note or memorandum in a note sheet.

**Illustration-7:**

*Note Sheet*

**Government of Odisha**

**Home Department**

\*\*\*

UOI No \_\_\_\_\_, Dated \_\_\_\_\_

File No \_\_\_\_\_

*The validity period of the Secretariat Entry Pass will expire very shortly. It has been decided to issue new Secretariat Entry Pass to all categories of employees. An agency has been entrusted with the work, who will start taking recent photograph of the employees. In order to make the photograph taking programme smooth, a department wise schedule has been prepared and appended herewith for information of all concerned.*

All the Departments are, therefore, requested to take necessary steps for circulation of the schedule among their employees.

Encl: As above

Additional Secretary to Government

All Departments

**OFFICE ORDER :**

- ◆ This form is normally used for issuing instructions meant for internal administration of office itself.
- ◆ Office order form is normally used for distribution of works among officers of the department or among sections, sanction of leave, inter section transfer of employees (except Group A officers), increment of an employee etc.
- ◆ The use of this form in correspondence with Heads of the Departments and subordinate offices should be avoided.

**Illustration-8:**

Government of Odisha

Home Department

\*\*\*

No \_\_\_\_\_, Dated \_\_\_\_\_

File No.

Office Order

Consequent upon joining of Sri \_\_\_\_\_, Deputy Secretary and Sri \_\_\_\_\_, Joint Secretary in this Department, the distribution of works among the Sections of this Department are modified as per the table annexed herewith.

2. This Office Order supersedes all previous Office Orders issued in this connection.

Under Secretary to Government

**ORDER:**

- ◆ This form is generally used for issuing certain types of financial sanctions and for communicating Government orders in disciplinary cases etc to the official concerned.

**Illustration-9:**

*Government of Odisha*  
*Home (Special Section) Department*  
 \*\*\*\*  
 No \_\_\_\_\_, Dated \_\_\_\_\_

**ORDER**

*In exercise of powers conferred by sub-section (3) of Section 3 of the National Security Act, 1980 (65 of 1980) read with sub-section (2) of Section 3 of the said Act and in partial modification of Government of Odisha, Home (Special Section) Department, Order No.1164/C., dated the 26th April, 2019, the State Government do hereby direct that the Commissioner of Police, Bhubaneswar-Cuttack, Bhubaneswar shall continue to exercise the powers under sub-section (2) of Section 3 of the National Security Act, 1980 within his jurisdiction for a further period of three months beyond the 31st July, 2019.*

*By Order of the Governor*  
*(Name of the Officer)*  
*Additional Secretary to Government*

**NOTIFICATION:**

- ◆ This form is mostly used in making announcements of the Government.
- ◆ This form is employed for notifying the promulgation of statutory rules or amendments of rules and orders, appointments, promotions, transfers etc. of Group A officers.
- ◆ Other important matters such as constitution of committees required by any statute/ rules are also required to be notified.
- ◆ They are always written in the third person, numbered and dated and issued over the signature of a senior officer like Secretary/Additional/ Joint Secretary through publication in the Odisha Gazzette.
- ◆ Extraordinary issues of the Gazette can be published whenever necessary. No matter should be required to be published in a Extraordinary Gazette unless it is of such urgent nature that it cannot wait until the publication of the next ordinary issue of the Gazette.
- ◆ The notification to be published in an Extraordinary Gazette or the forwarding letter of the notification should invariably be signed by an officer not lower in rank than a Joint Secretary.
- ◆ The subscription should be in the form :- “By order of the Governor of Odisha”.

**Illustration-10:**

*Government of Odisha*  
*GA & PG Department*  
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No \_\_\_\_\_, Dated \_\_\_\_\_

File No

### NOTIFICATION

*The Government has been pleased to change the nomenclature of the Odisha “Secretariat” as “LOK SEVA BHAWAN” and the road from A.G. Square to Acharya Vihar as “LOK SEVA MARG” respectively. The earlier nomenclature wherever appears shall be renamed accordingly.*

*By Order of the Governor*

*(Signature)*

*Principal Secretary to Government*

### PRESS COMMUNIQUE:

- ◆ This form is generally employed by the Government in conveying through the Press the decisions or actions taken on certain matters with regard to policy, etc. The public Relations Department of Government sends the communiqué to the Press for publication.
- ◆ A press communique is issued to give wide publicity to the decisions of the Government for general information of the public. A press note serves the same purpose except for the fact that while a press communique has to be reproduced verbatim by the press without any modification, a press note could be edited, compressed or enlarged without tampering with the fundamental and basic points or contents.

### Illustration-11:

*Government of Odisha*

*Finance Department*

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No \_\_\_\_\_/F, Dated \_\_\_\_\_

File No

### PRESS COMMUNIQUE

*The Governments of Odisha are going to sale Odisha Government Stock (securities) of 2- year tenure for an aggregate amount of Rs. 1000 crore (Nominal) in order to finance capital outlay in connection with creation of capital assets. Government Stock will be sold through the Reserve Bank of India, Mumbai Office (PDO), Fort, Mumbai-400 001 by auction at a coupon rate to be determined by the Reserve Bank of India.*

2. *The auction will be conducted by the Reserve Bank of India, as its Mumbai Office, Fort, Mumbai-400001 on March 23, 2020. Bids for the auction should be submitted in electronic format, on the Reserve Bank of India Core Banking Solution (E-Kuber) system as stated below on March 23, 2020.*

- (a) *The competitive bids shall be submitted electronically on the Reserve Bank of India Core Banking Solution (E-Kuber) system between 10.30 A.M. and 12.00 P.M.*
- (b) *The Non-competitive bids shall be submitted electronically on the Reserve Bank of India Core Banking Solution (E-Kuber) system between 10.30 A.M. and 11.30 A.M.*
3. *Successful bidders will make payments on March 24, 2020 before close of banking hours by means of cash, bankers' cheque / pay order, demand draft payable at Reserve Bank of India, Mumbai/ Bhubaneswar or a cheque drawn on their account with Reserve Bank of India, Mumbai (Fort) / Bhubaneswar. The loan will be repaid at par on March 24, 2022.*
4. *The cut-off yield determined at the auction will be the coupon rate per cent per annum on the Stock sold at the auction. The interest will be paid on September 24 and March 24.*

*By Order of the Governor*

*(Signature)*

*Principal Secretary to Government*

#### **ADVERTISEMENT:**

- This form is used for communicating with general public to create awareness. Both audio-visual and /or written communications are used for this purpose. Example: Tenders etc

#### **Illustration-12:**

*Government of Odisha*

*Science & Technology Department*

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No \_\_\_\_\_, Dated \_\_\_\_\_

*File No.*

*The Government in Science and Technology Department have been pleased to decide to provide financial assistance for establishment of new Bio-Incubator at Academic / Research Institutes/ Research Hospitals organizations fostering Innovation and Entrepreneurship and also strengthening/up-grading the existing incubators attached to Academic Institutes/ Research Institutes/ Stand-alone Incubators/ Research Hospitals.*

2. *For the said purpose, applications are invited through proper channel from the different Academic / Research Institutes / Research Hospitals lorganizations fostering Innovation and Entrepreneurship as well as other institutes having existing incubators for the said purpose.*

3. All applications should be reached in the name of the Director, Science & Technology, Science & Technology Department, Government of Odisha, Kharavel Bhawan, Bhubaneswar by registered post on or before 31.01..2021.

4. Applications received beyond the due date, shall not be considered. For details advertisement, eligibility and mode of application and guidelines log on to <http://www.odisha.gov.in/sciencetechnology>.

(Signature)

Special Secretary to Government

#### **CABINET MEMORANDUM:**

- Rule 8 (1) of the Odisha Government Rules of Business provides that all subjects specified in the Second Schedule shall be brought before the Cabinet for decision. The instructions no 21 contained in Part-III appended to the Rules of Business further specifies that in order to bring a case before the Cabinet, the concerned Department shall prepare a memorandum indicating with sufficient precision the salient facts of the case and the points for decision.
- No specific format for preparation of Cabinet Memorandum has been prescribed. **However, the Parliamentary Affairs Department in their letter No 6057, dated 30.08.2005 have issued a set of guidelines for preparation of such memorandum.**

#### **Illustration-13:**

A copy of a Cabinet Memorandum prepared by the Higher Education Department is reproduced below for better appreciation of the format and how the content is structured in it.

Copy No. \_\_\_\_\_

#### **SECRET**

No. \_\_\_\_\_/SM

HE-LSFXI-PLAN-0001/2016

Bhubaneswar, Dated the \_\_\_\_\_ 2016

**GOVERNMENT OF ODISHA**

**DEPARTMENT OF HIGHER EDUCATION**

\*\*\*

#### **MEMORANDUM FOR THE CABINET**

**Sub: Implementation of "Kalinga Sikhya Sathi Yojana"**

1. One of the most pressing needs in higher education today is finance. Poor and deserving students of Odisha are being deprived of higher education in the fields of technical and professional courses due to lack of adequate funding. Even most of the students are unable to avail the educational loan extended by nationalized banks under Central Scheme to provide Interest Subsidy (CSIS) of Government of India due to high rate of interest after moratorium period.

2. *In order to encourage poor and meritorious students of Odisha aspiring for higher studies, “Odisha State Interest Subvention Scheme” (OSISS) has been implemented by the Department of Higher Education to provide interest subsidy @ 4%(for boy student) and @ 6%(for girl student) against educational loan availed by them from different banks from the financial year 2015-16.*
3. *The existing scheme provides for sanction of interest subsidy in respect of students of low and middle income group whose annual parental income is less than Rs 4.50 lakh from all sources.*
4. *In the meanwhile, the cost of higher education including courses in management, law, engineering and medicine has been increased manifold. Even meritorious students of low and middle income group having annual parental income more than Rs 4.50 lakh and less than Rs 6.00 lakh are facing serious financial stress to meet the cost of education.*
5. *Therefore, in order to alleviate the financial stress of the parents those are facing hardship in paying high rate of interest, Government of Odisha intends to provide financial assistance in form of interest subvention against educational loan availed from banks under a new scheme “**Kalinga Sikhya Sathi Yojana**” to attain their educational goals, meet their professional objectives and succeed to their fullest ability. The above new scheme shall replace the earlier scheme “**Odisha State Interest Subvention Scheme**”.*
6. *The proposed revision aims at only enhancing the interest subsidy from existing rate of 4%(for boy student) and 6%(for girl student) to 10%or 1%less than prevailing rate of interest of banks whichever is less and to extend the benefit to students of annual parental income of Rs 6.00 lakh.*
7. *This revision, once given effect to will be meaningful in the following manner:*
  - a) *More meritorious and poor students pursuing their higher studies in different fields including management, law, engineering and medicine etc. shall be encouraged to avail educational loan from banks.*
  - b) *More professional educated students will lessen the unemployment situation in the State.*
8. *Approval of Hon’ble Minister of State (Ind. Charge), Department of Higher Education has been obtained on this proposal and the consent of the Hon’ble Chief Minister has been obtained to bring it to the Cabinet.*
9. *The Memorandum is placed before the Cabinet for consideration and approval.*

(XXXXXXXX)

**Principal Secretary to Government**

**Department of Higher Education**

#### **SPEAKING ORDER:**

- Speaking order means an order which is full of reasons or a reasoned order. An order has to be a reasoned or a speaking order. The failure to give reasons could lead to a very justifiable complaint that there was a breach of natural justice.

- In India there is no statute laying down the minimum procedure which administrative agencies must follow while exercising decision making powers. This minimum fair procedure refers to the principles of natural justice.
- Natural justice is a concept of common law and represents higher procedural principles developed by the courts, which every judicial, quasi-judicial and administrative agency must follow while taking any decision adversely affecting the rights of a private individual.
- Natural justice implies fairness, equity and equality. In a welfare state like India, the principles of natural justice are firmly grounded in Article 14 & 21 of the Constitution. However, the principle of natural justice encompasses following two rules:-
  - (i) ***Nemo judex in causa sua*** (Rule against Bias): No one should be made a judge in his own cause or the rule against bias.
  - (ii) ***Audi alteram partem*** (Hear the other party): No one should be condemned unheard.
  - (iii) ***Speaking order or reasoned decision***: Requirement of passing a Speaking or Reasoned Order. Unless there is specific requirement of giving reasons under the statute, it is not mandatory for the administrative agencies to give reasons for their decisions. Reasons are the link between the order and mind of the maker.

**Illustration-14:***Government of Odisha**Home Department*

\*\*\*\*\*

No \_\_\_\_\_ /, Dated \_\_\_\_\_

File No \_\_\_\_\_

**ORDER**

*WHEREAS this Department vide Office Order No 13248, dated 11.08.2011 issued a draft of seniority list of Section Officers of Odisha Secretariat Service (OSS) as on 01.08.2011 inviting comments/objections from the stakeholders.*

*2. AND WHEREAS a few Desk Officers represented, inter-alia, with the contention to fix their seniority in accordance with the amended recruitment rules against the vacancies for the year 2008-09.*

*3. AND WHEREAS the matter was examined and a final seniority list of Section Officers was issued vide Office order No 13461, dated 09.01.2012 after disposing the representations/comments/objections received on the draft seniority list.*

*4. AND WHEREAS Shri \_\_\_\_\_ & others filed WPC No. 1709/2012 in Hon'ble High Court, Odisha, inter-alia, challenging the seniority list of Section Officers as on 01.08.2011 issued vide Office Order No 13461, dated 09.01.2012.*

5. AND WHEREAS Hon'ble High Court, Odisha vide judgment dated 12.11.2013 in OA NO. WPC No. 1709/2012 directed as under: Para 27. ....

*we allow this writ petition. Accordingly, we direct the Respondents to modify their orders dated 10.05.2011 and 29.07.2011 and to promote the applicants on regular basis from the crucial date of the vacancy year/date of vacancies against which they have already been appointed on ad hoc basis. Consequently, the seniority list dated 09.01.2012 is quashed and set aside. Respondents shall prepare a fresh seniority list as per the rules and relevant guidelines on the subject.*

6. AND WHEREAS in compliance of Hon'ble High Court's judgment dated 27.09.2019, the seniority /regular service of petitioners at Sl. No 1 to 38 recommended vide DPC dated 25.04.2011 & 12.07.2011 and promoted vide orders dated 10.05.2011 & 29.07.2011, respectively, have already been modified vide orders dated 13.03.2020. The regular service of the promotee officers who have been recommended for the panel year 2008-09, has been counted from the dates when vacancies in the promotee quota arose, irrespective of the fact that ad-hoc promotion of the promotee had taken place earlier.

7. AND WHEREAS the final seniority list of Desk Officers of OSS as on 01.08.2011 issued vide Office Order No 13461, dated 09.01.2012 included the names of 131 officers starting from Sri \_\_\_\_\_ at Sl No 1 and ending with Sri \_\_\_\_\_ at Sl No 131.

8. NOW THEREFORE, considering the final seniority list of Desk Officers of OSS as on 01.08.2011 issued vide Office order No 13461, dated 09.01.2012, the Provisional Seniority List of Desk Officers as on 19.05.2015 issued vide Office Order No 3485, dated 21.05.2015 which was issued based on the advice of ST & SC Development Department and the Law Department wherein the seniority of officers (which includes the petitioners) has been interpolated in the OSS Recruitment Rules as sought by the petitioners.

*Principal Secretary to Government*

#### **PRESS RELEASE:**

Press releases are normally issued by the Government Departments or authorities for general information of the public. A model press release by the Commissioner of Commercial Taxes, Cuttack regarding GST is given below.

#### **Illustration-15:**

##### **Commissioner of Commercial Tax of GST, Odisha**

*47th meeting of the GST Council was held on 28th and 29th June, 2022 at Chandigarh. Hon'ble Minister Finance, Odisha, Sh. Niranjan Pujari attended the meeting of the GST Council. The Commissioner of Commercial Taxes & GST Sh. Sushil Kumar Lohani, IAS and the Additional Commissioner of Commercial Tax Sh. Nihar Ranjan Nayak attended the Council meeting as well.*

*Hon'ble Minister of Finance, Odisha raised the issue of GST compensation in the GST Council meeting. He stated that, if GST compensation is discontinued after June, 2022, the resource gap in the State would increase and cause large fiscal shock. It would also lead to reduction in the Capital*

*expenditure and cause contraction of the State economy. Hon'ble Minister accordingly requested the Council to extend the compensation window by another five years in the interest of revenue of state.*

*Hon'ble Finance Minister also stated that there are many Self Help Groups (SHGs) producing goods in rural areas of the State. These SHGs having turnover below GST registration threshold limit of 40 lakhs, will be benefitted immensely, if they are allowed to sell their products through E-commerce platforms without the requirement of mandatory GST registrations. This will also help them to expand their market and increase their business. GST Council approved this proposal.*

## **GUIDELINES FOR PREPARATION OF DRAFTS**

- Thus far we have been acquainted with the different forms of communication and the purpose they are used for. Now we shall move on from form to the content of a communication and concentrate on how it is organised.
- Here comes the importance of diction and the style of presenting the material to be communicated which is otherwise called the art of drafting.
- Putting up a draft communication may not be necessary in all cases. It all depends on whether a case is simple, straight forward, repetitive or complex. For simple and repetitive cases, or cases where the line of action is obvious, there is no need to make draft every time a case is processed.
- A fair copy in standardised forms of communication/reply could be put up directly for signature of the appropriate officer by entering data into the blank spaces provided. These drafts can be kept in templates on the computer. This would save considerable time and effort.
- The draft should be brief, clear and complete. As a rule, the notes will show the outline of the reply and to what extent it is intended that a detailed discussion of reasons or of the history of the case should be embodied in the draft.
- The language used should be simple, clear, concise and incapable of misconstruction; Lengthy sentences, abruptness, redundancy, circumlocution, superlatives and repetition whether of words, or observations or ideas should be avoided;
- If the subject matter is complex and requires a rather lengthy communication, a summary of the content may be provided at the end which would facilitate a quick appreciation of the message conveyed and reinforce the action points for the receiver. Such communications should invariably be broken up into convenient paragraphs each dealing with one point of the issue.
- Where a draft is needed, you should pay attention to the following: -
  - (i) Who should the communication be addressed to and who would sign the draft?
  - (ii) What is the relationship between the sender and the receiver?
  - (iii) What form of communication should be employed?
  - (iv) Is the communication seeking to convey something or calling for something?

- (v) Are details available?
- (vi) What should be the recipient's response?
- (vii) Does the language convey what it intends to?
- (viii) Has referencing been done?
- (ix) Is the contents logically sequenced?
- (x) Does it have urgency? If so has the security grading been indicated?

• **Additional guidelines for writing notes:**

- (i) Since a draft is expected to be corrected/ improved upon, sufficient space should be left for the margin and between lines for incorporating changes, additions, interpolations etc.
- (ii) Depending on the form, the 'Subject' should be mentioned in communications at the top in such a manner as to give the reader an immediate idea of the content of the letter;
- (iii) The number and date of the communication replied to or of the last communication in a series of correspondence on the same subject should always be referred to. This is essential so that the addressee can locate his/her case file easily;
- (iv) In the reply letter, in addition to giving the subject, the reference such as 'Ref: your letter No. \_\_\_\_\_ dated \_\_\_\_' is also given at the top, just below the subject. This makes it easy for all concerned to locate the previous papers;
- (v) All drafts should bear the file number followed by despatch number which will ultimately be the number of the communication;
- (vi) The draft should clearly indicate the enclosures, which are to accompany the fair copy. Short oblique lines should be drawn in the margin at appropriate places of the draft where the enclosures are referred to be sent with the communication. The number of enclosures is also to be indicated at the end of the draft on the bottom left of the page;
- (vii) The nature of urgency such as 'Urgent', 'Immediate', 'Most Immediate' etc. is to be indicated in the draft at the top right, in bold letters. If the letter is to be delivered by special messenger, this should be indicated. In case, it is to be delivered the same day, dispatch instructions to the Issue Branch should accordingly be given;
- (viii) Issue Branch should be instructed if the communication is to be sent by post, through speed post or registered post or by e-Mail/Fax;

**FREQUENTLY ASKED QUESTIONS:**

**Q: What is meant by Endorsement?**

**Ans:** When a paper has to be returned in original to the sender or the paper in original or its copy is sent to another department or office, for information or action



**Q:** What is a circular?

**Ans:** A paper which is used when important and urgent external communications received or important and urgent decisions taken internally have to be circulated within a Department for information and compliance by a large number of employees is called a circular.

**Q:** What is meant by paperless communication for official communication?

**Ans:** email.

**Q:** How and when a corrigendum is issued?

**Ans:** Maximum care should be taken before an official communication is issued. The responsibility of correctness of facts, address and intents etc. lies with the officer who drafts it and the officer who approves it. If however, any unavoidable error is noticed after the draft is issued a corrigendum is required to be issued. It should be very clear and short. The addressee of the corrigendum must be the same as of the original communication.

**Q:** What is UOR?

**Ans:** UOR means Un Official Receipt. In fact, as per Odisha Secretariat instructions, communications between two Departments of the Government should be in form of memorandum or Inter Departmental note. This form is generally employed for obtaining advice, views, concurrence or comments of other Departments/ Heads of the Department. The inter departmental note issued by the Department seeking information is known as UOI while for the Department intended to furnish information it will be considered as an UOR. No salutations or complimentary closing words should be used. Such form can also be followed among sections of a department. This form is not used for correspondence with district or sub-ordinate offices.



## 9

### LITIGATION MANAGEMENT

- ◆ OBJECTIVES
- ◆ SALIENT FEATURES
- ◆ GRIEVANCE REDRESSAL MECHANISM
- ◆ NODAL OFFICER
- ◆ EMPOWERED COMMITTEE
- ◆ GOVERNMENT REPRESENTATION
- ◆ DEFENDING THE CASE
- ◆ ACTION BY THE DEPARTMENT
- ◆ PREPARATION OF COUNTER
- ◆ ADJOURNMENTS
- ◆ FILING OF APPEALS
- ◆ FILING OF REVIEW PETITIONS
- ◆ SPECIAL LEAVE PETITION (SLP)
- ◆ FEES TO GOVERNMENT COUNSEL
- ◆ CONTEMPT PETITION
- ◆ ALTERNATIVE DISPUTE RESOLUTION
- ◆ MISCELLANEOUS MATTERS
- ◆ FREQUENTLY ASKED QUESTIONS

## LITIGATION MANAGEMENT

Piling up of cases in various courts across the nation has considerably affected the efficiency of our judiciary. The situation has precipitated to such an extent that courts are now finding it difficult to deliver justice in time to the affected parties despite putting in best of efforts. The gravity of the situation can be gauged from the fact that on April 2018, there are as many as 3.1 crore court cases pending across the country before different courts including Supreme Court/ High Courts and Sub-ordinate Courts. Out of these pending cases, 60,000 cases pertain to Supreme Court, while 40 lakh cases and 2.7 crore cases pertain to different High Courts and District/ Sub-Ordinate Courts respectively. One of the major reasons for such pendency can be attributed to the Government which is the biggest litigant. In almost forty six per cent of the total cases, either the State Government or the Central Government is a party. These litigations slow down the Government administrative processes by delaying decision making on the matters which are subjected to litigation.

The problem received anxious consideration of the Apex Court as well as of the 13<sup>th</sup> Finance Commission. On the basis of their recommendations, the Central Government formulated the National Litigation Policy and urged all the State Governments to formulate their respective litigation policies. Accordingly, the Government of Odisha in the Law Department Notification No 5259, dated 30.05.2011 have formulated the State Litigation Policy.

### OBJECTIVES:

- (i) To reduce Government litigation in various courts;
- (ii) To free up space and time of courts to adjudicate important issues in qualitative manner;
- (iii) To ensure that the State stands as a responsive litigant rather than a compulsive litigant.
- (iv) To explore alternative means of dispute resolution.
- (v) To develop a system for effective management of litigation through application of technology.

### SALIENT FEATURES:

Although the State Litigation Policy has been formulated since 2011, some of the measures suggested therein are yet to be implemented by a number of Departments. The salient features of the policy are enumerated below:-

### GRIEVANCE REDRESSAL MECHANISM:

The need for an effective grievance redressal mechanism is strongly felt since one of the main reasons for high incidence of cases involving Government can be traced to the inaction or delayed action on the part of the responsible authorities. In order to meet this challenge, each office needs to put in place an effective Grievance Redressal Mechanism to resolve grievances in time.

**NODAL OFFICER:**

There shall be a Nodal Officer in each Department/or Heads of Department/or field offices who shall co-ordinate and shall be responsible for collection of facts, documents relating to the litigation. The mindset of the Nodal Officer should be to ensure that if a person has a claim tenable in the eye of the law, he or she should not unnecessarily be driven to the court. The Nodal Officer

- (i) should have thorough knowledge about the working, plans, policies and rules of the department so that he can attend to grievances in a short time for redressal;
- (ii) in charge of litigation management shall coordinate the conduct and monitoring of litigations and take steps for early disposal. It shall be the responsibility of the Nodal Officer to track and monitor every litigation starting from the day it is received in the department till the same is finally disposed off; and
- (iii) shall ensure that data/related information is sent to the Empowered Committees.

**EMPOWERED COMMITTEE:**

As part of the litigation management system, there shall be a State Empowered Committee for the State as a whole; while each district shall have a District Empowered Committee. Besides, each Department may also have a Committee to re-examine the correctness of the decisions taken by the concerned authorities.

- (i) The State Empowered Committee shall be constituted with Chief Secretary as Chairman and shall comprise a maximum of six members including the Advocate General. Other members are to be nominated by the Law Department. One of the Additional Secretaries of Law Department shall be the Member Secretary;
- (ii) Similarly, for each district, there shall be a District Empowered Committee with Collector as Chairman, senior most Government Pleader as Vice Chairman and one ADM as Member Convener. Other members of the Committee shall include Government Pleaders, Public Prosecutors and at best two connected officials of the district. The Committee shall submit monthly reports to the State Empowered Committee, who after examination shall submit a comprehensive report to the Government in Law Department;
- (iii) Further, in order to facilitate re-examination about the correctness of the Government decisions, each Department may have their respective Committee which shall make recommendations to the Empowered Committee for taking a final view for Government decision. The Committee shall prepare a list of litigation pending in different courts with brief indication of the subject. It shall suggest the possible ways for redressal of long pending grievances.

**GOVERNMENT REPRESENTATION:**

In order to represent the Government in different cases filed before different courts, the Government in Law Department shall prepare a panel of Advocates based on their competency, legal knowledge, integrity and efficiency.

- (i) Advocates on Record (AOR) are engaged to represent the State Government in cases filed before the Supreme Court. Similarly, the Advocate General along with his team of Government Advocates,

Additional Government Advocates, and Standing Counsel etc are to attend to cases filed before the High Court. In district and sub-ordinate courts, the job of representing the Government is discharged by Public Prosecutors;

- (ii) While selecting the panels, emphasis is given to Advocates taking into account their core competency, domain expertise and areas of specialisation;
- (iii) In order to make the representation of the Government side in different courts effective and forceful, the Advocates must be well equipped with adequate infrastructure, computer, internet etc;
- (iv) The Law Department shall encourage or organise periodic training programmes, seminars, workshops, refresher courses and conferences for Government Advocates; and
- (v) Hard and extra ordinary work of Government Advocates should be recognised and be rewarded.

#### **DEFENDING THE CASE BY THE STATE GOVERNMENT:**

Whenever a Writ Petition is filed before the Orissa High Court where the State Government is the opposite party, the Court will examine whether it is a fit case for admission. After hearing, the Court may either reject the case or issue notice to the opposite party. Such notice is usually of two kinds:

- (i) **Notice for admission:** The opposite parties will be asked to show cause against admission. In such case, the State Government may file a short reply citing preliminary objections regarding maintainability of the writ petition.
- (ii) **Notice after admission:** In such case, the opposite parties shall file reply (Counter Affidavit) as to why the relief sought by the petitioner should not be granted. If there are points on maintainability of writ petition the same can also be incorporated in the counter.

#### **ACTION BY THE DEPARTMENT:**

- (i) On receipt of the notice along with paper book and annexure, all points raised by the petitioner will be examined and the views of the other respondents will be solicited and incorporated in the counter. *For example*, if the impugned order (which is under challenge) has been passed in consultation with the Finance and the Law Department, the said Department will be consulted and their response will be suitably incorporated in the counter.
- (ii) The objections made by the Department in the counter shall be based in following points:
  - (a) **Limitation:** Whether the case has been filed after expiry of the limitation period.
  - (b) **Non-Joinder/ Mis-Joinder:** Whether all the concerned parties have been made as opposite parties/respondents or irrelevant parties have been made respondents in the Writ Petition.
  - (c) Whether the case has been filed without exhausting available Departmental remedies.
  - (d) **Res Judicata:** The same matter which has been decided by the High Court cannot be raised before it again.
  - (e) **Estoppel:** If the petitioner seeks to testify against a statement of fact by which he had sought benefits from the Department on earlier occasions such as change in date of birth, option once

exercised for fixation of pay etc. Law of Estoppel forbids a person to claim relief from the Court on the above score.

### PREPARATION OF COUNTER:

The following points shall be taken into account during preparation of counter.

- (i) Ascertaining the veracity of facts stated by the petitioner; and correctness of facts relating to the issue agitated in the writ petition should be verified.
- (ii) Collection of documents in support of the opposite parties.
- (iii) Identification of any similar case filed by other employee(s) for similar relief to facilitate easy preparation of counter and to move the court for linking similar cases for joint hearing and disposal.
- (iv) The contentions raised in each paragraph of the writ petition should be replied specifically. However, a general statement will be incorporated in the concluding paragraph of the counter to the effect that :-

***“except as has been expressly admitted herein above, all the material averments made in the writ petition are denied”.***

- (v) For convenience of the court, ‘brief background of the case’ should be placed at the opening paragraph of the counter containing all relevant facts in chronological or logical order in a cohesive manner in its entirety. This paragraph should also contain the repercussions, if the petitioner’s request is accepted.
- (vi) Presentation of these facts in proper perspective goes a long way in enabling the court to appreciate the case of the respondents. Such additional facts as may be found fit should be incorporated in the paragraph for just decision of the case.
- (vii) Every averment made by the petitioner must be viewed in its proper perspective and the respondent’s comments on the same should be given.

**For example**, the petitioner has stated in paragraph 1 of the writ petition that he has been illegally transferred and posted as such in Bolangir vide Revenue and DM Department Notification No xxx, dated yyyy, then there should not be any comment by the respondent on the transfer of the petitioner which is based on facts. The allegation of illegality in transfer as averred by the petitioner should only be commented upon by the respondent. It would be appropriate to place on record that the impugned order of transfer is valid in the eyes of law.

- (viii) Repetitive submissions in the counter should be avoided. In order to avoid repetition, the respondent may invite attention of the Court to the relevant paragraph.
- (ix) In certain cases, the petitioner might have pleaded for delay committed on his part due to domestic problem/ self- ailment.

**For example-** the petitioner has not exercised his option in time for fixation of his pay on his promotion and he pleads that he could not do so because of his domestic problem/ self –ailment and on such ground he claims to quash the impugned order of rejection. In such circumstances, the respondent should plead in the counter that domestic circumstances are not relevant for determining the legal validity of the impugned order.

Similarly, in case of pleading of ailment/ ill health, the respondent may submit that the petitioner should be put to strict proof of such averment made by him.

(x) There may be some paragraphs which are formal in nature such as proof of postal receipt in support of submission of representation of the petitioner. In such case, the submission of the respondent should be *“the averment made by the petitioner in this paragraph are formal in nature and do not call for any reply from answering the respondent/ opposite party.”*

(xi) Finally, a formal prayer has to be made by the respondent/opposite party for dismissal of the Writ Petition in the following form:

*“In view of the submissions made herein above, the petitioner is not entitled to any of the reliefs prayed for by him and the writ petition is liable to be dismissed with cost”.*

(xii) The language of the counter should be clear, precise and free from ambiguity.

(xiii) Abbreviations should be avoided while drafting the counter. Short forms like SDPO, CDMO should be avoided. Instead these should be written in the expanded form such as Sub-Divisional Police Officer and Chief District Medical Officer.

(xiv) Generally pronouns like he, she etc. should be avoided in the pleadings. Parties should be referred through their legal position, *e.g.* ‘Petitioner No.3’ or ‘Opposite Party No.2’ etc.

(xv) When a statutory provision is referred to the exact language made of the statute should be used.

**For example**, the relevant provision of OCS (Pension) Rules, 1992 should be exactly quoted. Even if the presentation in a simpler wording is more convincing the same should not be written in the counter which would make the statute ambiguous.

(xvi) The counter prepared by the Department should be scrutinised by the Government Advocate/ Additional Government Advocate/ Standing Counsel as entrusted by the Advocate General.

(xvii) The Counsel can suitably modify the counter by adding appropriate legal language as would deem proper. He may add suitable case law in order to draw attention of the court for disposal of the case in favour of the Government.

(xviii) If the Government Advocate wants any factual addition/ alteration in the counter, the same can be done only after approval of the same by the competent authority, *i.e.* either Secretary of the Department or Minister of the Department or Chief Minister, as the case may be.

(xix) Counter will be filed before the court through an affidavit by the respondent/ opposite party himself or by an officer authorised by the respondent/ opposite party. Similarly, one opposite party can file affidavit and defend the case on behalf of others after duly authorised by the other opposite parties.

(xx) Generally, in the Departments of Government, officers in the rank of Under Secretary or above are authorised by the Secretary of the Department to file counter on his behalf.

(xxi) However, in a **Contempt Proceeding**, the concerned officer against whom the contempt petition has been filed has to file show-cause affidavit.

(xxii) Counter should be filed timely as per direction of the Court.

- (xxiii) Ground should be highlighted in clear terms.
- (xxiv) The **para-wise comments** should be prepared on the basis of existing rules/ regulations governing the field and hypothetical/ imaginary grounds should not be incorporated in the counter.
- (xxv) Different case laws should be referred in the counter (specifically Supreme Court citations) in order to obtain decision of the Court in favour of the Government.
- (xxvi) A submission should be made in the concluding paragraphs of the counter seeking leave of the Court to file additional counter as and when required by the Court for effective adjudication of the case.

#### **ADJOURNMENTS:**

- (i) Frequent adjournments should be avoided by the Government Advocates. However, reasonable adjournment may be applied for obtaining instructions before next date of hearing.
- (ii) The Nodal Officer will ensure timely submission of the instruction/counter in order to avoid unnecessary adjournments and timely disposal of the litigation.
- (iii) Repeated and unjustified adjournments by the Government Advocates shall be reported to the Department/ appropriate authority. Defaulting Advocates may be removed from the panel.
- (iv) The Head of the Department shall submit report to the Empowered Committee regarding costs awarded in cases on the condition of grant of adjournment.

#### **FILING OF APPEALS:**

- (i) If an ex-parte interim order causes serious prejudice to the established position of law, the Government should first go for vacation of the order. If, however, such vacation is likely take considerable time and has the potential to frustrate the object, appeal may be filed. In routine individual cases where the interim order is not likely to unsettle the settled position, appeal should not be preferred.
- (ii) Filing of appeals should be avoided where the matter pertains to an individual grievance on service matters without any major repercussion.
- (iii) Appeals should be filed in time in order to avoid their dismissal due to limitation.
- (iv) In case of delay, delay condonation petition should be filed along with the appeals stating *bona fide* reasons for such delay.

#### **FILING OF REVIEW PETITIONS:**

Review petition lies in the same bench which passed the order in original. As per order-XLVII, Rule-1 of the Civil Procedure Code (CPC), Review Petitions can be filed on the following circumstances only:

- (i) any new/ additional material which despite due diligence on the part of the Department could not be procured or was not available at the time of passing of the order;
  - (ii) against an error in the judgement which is apparent on the face of records;
  - (iii) any other analogous reason.
- Review Petition has to be filed within 30 days of the receipt of copy of the order which is sought to be reviewed.



**SPECIAL LEAVE PETITION (SLP):**

- ♦ SLP can be filed in the Supreme Court of India under Article 136 of the Constitution against writ jurisdiction of the High Court within 90 days from the date of passing of the order by the High Court.
- ♦ SLP should not be filed against the order passed by High Court as a matter of routine; rather it should be filed when substantial matter of law or matter of great public importance is involved.
- ♦ In case of urgency and in order to avoid delay, SLP should be filed by the Department after engagement of Advocate on Record (AOR) by the Law Department. After filing of the SLP, the file should be referred to the Law Department to accord post-facto approval for filing of such SLP.
- ♦ In cases where the Law Department disagrees with the originating Department on filing of SLP, but the Department feels that there are valid grounds to go for appeal, SLP may be filed after obtaining the approval of Chief Minister.

**FEES TO GOVERNMENT COUNSEL:**

- ♦ Incidental expenses for filing of SLPs/ Counter Affidavits/ Interlocutory Application (IA) etc. have to be paid by the Administrative Department to the Advocates on Records as per fee structure prescribed by the Law Department.
- ♦ Fees of Government Advocate/ Additional Government Advocate/ Standing Counsel are paid by the office of the Advocate General who is conducting the cases before the High Court on behalf of the State Government.
- ♦ Legal expenses which are required to be paid to the Advocates on Record/ Government Advocates by the Administrative Department should be paid to him early so that the affidavits are filed before the Apex Court or other Courts in time.

**CONTEMPT PETITION:**

- ♦ The expression “Contempt of Court” has not been defined by the Constitution. As per the Contempt of Court Act, 1971, Civil Contempt refers to the offence showing disrespect to the dignity or authority of a Court usually by not implementing the orders passed by it.
- ♦ The contempt petition is filed by the petitioner or a person who is party to the case for non-implementation of the order passed by the court. As contempt is filed against the Head of the Department, it becomes very embarrassing. In order to avoid such an occasion, orders passed by different courts should be complied within the time frame granted by the said courts.
- ♦ Misc cases are to be filed before expiry of such time limit seeking more time to implement the order citing the reasons thereof. If after legal scrutiny it is observed that implementation of the order is against the interest of the State on the basis of settled principles, appeal should be filed before the higher forum immediately without waiting for expiry of the limitation period.

**ALTERNATIVE DISPUTE RESOLUTION:**

- ♦ **Arbitration** is a cost effective, efficacious and expeditious way to resolve dispute particularly in matters relating to tender, contract and technical agreements etc. The Government Departments and

PSUs should resort to arbitration for early disposal of disputes. However, maximum care should be taken while drafting commercial contracts including arbitration agreements.

- ♦ **Specialised Litigations** are proceedings seeking judicial review including in the matter of award of contracts and tenders. If the allegation involves breach of natural justice, the case should not be pursued further and the order should be set aside to provide for a proper hearing in the matter. If, however, such cases threaten any project implementation, the concerned Department should vigorously defend keeping in view larger public interest.
- ♦ Where, cases involve *vires* of statutes/ rules/ regulations, proper affidavit should be filed explaining the rationale behind the statute and also make averment with regard to legislative competence.
- ♦ **Public Interest Litigation (PIL)** has increasingly being misused/ abused for reasons other than public interest. Such PILs must be exposed as being not *bonafide* and should be contested vigorously.

#### MISCELLANEOUS MATTERS:

- ♦ Delay in attending to court cases often lead to undesirable consequences for which Government has had to pay a heavy price. In order to avoid such delay connected with civil litigation where Government is impleaded as a party, the Law Department have circulated a set of instructions meant for all offices of Government across the State vide their Memo No 8268, dated 14.09.1950.
- ♦ These instructions set out the role of various functionaries such as Secretary of a Department, Legal Remembrance, Collector and Government Pleader etc. in dealing with cases in which Government is a party. The objective is to avoid delay in attending to civil litigations and to ensure proper defense of the case filed against the Government. These instructions can be seen in Appendix XV of the Odisha Secretariat Instructions.
- ♦ As already stated above, one of the primary objectives of the State Litigation Policy is to develop an appropriate platform for efficient management of Government litigations. Pursuant to this policy objective, the GA & P.G Department have introduced the Legal Management System(LMS)- the flagship project designed by CMGI to monitor all Government cases in Supreme Court and High Court.
- ♦ The LMS acts as a secretarial tool to record information on legal cases. It also acts as a monitoring tool to track the different phases of a case. It includes mail messaging system with work flow model for effective communications among Government officials and Government Advocates.

#### FREQUENTLY ASKED QUESTIONS

**Q** : What is Writ?

**Ans** : A Writ is a written order issued by a court of higher authority. It is issued to a court of lower jurisdiction or to any individual if any violation is made with the fundamental rights of any citizen. As per the Indian Constitution, the Supreme Court holds the right to issue writ under Article 32 and High Court under Article 226 against the decision of any court/ individual lower according to their jurisdiction.

Both the Article specifies the types of Writ, rules and the procedures to follow by the petitioner when any of the fundamental rights as specified is violated.

**Q** : What is a Writ Petition?

**Ans** : A Writ petition for a civil or criminal nature depending on the situation can be filed by an Individual/aggrieved party to a higher level of court against the order/decision of the lower court.

**Q** : What is SLP?

**Ans** : SLP stands for special leave petition. It holds a prime place in the Indian Judicial System. It provides the aggrieved party a special permission to be heard in the Apex Court in appeal against any judgement or order of any Court/Tribunal within the territory of India.

**Q** : What is the language used in Supreme Court and High Courts in their proceedings?

**Ans** : Article 348(1) of the Constitution of India provides that all proceedings in the Supreme Court and in every High Court shall be in english language until the Parliament by law provides otherwise. No law has since been made in this regard by the Parliament. Article 348(2) of the Constitution provides that the Governor of the State may, with the previous consent of the President, authorize the use of Hindi language or any other language used for any official purpose of the State, in proceedings of the High Court having its principal seat in that state, provided that decrees, judgments or orders passed by such High Courts shall be in english.

**Q** : What action is taken on complaints received against officials of State Government?

**Ans** : The complaints are sent to the Chief Secretary of the State concerned for taking appropriate action with copy endorsed to the applicant.

**Q** : What is a caveat?

**Ans** : A caveat is a latin term which means "let a person beware". This has been inserted under section 148A of the Civil Procedure Code, 1908.

**Q** : Why a caveat?

**Ans** : Whoever apprehends that the Court may pass an order behind his back in a matter may file caveat to prevent this.

**Q** : What is the e-Courts project?

**Ans** : The e-Courts Integrated Mission Mode Project is one of the National e-Governance projects being implemented in District and Subordinate Courts of the Country since 2007. The project is aimed at providing the necessary hardware and software application to enable courts to deliver e-services, and the judiciary to be able to monitor and manage the functioning of courts.



**10****GENERAL CONDITIONS OF SERVICE**

- **MEDICAL CERTIFICATE**
- **MEDICAL AUTHORITY**
- **AGE LIMIT**
- **WHOLE TIME CONCEPT**
- **TRANSFER**
- **SUBSCRIPTION TO PROVIDENT FUND**
- **CONDITIONS FOR DRAWAL OF PAY**
- **TRANSFER OF CHARGE**
- **DEPUTATION OUT OF INDIA**
- **HOLDING OF TWO OR MORE POSTS**
- **LIEN**
- **SUPERNUMERARY POST**
- **LEAVE NOT TO EXCEED 5 YEARS**
- **RETIREMENT**
- **FREQUENTLY ASKED QUESTIONS**

## GENERAL CONDITIONS OF SERVICE

Conditions of service broadly include the legal agreements between the employer and the employee. In Government sector, the conditions which regulate the holding of a post by a person right from his appointment to retirement and even beyond it in the matter of pension etc. are termed as conditions of service. These conditions vary for different category of employees. For instance, conditions of service for a police officer are little bit different than that for a school teacher. But, there are certain conditions common to all Government employees which are known as General Conditions of Service. These General Conditions of Service have been envisaged in Rule 49 to Rule 72-A of the Odisha Service Code. The salient features of these rules are discussed below.

### MEDICAL CERTIFICATE:

- No person may be appointed to a post in Government service without producing a medical certificate of health from the prescribed authority in a prescribed form.
- A Group- D Government servant is required to produce a medical certificate to the effect that he is free from communicable diseases.

### Exemption

- (i) All temporary appointments to Group-A, Group- B & Group- C service for less than 3 months period;
- (ii) All temporary appointments to Group-D posts for less than 6 months period;
- (iii) Group- D employee on promotion to Group-C service.
- (iv) Re-engagement of Government servants immediately after retirement. (Rule 49 of OSC)

### MEDICAL AUTHORITY:

- Medical certificate of health shall be signed by the Chief District Medical Officer or a District Medical Officer or a Medical Officer of equivalent rank.  
(Rule 51 of OSC)

### AGE LIMIT:

- **Upper Age Limit:** 32 years or as prescribed for any such service or post in the relevant recruitment rule. If the recruitment examination to fill up the vacancies of any particular year could not be held for any reasons during that year, the applicants, who were eligible then, shall be eligible to compete at the examination held in the subsequent year. [**The Odisha Civil Service (Fixation of Upper Age Limit) Rules, 1989**]

- ♦ **Due to COVID-19 pandemic, the Government in GA & PG Department have relaxed the upper age limit from 32 years to 38 years in respect of all advertisements made during calendar years 2021, 2022 and 2023 to fill up the posts under Government of Odisha vide their Notification No. 771/Gen, dated 11.01.2022.**
- ♦ **Relaxation in Upper Age Limit**

(i)	Scheduled Castes	...	5 Years
(ii)	Scheduled Tribes	...	5 Years
(iii)	Women	...	5 Years
(iv)	Socially & Educationally backward Castes	...	5 Years
(v)	Physically handicapped	...	10 Years

If a person comes under more than one category, he will be eligible for only one benefit of relaxation which shall be most beneficial to him / her. (Rule 52 OSC)

#### **MINIMUM AGE LIMIT:**

- ♦ The minimum age limit for entry in to Government service is as follows:-
  - (i) 21 years for Group-A and Group-B services;
  - (ii) 20 years for Group-C(non-ministerial) services;
  - (iii) 18 years for Group-C (ministerial) and Group-D services.
 (Rule 52-A of OSC)

#### **WHOLE TIME CONCEPT**

- ♦ The whole time of a Government servant is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority without claim for additional remuneration. (Rule 53 OSC)

#### **TRANSFER**

- ♦ The Government may transfer a Government servant from one post to another, except on account of inefficiency or misbehavior or on his written request to a post carrying less pay. (Rule 54 OSC)

#### **SUBSCRIPTION TO PROVIDENT FUND**

- ♦ A Government servant may be required to subscribe to a provident fund or other similar fund in accordance with such rules. (Rule 55 OSC)

#### **CONDITIONS FOR DRAWAL OF PAY**

- ♦ A Government servant shall begin to draw the pay and allowances attached to his post, with effect from the date when he assumes the duties of that post, and shall cease to draw them as soon as he ceases to discharge those duties.
  - (i) If he/ she joins in the forenoon – pay and allowances from the same date
  - (ii) If he/ she joins in the afternoon – pay and allowances from the next date

- ◆ No Government servant is entitled to any pay and allowances for the time spent outside his sphere of duty without proper authority.

**Exception:** Police Officer, Excise Officer or any other officer declared by the Government. (Rule 56 OSC)

#### **TRANSFER OF CHARGE:**

- ◆ The charge of an office must be made over at its headquarters, both the relieving and the relieved Government servant being present, provided that it shall not be necessary for the relieved Government servant to be present when he proceeds on leave to which he has been permitted to prefix holidays. (Rule 57 OSC)

#### **DEPUTATION OUT OF INDIA:**

- ◆ A Government servant shall not be deputed out of India without the previous sanction of the State Government. (Rule 59 OSC)

#### **HOLDING OF TWO OR MORE POSTS:**

- ◆ Two or more Government servants cannot be appointed substantively to the same permanent post at the same time.
- ◆ A Government servant cannot be appointed substantively except as a temporary measure to two or more permanent posts at the same time.
- ◆ A Government servant cannot be appointed substantively to a post on which another Government servant holds a lien. (Rule 65 OSC)

#### **LIEN:**

- ◆ Lien means the title of a Government servant to hold substantively a permanent post including a tenure post to which he has been appointed substantively. (Rule 27 OSC)
- ◆ A Government servant acquires lien in the entry grade post on his confirmation in the same. The said title is, however, subject to the condition that the junior most person in the grade will be liable to be reverted to the lower grade if at any time the number of persons so entitled is more than the posts available in that grade.

#### **Acquiring of Lien**

- ◆ A Government servant on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post. (Rule 66 OSC)

#### **Retention of Lien**

- ◆ A Government servant who has acquired lien on a post, retains the lien on that post under the following circumstances:-
  - (i) While performing the duties of that post;
  - (ii) While on Foreign Service or holding a temporary post or officiating in another post;
  - (iii) During joining time;
  - (iv) While on leave;
  - (v) While on suspension;

- ◆ But, no lien is retained under the following circumstances
  - (i) Where a Government servant proceeds on immediate absorption basis to a post or service outside his service/cadre/post in the Government from the date of absorption, and ;
  - (ii) Where a Government servant continues on Foreign Service/ deputation beyond the maximum limit admissible. (Rule 67 OSC)

### **Termination of Lien**

- ◆ The lien of a Government servant on a post cannot be terminated under any circumstances even with his consent to leave him without a lien upon a regular post.
- ◆ A Government servant's lien on a post shall stand terminated on his acquiring a lien on a permanent post (whether under the Central or the State Government or another Government) outside the cadre on which he is borne.
- ◆ A Government servant's lien on a post shall be terminated when he ceases to be a Government servant by way of superannuation, voluntary or compulsory retirement. (Rule 69 OSC)

### **Transfer of Lien**

- ◆ The lien of a Government servant, who is not performing the duties of the post to which the lien pertains, can be transferred to another post in the same cadre. (Rule 70 OSC)

### **SUPERNUMERARY POST:**

- ◆ A supernumerary post is normally created to accommodate the lien of an officer who is entitled to hold a lien against a regular permanent post, if he cannot have his lien against that post due to non-availability of such a regular permanent post.
- ◆ It is a shadow post. No duties have been attached to it. The officer performs the duties of another post.
- ◆ It would not lead to an excess of working cadre strength.
- ◆ It is permanent post created till the officer is absorbed in regular permanent post immediately after a vacancy is arisen.
- ◆ It is personal to the officer. No officiating arrangements.
- ◆ No extra financial implication is involved.
- ◆ The **reasons for creation of such supernumerary post** may be due to the following:-
  - (i) Court decision;
  - (ii) Factual error;
  - (iii) Mis-application or non-compliance of rules in the process of implementation.

### **LEAVE NOT TO EXCEED 5 YEARS:**

- ◆ A Government servant cannot be granted leave of any kind for a continuous period exceeding 5 years.



- ◆ If he remains on leave after 5 years, and does not résumé duty after leave, he may be removed from service after following the procedure laid down in the Odisha Civil Service (Classification, Control and Appeal) Rules, 1962.

(Rule 72 OSC)

### **RETIREMENT:**

- ◆ The retirement age of the State Government employees on superannuation is 60 years;
- ◆ The retirement age on superannuation of Allopathic Medical Officers is 65 years;
- ◆ The retirement age on superannuation of teachers of Medical Colleges is 65 years;
- ◆ A Government servant shall retire in the afternoon of the last day of the month in which he completes the age of 60 years or 65 years as the case may be. **For example: If the date of birth of a Government servant is 1<sup>st</sup> of a month, he shall complete the age of superannuation on the last day of the previous month and shall retire on that date.** (Rule 71 OSC)

### **Premature Retirement**

- ◆ Before the age of superannuation, a Government servant may be retired from service by conducting a review on his completing 30 years of qualifying service or attaining 50 years/ 55 years of age in public interest and giving him notice of not less than 3 months in writing. In exigency of public service, if it is not possible to give 3 months notice to the Government servant and he/ she is required to be retired immediately he may be paid pay and allowances in lieu of the said notice period.
- ◆ If the case of a Government servant is reviewed at 50 years of age and he has been found suitable, there shall be no further review till he/ she attains 55 years age. If he is not prematurely retired after review at 55 years age, no further review shall be made thereafter till retirement on superannuation.
- ◆ On the other hand, a Government servant may also take premature retirement from service at any time after completing 30 years service or attaining 50 years of age by giving 3 months' notice in writing to the Appointing Authority. (Rule 71-A OSC)

*(For detail procedure of premature retirement of a Government servant, the GA & P.G Department Circular No. 27037/GEN, dated 24.09.2019 may be referred to)*

### **Grounds of Premature Retirement**

- ◆ Retention of the employee in service will not be in public interest for following grounds:-
  - (i) He is clearly lacking in integrity, or
  - (ii) Although his integrity is not in doubt, his physical or mental condition is such as to make him inefficient for further service, or
  - (iii) Even though his work in a lower grade was satisfactory, he clearly lacks in standard of efficiency required to discharge the duties of the post he presently holds.

### **Restrictions**

- ◆ Premature retirement shall not be imposed as a punitive measure.

- ◆ Premature retirement can be passed after having due regard to the entire service record of the officer.
- ◆ Any adverse entries made in the confidential record shall be taken note and be given due weightage in passing such order.
- ◆ Premature retirement shall not be passed as a short-cut to avoid Departmental enquiry when such course is more desirable.

#### **Date of Premature Retirement**

- ◆ Where an employee is served with a notice, he will retire on the date following the date on which the period of 3 months from the date of the service of the notice expires, if, for example, the period of 3 months following the service of the notice expires on the 5th of any month, the employee would be deemed to have retired with effect from the 6th of that month.
- ◆ Where in lieu of notice, 3 months' pay and allowance (no allowance other than Dearness Allowance is payable) are paid, the date specified in the order shall be deemed to be the date on which the employee has retired.

#### **Pensionary Benefits on Premature Retirement**

- ◆ Since 3 months' pay and allowances are paid in lieu of the notice, the employee will be entitled to pension from the date specified in the order in addition to the period for which pay and allowance are paid to him.
- ◆ Earned leave not exceeding 300 days at the credit of the employee on the date of premature retirement shall be en-cashed.
- ◆ All other pensionary benefits as applicable to a Government servant retired on superannuation shall be paid.

#### **FREQUENTLY ASKED QUESTIONS**

**Q:** What is the retirement age of a Allopathic Doctor?

**Ans:** 65 years.

**Q:** Can a lien of a Government servant be transferred?

**Ans:** Yes. The lien of a Government servant who is not performing the duties of the post to which the lien pertains can be transferred to another post in the same cadre.



# 11

## RECRUITMENT RULES

- ◆ CONSTITUTIONAL PROVISIONS
- ◆ FRAMING OF RECRUITMEN RULES
- ◆ GENERAL
- ◆ METHODS OF RECRUITMENT
- ◆ DIRECT RECRUITMENT
- ◆ PROMOTION
- ◆ OTHER CONDITIONS OF SERVICE
- ◆ MISCELLANEOUS
- ◆ FREQUENTLYASKED QUESTIONS

## RECRUITMENT RULES

The State Government has created a number of services consisting of different grades/ posts and has employed persons against them for smooth running of its administration. The standard and efficiency of administration depend on the knowledge, capability and integrity of the members of the public services. So, after creation of any service/ post, there is absolute necessity of framing recruitment rules to fill up these posts by the right and fittest candidates in an unbiased, just and fair manner. However, rules regarding recruitment of various personnel are not static in nature. Depending on the changing demography, technology and nature of work associated with a service(s), the recruitment rules keep on changing and the departments go for suitable amendment in these rules from time to time.

### CONSTITUTIONAL PROVISIONS

- ◆ Recruitment rules for any of the state civil services should contain various aspects including constitution of the service, eligibility criteria for appointment, selection process, examination, probation, seniority, promotion and other conditions of service.
- ◆ As per the provisions under Article 309 of the Constitution of India, the State legislature has the power to enact laws governing the conditions of service of the persons appointed in connection with the affairs of the State. Proviso to this Article provides that pending the enactment of the laws, the Governor of a State or such person as he may direct, is competent to make rules regulating the recruitment and the conditions of service of persons appointed to the services and posts in connection with the affairs of the State until provision in that behalf is made by or under an Act of the appropriate Legislature.
- ◆ Further, as per the provisions under Article 310 of the Constitution, every person who is a member of civil service of a state or holds any civil post under a state holds office during the pleasure of the Governor of the state.

### FRAMING OF RECRUITMENT RULES

- ◆ Recruitment rules are notified under proviso to Article 309 of the Constitution of India for services/ posts prescribing the method of recruitment and eligibility for such recruitment. These rules are subordinate legislation and so, they are statutory in nature.
- ◆ Generally, departments of Government initiate and frame rules regulating methods of recruitment and conditions of services of persons for appointment to different services/ posts under their administrative control. At the first instance, the draft rule shall be prepared in the Administrative Department concerned

and be sent to both the G.A & P.G Department and Law Department along with all information for their scrutiny and concurrence. Moreover, the concurrence of OPSC shall also be sought, wherever necessary.

**Information for framing recruitment rules:**

The draft rule must include the following documents and information to facilitate smooth scrutiny at different levels.

- (i) Copies of extant rules/ regulations/ orders/ instructions with latest amendments followed for recruitment and conditions of service for relevant service/ post.
- (ii) A comparative statement of the principles in vogue and the proposed draft recruitment rules in respect of the following items along with reasons in case of differences.
  - ♦ Appointing Authority;
  - ♦ Recruiting Agency such as OPSC/ OSSC/ OSSSC/ Selection Committee/ Selection Board, etc;
  - ♦ Proportion of post to be filled up by direct recruitment / promotion;
  - ♦ Constitution of DPC/ Selection Committee/ Selection Board in case of promotion/ selection;
  - ♦ Minimum and maximum age limit;
  - ♦ Eligibility criteria/ educational qualification/ experience, etc. for direct recruitment/ promotion;
  - ♦ Physical standards;
  - ♦ Recruitment procedure(s);
  - ♦ Status of cadre;
  - ♦ Probation and confirmation;
  - ♦ Principles for fixation of seniority; and
  - ♦ Concessions, if any to the reserved categories/ departmental candidates;
  - ♦ Promotional hierarchies of posts in the cadre for which drafts service rules are proposed.
- (iii) However, a model recruitment rules shall consist of the following:

*GOVERNMENT OF ODISHA*  
*(NAME OF THE DEPARTMENT)*

\*\*\*\*\*

*NOTIFICATION*

*PART I*

*GENERAL*

1. *Short title and commencement*
2. *Definition*
3. *Constitution of service/ cadre*

*PART II*  
*METHODS OF RECRUITMENT*

4. *Methods of recruitment*
5. *Reservations*

*PART III*  
*DIRECT RECRUITMENT*

6. *Recruitment procedure*
7. *Eligibility criteria for Direct Recruitment*
8. *Constitution of Selection Board / Selection Committee*
9. *Eligibility criteria for promotion*

*PART IV*  
*PROMOTION*

10. *Combined Gradation List for promotion*
11. *Constitution of Board / Committee*
12. *Procedure for selection by the Committee/ Board*
13. *Consultation with OPSC (for Group-A and Group-B)*
14. *Select List*

*PART V*  
*OTHER CONDITIONS OF SERVICE*

15. *Probation and Confirmation*
16. *Training and Departmental Examination (if any)*
17. *Inter-se- seniority*
18. *Other conditions of service*

*PART VI*  
*MISCELLANEOUS*

19. *Relaxation*
20. *Interpretation*
21. *Power to issue instructions*

**Steps for framing recruitment rules:**

- (i) The proposed draft rule shall be initiated in the concerned administrative department. While drafting the recruitment rules, the model service rules issued by the G.A & P.G Department should be followed so that no important aspect would be left out from it.

- (ii) All recruitment rules including their amendments should be approved at the level of Minister-in-charge.
- (iii) After keeping the relevant papers in the file, a self-contained note be prepared and submitted to the G.A & P.G Department for concurrence of the draft recruitment rules.
- (iv) Thereafter, the file is to be endorsed to the Law Department for vetting of the draft recruitment rules.
- (v) A self-contained letter is required to be sent to OPSC for their advice.
- (vi) A cabinet memorandum for placing the matter before the Cabinet is to be prepared.
- (vii) Then, the file is to be sent to the Chief Minister, Odisha seeking his approval for placing the draft rules before the Cabinet.
- (viii) Then, the cabinet memorandum is to be signed by the Secretary of the department and communicated to Parliamentary Affairs Department for placing the same before the next meeting of the Cabinet.
- (ix) On receipt of the approval of the Cabinet, the notification notifying the recruitment rules is to be issued and published in the Odisha Gazette.

#### **Standard format of the recruitment rules**

- A standard format of the recruitment rules is given below for better appreciation.

#### *GOVERNMENT OF ODISHA*

*(Name of Department)*

#### *NOTIFICATION*

*Bhubaneswar dated the*

*No. (File No.) \_\_\_\_\_/ . In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and in supersession of the \_\_\_\_\_ Rules/ Regulations/ Orders/ Instructions, except in respect of things done or omitted/ to be done before such supersession, the Governor of Odisha do hereby makes the following rules regulating the method of recruitment and conditions of service of the persons appointed to the \_\_\_\_\_ Services/posts of \_\_\_\_\_ namely:-*

*OR*

*(In case rules are being framed by Government under the provisions of any Act)*

*(For Example- Odisha Police Service)*

*No. (File No.) \_\_\_\_\_/In exercise of the powers conferred under section-2 of the Police Act, 1861 and in supersession of the \_\_\_\_\_ Rules/ Regulations/ Orders/ Instructions, except in respect of things done or omitted/ to be done before such supersession, the state Government do hereby makes the following rules regulating the method of recruitment and conditions of service of the persons appointed to the \_\_\_\_\_ Services/posts of \_\_\_\_\_ namely:-*

**PART I**  
**GENERAL**

**1. Short title and commencement:-**

- (1) These rules may be called the \_\_\_\_\_ (Method of Recruitment and Conditions of Service) Rules, \_\_\_\_\_ (year).
- (2) They shall come into force on the date of their publication in the Odisha Gazette.

**2. Definitions:-**

- (1) In these rules, unless the context otherwise requires—
- (a) “Board” means Selection Board constituted under rule \_\_\_\_\_.
- (b) “Commission” means the Odisha Public Service Commission or Odisha Staff Selection Commission as the case may be.
- (c) “Committee” means the DPC/Selection Committee constituted under rule \_\_\_\_\_;
- (d) “Ex-servicemen” means persons as defined in the Odisha Ex-servicemen (Recruitment to State Civil Services and Posts) Rules, 1985;
- (e) “Government” means the Government of Odisha;
- (f) “Probationer” means a member of the service appointed on probation;
- (g) “Persons with Disabilities” means a person who has been granted with disability certificate by the competent authority as per the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Odisha Rules, 2003;
- (h) “Scheduled Castes and Scheduled Tribes” means such Castes and Tribes as notified by the President of India from time to time under articles 341 and 342 of the Constitution of India, respectively;
- (i) “SEBC” means the Socially and Educationally Backward Classes referred to in the Odisha Reservation of Posts and Service (for Socially and Educationally Backward Classes) Act, 2008 ( Odisha Act 6 of 2009).
- (j) “Select list” means the list finally approved by the Government under rule \_\_\_\_\_;
- (k) “Service” means the Odisha \_\_\_\_\_ Service;
- (l) “Sportsmen” means persons who have been issued with identity card as sports person by the Director, Sports;
- (m) “Year” means the calendar year.
- (2) All other words and expressions used in these rules but not specifically defined shall, unless the context otherwise requires, have the same meaning as respectively assigned to them in the Odisha Service Code.

**N.B.** The Administrative Departments may make addition and deletion of definitions in order to meet their requirements)



**3. Constitution of the Service/ Cadre:-**

The Service/cadre shall consist of the following posts, namely:- \_\_\_\_\_

OR

(When the service comprised of different categories of posts)

The Service shall consist of such Group-A, Group-B, Group-C, Group-D posts, as specified in \_\_\_\_\_

**PART - II****METHODS OF RECRUITMENT****4. Methods of Recruitment:-**

Subject to other provisions made in these rules, recruitment to different posts/ grades in the service shall be made by the following methods, namely:—

- (a) in respect of the post of \_\_\_\_\_ by competitive examination in accordance with rule \_\_\_\_\_; and,
- (b) in respect of the other posts \_\_\_\_\_ by promotion in accordance with Rule \_\_\_\_\_

OR

(When the service comprised of different categories of posts)

The method of recruitment to the posts in the service in column 2 of Appendix- A shall be as specified against each in column 3 thereof

(In case a post is partly filled up by direct recruitment and another part by promotion, the ratio between the two should be clearly mentioned)

**5. Reservations:-**

Notwithstanding anything contained in these rules, reservation of posts or vacancies, as the case may be, for:-

- (a) the candidates belonging to Scheduled Castes and Scheduled Tribes shall be made in accordance with the provisions of the Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 and the rules made there under; or any other law or rule in force at the relevant time; and
- (b) the candidates belonging to SEBC, Women, Sportsmen, Persons with Disabilities and Ex-Servicemen shall be made in accordance with the provisions made under such Act, rules, orders or instructions issued in this behalf by the Government from time to time.

**PART - III****DIRECT RECRUITMENT****6. Recruitment procedure:-**

- (1) The recruitment to the post of \_\_\_\_\_ in the service shall be made by way of competitive examination (or otherwise) to be conducted once a year.

- (2) *The competitive examination (\_\_\_\_\_) shall be conducted by the \_\_\_\_\_. The date on which and the places at which the examination are to be held shall be fixed by the \_\_\_\_.*
- (3) *The standard syllabus and subjects of examination shall be as set forth in Appendix- B.*
- (4) *Determination of vacancies, advertisement of vacancies and communication of results shall be as set forth in Appendix – C*

### **7. Eligibility Criteria for Direct Recruitment:-**

*In order to be eligible for direct recruitment a candidate shall have to satisfy the following conditions namely:-*

- (1) **Nationality** “ *A candidate must be a citizen of India.*
- (2) **Age Limits** “ *A candidate must have attained the age of 18/ 21 years and must not be above the age of 32 years on the \_\_\_\_\_day of \_\_\_\_\_ of the year of recruitment:*

*Provided that the upper age limit in respect of reserved categories of candidates referred to in rule 5 shall be relaxed in accordance with the provisions of the Act, rules, orders or instructions, for the time being in force, for the respective categories.*

- (3) **Knowledge in Odia:-***The candidate must be able to read, write and speak Odia; and have —*
- (a) *passed Middle School examination with Odia as a language subject; or*
- (b) *passed Matriculation or equivalent examination with Odia as medium of examination in non-language subject; or*
- (c) *passed in Odia as language subject in the final examination of Class VII from a school or educational institution recognised by Government of Odisha or the Central Government or*
- (d) *Passed a test in Odia in Middle English School Standard conducted by the School and Mass Education Department.*
- (4) **Marital Status:-** *A candidate if married must not have more than one spouse living Provided that the Govt. may if satisfied that such marriage is permissible under the personal law applicable to such person or there are other grounds for doing so exempt any person from the operation of this rule.*

- (5) **Minimum Educational Qualification:-***A candidate must have possessed \_\_\_\_\_*

*(When the service comprised of different categories of posts)*

*The educational qualification of the candidate must be as specified in column- 4 of Appendix - A against respective posts.*

- (6) **Physical and Mental Fitness:-** *A candidate must be of good mental condition, bodily health and free from any physical defect that is likely to interfere with the discharge of his duties in the service. A candidate, who after such medical examination is not found to satisfy these requirements, shall not be appointed to the service.*

**8. Constitution of Selection Board / Selection Committee:**

*(This shall be the case where recruitment is not made by any agency such as OPSC, OSSC, etc. The Committee/ Board constituted u/r -11 may also be assigned to conduct direct recruitment)*

**PART - IV**  
**PROMOTION**

**9. Eligibility Criteria for Promotion:-**

*(Besides other criteria, if any a person must undergo a minimum period of continuous service in the feeder grade in order to be eligible for promotion).*

*The eligibility criteria for promotion shall be as specified in column 5 of Appendix A against respective posts. (When the service comprised of different categories of posts)*

*(Health and family Welfare Deptt. have prescribed a minimum period of service to be rendered in KBK Districts and TSP Areas as eligibility criteria for promotion in Odisha Health and Medical Service-such provision must find place under rule-9)*

**10. Combined Gradation List for the purpose of promotion:-**

*(a) When promotion is made from different kinds of posts it is necessary to prepare a combined gradation list for the purpose of consideration by the committee on the basis of date of appointment)*

*(b) When promotion is made from different kinds of posts proportionately such a provision is not necessary. However provision should be thereto the effect that while making recommendations for promotion, the committee must ensure the position of officers/ employees recommended for promotion on the basis of their date of appointment in the feeder grades.*

**11. Constitution of Committee/ Board:-**

*(1) There shall be constituted a Selection Committee, Special Recruitment Board, DPC or the selection Board consisting of the following members to consider the cases of promotion from \_\_\_\_\_ to \_\_\_\_\_ namely:-*

*(a) \_\_\_\_\_ Chairman*

*(b) \_\_\_\_\_ Member*

*(c) \_\_\_\_\_ Member*

*(d) \_\_\_\_\_ Member-Convenor/ Secretary*

*(2) The recommendation of the Selection Committee, Special Recruitment Board, DPC or the Selection Board shall be valid and can be acted upon notwithstanding the absence of any of its member other than the Chairman:*

*Provided that the member or members so absenting must have been duly invited to attend the meeting and the majority of the members constituting the Committee attended the meeting.*

**12. Procedure for Selection by the Committee/Board:-**

- (1) *The Committee/Board shall ordinarily meet at least once in a year preferably in the month of December to prepare a list of officers/employees, as are held by them, suitable for promotion to the next higher grade taking into account the existing and anticipated vacancies of the year.*
- (2) *The Committee while considering the promotion cases of suitable officers/ employees and preparation of the list shall follow the provisions of—*
  - (a) *the Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 and the rules made there under and*
  - (b) *the Odisha Civil Services (Zone of Consideration for Promotion) Rules, 1988,*
  - (c) *the Odisha Civil Services (Criteria for Promotion) Rules, 1992 and*
  - (d) *the Odisha Civil Services (Criteria for Selection for Appointment including Promotion) Rules, 2003.*
  - (e) *any other law, rule or instructions in the matter in force at the relevant time shall also be followed.*

**13. Consultation with the Commission:-**

- (1) *The recommendations of the Committee shall be referred to the Commission for concurrence along with a list of all eligible candidates including those who has not been recommended together with the service particulars relating to their academic qualification, teaching experience, research and field experience, if any*
- (2) *The Commission shall consider the list received along with the service particulars and furnish its recommendations to the Government.*

*[This provision is required for Group-A and Group-B posts only as per the provisions of the OPSC (Limitations of Functions) Regulations, 1989]*

**14. Select List:-**

- (1) *The recommendations of the Commission in respect of reference made to it under sub-rule (1) of rule 13 shall be considered by the Government and the list approved by the Government shall form the Select List.*
- (2) *The list referred to under sub-rule (1) shall ordinarily be in force for a period of one year from the date of its approval by the Government or until another Select List is prepared afresh, whichever is earlier.*
- (3) *Appointment to any post in the service shall be in the order in which their names appear in the select list*

**PART - V****OTHER CONDITIONS OF SERVICE****15. Probation and Confirmation:-**

- (1) *On appointment against a substantive vacancy, an officer shall be placed on probation for a period of two years, if he or she is a direct recruit and one year, if he or she is a recruit by promotion, from the date of joining the post:*

*Provided that the Government may, if thinks it fit in any case or class of cases extend the period of probation:*

*Provided further that such period of probation shall not include the period of*

- (a) *extraordinary leave;*
  - (b) *unauthorised absence; or*
  - (c) *any other period held to be not being on actual duty.*
- (2) *The appointment of a probationer may for good and for sufficient reasons to be recorded in writing, be terminated by the Government at any time without previous notice during the period of probation including extension of such period, if any, and in case of a probationer appointed by way of promotion, after such termination, the officer shall deemed to be reverted back to his or her former cadre or post.*
- (3) *A probationer after completing the period of probation to the satisfaction of Govt. shall be eligible for confirmation subject to the availability of substantive post in the service.*

*(Where provision of passing Departmental Examination, Training, etc is mandatory during the period of probation, confirmation shall be subject to passing of Departmental Examination, Training, etc)*

**16. Training and Departmental Examination:- (if any)****17. Inter-se-Seniority:-**

- (1) *The inter-se-seniority of the persons appointed to any post in the service in respect of a particular recruitment year shall be in the order in which their names appear in the list.*

*(This shall be the case when appointment is made from a single list prepared either by direct recruitment, promotion or selection)*

**OR**

*The inter-se-seniority of the officers/ employees in a recruitment year shall be in the following order and in each category the inter se seniority shall be determined in the following manner:-*

- (a) *the promotee officers shall be ranked inter-se in the order of their dates of appointment to the service in which their names appear in the select list.*
- (b) *the officers appointed by means of selection shall be ranked inter-se in the order of their dates of appointment to the service.*

- (c) *the direct recruit officers shall be ranked inter-se in the order in which their names appear in the merit list prepared by the Commission/ Board etc..*

*(This shall be the case when appointment is made from different lists prepared for appointment by way of direct recruitment, promotion and selection)*

**18. Other Conditions of Service:-**

*The conditions of service in regard to the matters not covered by these rules shall be the same as are or as may from time to time be prescribed by the Government.*

**PART-VI**

**MISCELLANEOUS**

**19. Relaxation:-**

*When it is considered by the Government that it is necessary or expedient so to do in public interest, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of officers in consultation with the Commission.*

**20. Interpretation:-**

*If any question arises relating to interpretation of these rules, the same shall be referred to the Government in G A & PG Department whose decision thereon shall be final.*

**21. Power to Issue Instructions:-**

*The Government may issue such instructions not inconsistent with the provisions of these rules as they may consider necessary to regulate the matters not specifically covered by the provisions of these rules.*

**(G.A & P.G Department circular No.24385/Gen, dated 9.10.2012)**

**APPENDIX - A**

[See rule 3, 4, 7(5) & 9]

Sl. No.	Name of the post/ Category(Group A, B, C or D)/Appointing Authority	Method of Recruitment	Minimum Qualification for Direct Recruitment	Eligibility Criteria for Promotion
1	2	3	4	5
Example Given Below				
1	Fire Officer (Group A)/ Government	Promotion from Deputy Fire Officer		Two years continuous service as Deputy Fire Officer & must have passed Departmental Examination in Accounts conducted by the Board of Revenue

1	2	3	4	5
2				
3				
4	Fireman (Mechanical) (Group C)/ Chief Fire Officer	Direct Recruitment	Must have passed High School Certificate Examination or equivalent examination from any recognized Board or council or any other institution being affiliated by the appropriate authority with ITI from a recognized Institute	
5				
6				
7				

**APPENDIX - B**

[see rule 6(3)]

## STANDARD, SYLLABUS AND SUBJECTS OF EXAMINATION

**APPENDIX - C**

[see rule 6(4)]

DETERMINATION OF VACANCIES, ADVERTISEMENT OF VACANCIES AND  
COMMUNICATION OF RESULTS

By order of the Governor

Sd/- Secretary to Government

\_\_\_\_\_ Department

**FREQUENTLY ASKED QUESTIONS****Q:** What are Recruitment Rules?**Ans:** Recruitment Rules are rules notified under proviso to Article 309 or any specific statutes for post(s) prescribing inter alia the method of recruitment and eligibility for such recruitment. It contains notification

part having substantive rules and schedule part. Recruitment Rules are subordinate legislation and so, they are statutory in nature.

**Q:** What are Service Rules?

**Ans:** Service Rules are Recruitment Rules for any of the organized State Services covering many aspects including constitution of the Service, seniority, probation and other conditions of service.

**Q:** Why are Recruitment Rules required to be framed?

**Ans:** The Recruitment Rules are required to be framed for every post, in order to ensure probity and transparency in the process of Recruitment. They specify the provisions under various clauses, which are required to be adhered to and cannot be changed once the process of recruitment has been initiated.

**Q:** For what kind of posts are the Recruitment Rules required to be framed?

**Ans:** The Recruitment Rules are required to be framed for all posts which have been included in a cadre.

**Q:** Why are Recruitment Rules required to be amended periodically?

**Ans:** Recruitment Rules prescribe various specifications relating to classification of post, pay structure, grade pay, and method of recruitment, composition of various Committee, essential qualifications etc. These rules are revised on the basis of cadre re-structuring, essential qualifications, Pay Commission recommendations etc. Therefore, Recruitment Rules are required to be amended periodically.

**Q:** Who is mandated to prescribe the nomenclature for a particular post for which the Recruitment Rules are being framed?

**Ans:** The designation/ nomenclature assigned to a given post is the prerogative of the Department which controls the post. A similarly designated post may carry different Scales of Pay(s). For instance a post designated as a 'Deputy Director' might be an Under Secretary, or a Deputy Secretary level post in different Departments.

**Q:** What is the prescribed quota for promotion posts in the method of recruitment?

**Ans:** The guidelines prescribe a pyramid structure in the cadre hierarchy of any cadre. The ratio for the promotional post to the feeder grade post is normally prescribed at 50:50 or 40:60, where the recruitment is by way of selection.

**Q:** What is the purpose of prescribing "Qualifying Service" for promotion to the next higher Grade?

**Ans:** Qualifying Service is the minimum residency period prescribed in the Recruitment Rules that an incumbent has to serve in a Grade on a regular basis before being eligible to be promoted to the next higher grade.

**Q:** What is the difference between 'Selection' and 'Non Selection' posts in the Recruitment Rules?

**Ans:** In case the promotion to a given post is based upon merit only, the recruitment is defined to be by way of 'Selection'. In other words, seniority is not given precedence over performance. Thus, an incumbent with less qualifying service in the feeder grade can be selected if possessing better performance



appraisal vis à vis another who has more qualifying service in the feeder grade but with a lower grade in performance appraisal. However, when promotion to a post is made on the basis of seniority only subject to the rejection of a pre defined grade of 'fit' and 'unfit', the process is specified as 'Non Selection'. In other words, if the grade for 'fit' is defined as 'Very Good' in the Performance Appraisal, the posts to the given Grade shall be filled up from amongst incumbents in accordance to their seniority in the feeder grade subject to their possessing the performance appraisal defined to be necessary for declaring a candidate as 'fit'.

**Q:** What is the period of probation for a given post?

**Ans:** The period of probation differs based upon the classification of a given post. The probation can be for a maximum period of two years. However, the same can be extended by the Competent Authority through a speaking order, citing reasons for the same, which are required to be communicated to the incumbent. The probation period for a promotee officer from other cadre is normally one year.

**Q:** Is probation required to be prescribed for contractual or tenure based post(s) or re employment after superannuation?

**Ans:** No. Probation is not required to be prescribed for contractual or tenure based or re employment positions.



## 12

### **PROBATION AND CONFIRMATION**

- ◆ **GENERAL PRICIPLES**
- ◆ **PERIOD OF PROBATION**
- ◆ **TERMINATION/ REVERSION**
- ◆ **CONFIRMATION**
- ◆ **FREQUENTLYASKED QUESTIONS**

## PROBATION AND CONFIRMATION

Generally, after selection through a recruitment process, a person is appointed to a service/post of the State Government. His/her selection for the post is based on his qualification, knowledge, performance in the recruitment examination and interview, etc. Besides, a Government servant is appointed to a higher promotional post either through promotion or selection. In all these cases, the Appointing Authority is not aware of the exact performance; he will deliver after joining in the post. Hence, his appointment in Government service is initially made on temporary basis with attachment of a probation period. Probation should, therefore, not be treated as a mere formality. The rules regulating the probation and confirmation of a Government servant are contained in Rule 39 of Odisha Service Code and relevant recruitment rules.

### GENERAL PRICIPLES:

- ◆ Probation is a period of trial and the Government servant has no right to the post to which he is appointed during the period of probation. Its purpose is to assess his ability, commitment, conduct, character and aptitude to perform the job of the service. During the period of probation, the suitability of the recruit to hold the post substantively or permanently at the time of confirmation has to be observed.
- ◆ A Government servant employed on probation is called a probationer. During the period of probation, a probationer may be required to undergo such courses of training and instructions and to pass examinations, and tests as prescribed by the Government.
- ◆ Ideally, a probationer should be given an opportunity to work under more than one officer during this period and reports of his work obtained from each officer. The reports, thus obtained, may be considered by a Board of senior officials for determining whether the probationer concerned is fit to be confirmed in the service.
- ◆ Provision for mandatory induction training should be put in place for all cases of direct recruits.

### PERIOD OF PROBATION:

- ◆ The period of probation of a recruit / appointee varies from service to service and post to post. It must be specified in the relevant recruitment rules. The standard period of probation in different cases may be as follows:-
  - (i) Every person appointed to the service by direct recruitment shall be on probation for a period of two years including training.
  - (ii) Every person appointed on promotion shall be on probation for a period of one year including training.

- ◆ The period of probation begins from the date of joining in the grade. The period of probation shall not include,—
  - (i) Extraordinary leave;
  - (ii) Period of unauthorized absence; or
  - (iii) Any other period held to be not being on actual duty.
- ◆ The Appointing Authority may, however, extend the period of probation up to one year.
- ◆ A Government servant will complete his/her probation on completion of one/two years, as prescribed in recruitment rules. For example, if a person is appointed on 12.08.2018 and placed on probation for a period of 2 years, then he shall complete the period of probation of 2 years on 11.08.2020.

#### **TERMINATION/ REVERSION:**

- ◆ If the performance of a Government servant on probation is not satisfactory and he is found unsuitable for the post, then the appointment of a probationer may, for good and sufficient reasons to be recorded in writing, be terminated by the Government at any time without previous notice during the period of probation including extension of such period, if any.
- ◆ Consequent upon passing of such order, the probationer shall:-
  - (i) If recruited directly, be removed from service/ post.
  - (ii) If appointment is by promotion or selection, the officer shall be reverted to his former permanent service, grade or post in accordance with the terms of his appointment.
- ◆ Where a person is appointed to a permanent post in a Government service on probation, the termination of his service during or at the end of that period of probation will not ordinarily and by itself is a punishment for the Government servant.

#### **CONFIRMATION:**

- ◆ A probationer after completing the period of probation to the satisfaction of Government shall be eligible for confirmation subject to the availability of substantive vacancy in the service/grade.
- ◆ Generally, a Government servant is to be successively confirmed in each and every service/post/cadre to which he is appointed/ promoted subject to the availability of permanent post in each cadre or service.

#### **Pre-requisites for Confirmation:**

- ◆ Identification of permanent posts on which no other Government employee holds a lien which is a time consuming and complicated procedure.
- ◆ Non-availability of original order should not be a bar for the purpose of confirmation where the post is continuing for a long time and is likely to continue. (GA & P.G Department O.M No.3928/Gen, dated 18.02.1994)
- ◆ Conversion of temporary posts which have continued for 3 years into permanent ones.

**Eligibility for confirmation:**

- ◆ Must have passed all the prescribed tests/training laid down for the particular service/post.
- ◆ His character and antecedents must have been verified by the appropriate authority and no adverse report is received.
- ◆ He is not placed under suspension.
- ◆ No departmental proceeding or criminal case is pending against him.
- ◆ Confirmation should be made on the basis of the seniority.

**Restriction on drawal of increments during probation.**

- ◆ In some services, a Govt. Servant draws the first annual increment in the time scale on completion of 1 year of service. But he/she can't draw a second and subsequent increment until he/she has been confirmed in the service. Delay in passing the Departmental Examination shall not have the effect of postponing the increment cumulatively but arrear increment dues shall not be allowed.

**FREQUENTLY ASKED QUESTIONS**

**Q:** Can a temporary Government servant be made permanent during the period of probation?

**Ans:** No. A Government servant can be made permanent after successful completion of the probation period.

**Q:** Can a Government servant be confirmed against a temporary post?

**Ans:** No. A Government servant can be confirmed against only a substantive vacancy of permanent post.

**Q:** Is it necessary to follow the procedure of the OCS(CCA) Rules, 1962 for removal of a Government servant from service who fails to complete the probation period successfully?

**Ans:** No. The Government servant may be removed from service on the ground of failure to complete the probation period without following the procedure of OCS(CCA) Rules, 1962.

**Q:** Is the removal of a Government servant from service on the ground of failure to complete the probation is punishment?

**Ans:** No. It is not a punishment.



## 13

### **GUIDELINES ON SENIORITY**

- ◆ SENIORITY/ GRADATION LIST
- ◆ PRINCIPLES OF FIXATION OF SENIORITY
- ◆ SENIORITY AMONG GENERAL, SC /ST CANDIDATES
- ◆ FREQUENTLY ASKED QUESTIONS

## GUIDELINES ON SENIORITY

Seniority means the precedence or preference in position of a Government employee over other employees similarly situated in a service or grade or cadre. Seniority is a comparative or relative concept. It is one of the important matters relating to conditions of service because of its direct bearing on the promotion of a Government employee to the next higher service or grade or cadre.

The promotion of State Government employees is based on the principles of merit-cum-seniority. Where a senior official is suitable for promotion, he is entitled to get promotion on the basis of his seniority in preference to his juniors. The detailed guidelines regulating inter-se seniority of Government employees have laid down in Service Manual issued by the GA & PG Department from time to time.

### SENIORITY/ GRADATION LIST

- ◆ The Seniority List is also called as the Gradation List. The inter se seniority of Government servants in any service/grade/post is fixed by the appointing authority in accordance with the statutory rules, general principles and executive instructions issued by the Government in GA & PG Department from time to time.
- ◆ The gradation list of the officers shall be printed each year and a copy thereof shall be sent to the Odisha Public Service Commission, if applicable. The procedure for preparation of the gradation list is as follows:-
  - (i) Soon after appointments are made to a service/ grade, the appointing authority shall prepare a tentative gradation list of the Government employees appointed to the service/ grade in accordance with the prescribed principles.
  - (ii) The tentative gradation list shall be circulated amongst the Government employees concerned inviting objections by a notice of reasonable period not exceeding 15 days from the date of circulation of the gradation list.
  - (iii) No objections against the vires or validity of these rules shall be entertainable.
  - (iv) The appointing authority shall after disposing off the objections, if any, by a reasoned order, issue a final gradation list of all the employees of the feeder grades latest by 15<sup>th</sup> November of the previous year in which the DPC sits for consideration of promotion. (**GA & P.G Department letter No. 8121, dated 06.03.2020**)

**PRINCIPLES OF FIXATION OF SENIORITY:**

- ◆ The conferment of seniority would be against the recruitment year in which the recruitment process is initiated for filling up of the vacancies. Some of the basic principles of seniority fixation followed prior to 09.09.2021 in case of appointments made by various modes of recruitment are indicated below:
  - (i) **Direct Recruits:** The inter-se-seniority of all direct recruits shall be determined by the order of merit in which they are selected and recommended for such appointment by the OPSC or other selecting authorities irrespective of their dates of joining. Persons appointed from an earlier select list will rank senior en-bloc to those appointed in a subsequent selection.
  - (ii) **Seniority of the promotees from a single feeder grade:** The inter-se-seniority of the officers/ employees appointed on promotion shall be fixed in the order in which their names are arranged in the select list drawn by the Departmental Promotion Committee as per their inter-se-seniority in the feeding grade/post/service.
  - (iii) **Seniority of the promotees from different feeder grades:** The inter-se-seniority of the officers/ employees, appointed on promotion by way of selection from different services or posts having no common seniority among such officers, shall be determined in the order in which their names are arranged in the select list drawn and recommended by the Departmental Promotion Committee on the basis of their merit adjudged during selection.
  - (iv) **Relative Seniority of Direct Recruits & Promotees:** Where according to the service rules appointments are made both by promotion and by direct recruitment, the officers/ employees appointed on promotion against the vacancies of a year shall en bloc be senior to those appointed by direct recruitment against the vacancies of that year.

**[Home (Appointment) Department Order No. 606-A., dated 07.02.1954]**

- ◆ But after pronouncement of Supreme Court judgement dated 19.11.2019 in K. Meghachandra Singh & Others vrs Ningam Siro & Others, the Government of Odisha have declared to fix the inter-se-seniority of Government servants in the following manner prospectively from 09.09.2021.
  - (a) **Direct Recruitment :** The seniority of the candidates appointed out of a select list in a calender year shall be arranged as per merit list and fixed in the said calender year in which appointment order is issued.
  - (b) **Promotion:** The seniority of the promoted officers/ employees in the calender year shall be arranged in the order in which their names appear in the select list and shall be fixed in the said calender year in which the promotion order is issued.
  - (c) **Seniority among Direct Recruitment, Promotion Recruitant and Selection Recruitant:** The seniority of candidates appointed in a calender year out of the select list so prepared shall be arranged in the order in which their names appear in the respective merit list/ select list and shall be fixed en-block in the calender year in which the appointment orders issued and in the sequence prescribed in the cadre rules governing the cadres.



- (d) **R. A. Scheme Appointees:** The inter-se-seniority of employees in a calendar year shall be fixed below the persons recruited and appointed in that grade or cadre in that particular year.
- (e) **Merger of two or more cadres:** Where appointment is made out of two or more select list prepared in a particular year, the persons appointed out of the select list prepared earlier shall be placed en-block senior to the persons appointed out of the select list prepared subsequently.

(G.A & PG Department Resolution No 24188, dated 09.09.2021)

#### SENIORITY AMONG GENERAL, SC & ST CANDIDATES:

- ◆ If a candidate belonging to the SC or ST is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/SEBC candidate who is promoted later to the said immediate higher post/grade, the general/SEBC candidate will regain his seniority over such earlier promoted candidate of the SC and ST in the immediate higher post/grade. This is called the “Catch up” principle in reservation.
- ◆ **For example,** ‘A’ is senior to ‘B’ in the feeder post of ASO in OSS Cadre. ‘A’ belongs to general category while ‘B’ to Scheduled Caste category. If ‘B’ is promoted to the post of SO earlier than his senior ‘A’ due to reservation, then after promotion of ‘A’ to the said post on a later date, ‘A’ will be senior to ‘B’ in the post of SO. But, if ‘B’ is promoted to the post of Desk Officer in his turn by the time of promotion of ‘A’ to Section Officer, no seniority shall be restored to ‘A’ over ‘B’. The catch up principle is only applicable in the next higher post or grade.

#### FREQUENTLY ASKED QUESTIONS

**Q:** How the seniority of all direct recruits is determined?

**Ans:** The seniority of direct recruits is to be maintained in the order of merit in which they are selected for appointment on the recommendations of OPSC or other selecting agencies. The persons appointed as a result of earlier selection being senior to those appointed on subsequent selection.

**Q:** How the seniority of a person appointed on compassionate grounds is determined?

**Ans:** A person appointed on compassionate ground in a particular year is placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. in that year, irrespective of date of joining of candidate on compassionate appointment.

**Q:** How year of availability in regard to determination of relative seniority of direct recruits and promotee is determined?

**Ans:** The year of availability, both in case of direct recruit as well as promotee, for the purpose of rotation and fixation of seniority is actual date of appointment after declaration of result/selection and completion of pre-recruitment formalities, as prescribed. The year of availability is a vacancy year in which a

candidate of a particular batch of selected direct recruitment or an officer of a particular batch of promotee joins the post/service.

**Q:** Is a candidate appointed against the carry forward vacancy of earlier recruitment year, allow the seniority of the year in which the vacancy arose?

**Ans:** No. The seniority of direct recruits and promotees is delinked from the vacancy and year of vacancy.

**Q:** How the relative seniority of direct recruit and promotee is determined?

**Ans:** The relative seniority of direct recruit and promotee is determined according to rotation of vacancies between available direct recruits and promotees which is based on quota of vacancies reserved for direct recruitment and promotion respectively in the recruitment rules.

**Q:** Is a SC/ST Government servant promoted by virtue of rule of reservation entitled to consequential seniority?

**Ans:** Yes. A SC/ST Government servant on promotion by virtue of rule of reservation roster will be entitled for consequential seniority.

**Q:** How seniority of a promotee officer is determined in cases where more than one feeder grade is prescribed for promotion to the higher grade and specific quotas are given?

**Ans:** In such cases, the officer in each grade assess a fit by the Departmental Promotion Committee shall be interpolated in the ratio prescribed in each grade in the Recruitment Rules for the post, for the purpose of determination of seniority. (principle of prorota quota).

**Q:** How the seniority of the promotee officer is determined?

**Ans:** The inter-se seniority of a officer promoted on the basis of the recommendation of a DPC either by selection or non-selection method as per due procedure, shall be determined as in the feeder grade from which they are promoted.



## 14

### DEPARTMENTAL PROMOTION COMMITTEE

- ◆ GUIDING PRICIPLES
- ◆ ROLE & FUNCTION
- ◆ CONSTITUTION
- ◆ HOLDING OF DPC
- ◆ ISSUE OF GRADATION LIST
- ◆ ASSESSMENT OF VACANCIES
- ◆ RESERVATION
- ◆ ZONE OF CONSIDERATION
- ◆ SUITABILITY & MERIT
- ◆ SEALED COVER
- ◆ PREPARATION OF SELECT LIST
- ◆ REVIEW DPC
- ◆ PROMOTION AFTER OPENING OF SEALED COVER
- ◆ RETROSPECTIVE PROMOTION
- ◆ IMPACT OF CADRE RESTRUCTURING AFTER DPC
- ◆ RECOMMENDATION
- ◆ FREQUENTLY ASKED QUESTIONS

## DEPARTMENTAL PROMOTION COMMITTEE

The rules regulating the recruitment and other service conditions of persons appointed to different posts and civil services for a State have been formulated as per provisions laid down under Article 309 read with Article 166 of the Constitution. For an impartial and uniform procedure of recruitment to services, it is necessary that there should be prescribed recruitment rules for every post/grade and all recruitment made in accordance with these rules. In deciding on the methods of recruitment the main consideration naturally is whether a direct recruit or a person with experience of work in the next lower grade would be more suitable for appointment to the post/grade. Not infrequently departmental experience in an office is not only essential but may also be preferable to mere academic qualifications for maintaining efficiency. It is also natural for persons serving in the lower grades to look forward to promotion to highest posts in which their experience can be used with advantage to the State. For these reasons, promotion is one of the recognized important methods of recruitment to various services and posts under the State Government. The criteria for consideration of promotion of the Government employees to their next higher grades are guided by the OCS (Criteria for Promotion) Rules, 1992 amended from time to time. The important features of the said rules are indicated below.

### GUIDING PRICIPLES:

- (i) Every person eligible for promotion and in the field of choice should be considered for promotion.
- (ii) It is desirable that:-
  - ♦ A standard for promotion should be strictly adhered to. Where prescribed standards are considered too rigorous to meet practical requirements, views of OPSC/ DPC may be considered as the case may be.
  - ♦ The minimum length of service in the lower grade prescribed as a condition for promotion to the higher grade should not materially different from that prescribed by other Departments for promotion to similar grades involving the same nature of duties and responsibilities.
  - ♦ Employing Departments should estimate the number of vacancies which might arise in the succeeding year for being filled up by promotion on the recommendation of DPC and also convene the meeting of the DPC at regular annual intervals.
  - ♦ The administrative authorities should ensure that the information furnished to DPC is accurate and in proper order in all respects. Department may investigate all cases of delay and submission of incorrect particulars to the DPC and take suitable action against the persons responsible for default.

**ROLE & FUNCTION:**

All cases of regular promotion to the posts or grades of different services/ civil posts under the State Government are made by selection. Departmental Promotion Committee (DPC) or Selection Board is constituted in each Department/ Heads of Department/ District Offices including Sub-Ordinate Offices to judge the merit and suitability of Government servants for their promotion to higher service/ post and to recommend the names of suitable candidates to the Appointing Authority for their appointment to higher posts/services.

**CONSTITUTION:**

Each DPC/ Selection Board shall consist of a Chairman and Members of appropriate status/ rank. The Administrative Department shall notify its formation for consideration of promotion cases of employees placed before it in the following manner:-

- (i) **For Promotion to posts in Pay Band-4 (Level-15, 16 & 17)**
- |     |  |   |          |
|-----|--|---|----------|
| (a) | Chief Secretary/ Additional Chief Secretaries      | : | Chairman |
| (b) | Secretary/Special Secretary of the Adm. Department | : | Members  |
- (ii) **Promotion to posts in Pay Band -3(Level-12, 13 & 14)**
- |     |  |   |          |
|-----|--|---|----------|
| (a) | Principal Secretaries and Secretaries of the Dept.                     | : | Chairman |
| (b) | Head/ Heads of Department concerned                                    | : | Members  |
| (c) | Special/ Additional/Joint / Deputy Secretary of the<br>Adm. Department | : | Members  |
- (iii) **Promotion to OAS all grade**
- |     |  |   |          |
|-----|--|---|----------|
| (a) | Member, Board of Revenue                   | : | Chairman |
| (b) | Revenue Divisional Commissioners           | : | Members  |
| (c) | Secretary of the Administrative Department | : | Members  |
- (iv) **All other cases**
- |     |                    |   |          |
|-----|--------------------|---|----------|
| (a) | Head of the Office | : | Chairman |
| (b) | Two others         | : | Members  |

The committee may co-opt any officer as member.

**HOLDING OF DPC:**

In order to consider the promotion of employees in each year, the Departmental Promotion Committee shall meet in the second fortnight of December and shall prepare the select list on or before 31<sup>st</sup> December of the preceding year. (GA & P.G Department Resolution No.1031, dated 10.01.2020)

**ISSUE OF GRADATION LIST:**

Appointing Authorities shall publish the final gradation list of all the employees of the feeder grades latest by 15<sup>th</sup> November of the previous year in which the DPC meets for consideration of promotion. (GA & P.G Department No. 8121/GEN., dated 06.03.2020)

**ASSESSMENT OF VACANCIES:**

Before the DPC meets, the number of vacancies to be filled up by promotion in the promotional post during the calendar year shall be worked out. The vacancies include all existing vacancies and subsequent consequential vacancies up to end of the year by promotion, retirement in the higher grade.

**RESERVATION:**

- ♦ Reservations and concessions to SCs/STs in the matter of promotion are to be kept in view while formulating proposals for promotion for consideration of the DPC. Reservation shall be post based instead of vacancy based as per the judgment of the Supreme court in R.K. Sabharwal and M. Nagraj case. It has been clearly explained in the Reservation chapter which may be referred to. In the process, all the sanctioned posts in a cadre/ grade shall be considered as a unit. The posts shall be apportioned among SCs, STs and General Categories of candidates according to their representation. Any shortfall of persons in any category shall go to that category from the total vacancies.
- ♦ For want of candidates in a particular category, posts may remain unfilled. No de-reservation is allowed.

**ZONE OF CONSIDERATION:**

- ♦ As per the O.C.S (Zone of Consideration for Promotion) Rules, 1988, the zone of consideration for general category is 3 times of the estimated numbers of vacancies meant to be filled up by that category while for ST/ SC category, the common zone of consideration is 7 times of the total estimated number of vacancies. For better understanding an illustration is given below.

**Illustration:**

- ♦ If the total number of vacancies is 10 in a grade, out of which 1 post is reserved for SC, 3 posts for ST and 6 posts are meant for unreserved/ general category, then zone of consideration for SC & ST category shall be taken together as 7 times the number of vacancies. While for general category zone of consideration will be 3 times the number of vacancies meant for general category only.
  - (i) Common zone of consideration for ST & SC :  $10 \times 7 = 70$
  - (ii) Zone of consideration for General Category :  $6 \times 3 = 18$
- ♦ In case of promotion to Class-III (Group C) posts and within Class-III (Group C) posts on the basis of selection, the zone of consideration for SC & ST Officers shall be considered separately.
  - (i) Zone of consideration for SC :  $1 \times 7 = 7$
  - (ii) Zone of consideration for ST :  $3 \times 7 = 21$
  - (iii) Zone of consideration for General Category:  $6 \times 3 = 18$
- ♦ Zone of consideration shall be prepared on the basis of residency period (*i.e.*, eligibility period of service in the feeder grade) prescribed under the relevant Recruitment Rules.
- ♦ Zone of consideration for not more than 3 vacancies is 10.

**SUITABILITY & MERIT:**

- ♦ Consideration of cases for promotion shall be made on the basis of merit and suitability in all respect with due regard to seniority as per OCS (Criteria for Promotion) Rules, 1992.
- ♦ Performance Report :-
  - (i) DPC shall scrutinize the PARs/ CCRs of officers for preceding 60 months. If 60 months PAR/CCR is not available, then at least 36 months' PAR/CCR from the preceding 60 months and 24 months back PAR/CCR may be considered.
  - (ii) Adverse entries, if not expunged, will be a bar for promotion for a period of five years from the year of adverse entry.
  - (iii) Adverse entries, if not communicated will not be bar for promotion. Period of not more than 4 months can be certified as NRC and it will be counted for computing of 36 or 60 months.
  - (v) Non initiation of PAR will be a bar for promotion.
- ♦ Other documents having a bearing on the performance and conduct of all eligible officers concerned like pending Vigilance/ DP Cases, papers on departmental action may also be taken into account.
- ♦ No Government servant who has not submitted property statement shall be considered for promotion.

**SEALED COVER:**

The findings of the DPC shall be kept in sealed cover under the following cases:

- (i) When Disciplinary Proceedings initiated under Rule 15 and 17 of OCS (CC&A) Rules, 1962 are pending and the charge sheet has been issued to the Delinquent Officer.
  - (ii) Where cognizance has been taken by the Court in a criminal / vigilance case.
  - (iii) Officer is continuing under suspension.
  - (iv) In case of recommendation for promotion of an officer by the DPC, if the situations as at preceding points (i), (ii) and (iii) shall arise before he is actually promoted, then it will be considered as if the case has been placed in a sealed cover by the DPC.
- ♦ The sealed cover will be super scribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE POST/SERVICE OF ..... IN RESPECT OF SHRI ..... (Name of the Officer)". "NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/ CRIMINAL PROSECUTION AGAINST SHRI .....".
  - ♦ The proceedings of the Screening Committee need only contain the note. "The findings are contained in the attached sealed cover".
  - ♦ On conclusion of the Criminal Case/ Vigilance Case/ DP, the sealed cover shall be opened and action shall be taken as follows:

- (i) In case the officer is completely exonerated and he was found suitable for promotion in the findings of the DPC kept in the sealed cover/covers, he may be promoted notionally from the date of promotion of his junior. If there is no vacancy in the higher post, the junior-most employee may be reverted to accommodate him.
- (ii) In case of complete exoneration and notional promotion, his pay will be notionally fixed in the time-scale of the higher grade, but no arrear salary of the promotional post shall be paid as he had not performed the duties of the post.
- (iii) If he is punished with minor penalties except "Suspension" and withholding of promotion, he shall be promoted from the date of promotion of his immediate junior and his pay will be notionally fixed in the higher grade with effect from that date. No arrear salary shall be paid.
- (iv) Where an officer has been punished with minor punishment of "Suspension", he will be promoted from the date on which his period of suspension will be over.
- (v) Where the punishment of 'withholding of promotion' has been imposed, his case will be taken up in the next Departmental Promotion Committee/ Selection Board/ Selection Committee for consideration of his promotion to next higher grade.
- (vi) If any major penalty is imposed on the Government servant, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Departmental Promotion Committee/Selection Board/Selection Committee in the normal course and having regard to the penalty imposed on him.
- (vii) D.P. initiated u/r 16 of the OCS (CC&A) Rules, 1962 is not a bar for promotion.
- (viii) However, in case of consideration of promotion of Group D employees, the vigilance report, papers relating to departmental action and other confidential reports having nexus with the officers concerned are not required to be obtained.

#### **PREPARATION OF SELECT LIST:**

- ♦ While preparing the select list following points are to be kept in view:
  - (i) The selection shall be equal to the number of vacancies assessed (existing + anticipated till the end of the year) in each category.
  - (ii) In case of non-availability of candidate in a particular category, the post shall remain vacant.
  - (iii) The names in the select list shall be arranged in order of seniority in the feeder service or grade.
  - (iv) Junior officer of exceptional merit and suitability may get out of turn promotion on the recommendation of a committee constituted for the purpose.
  - (v) Where promotion is made from different services and posts having no common seniority, their names in the select list shall be arranged on the basis of their merit adjudged during selection.
  - (vi) The concurrence of OPSC wherever necessary shall be obtained.
  - (vii) No post shall be kept vacant for Government servants who have not PARs required for promotion.



- ◆ The select list shall remain valid for one year from the date of its approval by the Appointing Authority.

**REVIEW DPC:**

In cases, where the seniority of the employee has been re-fixed due to some reason or other/ court order, his case shall be considered at par with his juniors in a review DPC by reviewing the findings of the DPC in which his immediate junior was considered/ recommended and promoted.

**PROMOTION AFTER OPENING OF SEALED COVER/ COURT CASE:**

In cases, where after recommendation of the DPC/ Selection Board, if a situation arises due to implementation of the court orders or due to opening of sealed cover maintained earlier, a post has been filled up to accommodate the earlier selected employee, the officer recommended for promotion by the DPC will be promoted immediately after availability of a subsequent vacancy in the cadre.

**RETROSPECTIVE PROMOTION:**

In cases, where after recommendation of the DPC but before issue of the order of promotion, if the incumbent retires from Government service on attaining the age of superannuation, the feasibility of giving him retrospective promotion shall be decided only after due consultation with the Law Department and Finance Department. However, the cases of promotion of retired employees cannot be considered in a regular DPC after the date of his retirement since he is no more regulated under the rules applicable to existing Government servants but regulated under the OCS (Pension) Rules, 1992.

**IMPACT OF CADRE RESTRUCTURING AFTER DPC RECOMMENDATION:**

In cases where after recommendation of the DPC, the cadre has been restructured by introduction of any intermediary post/ change of nomenclature of the post/ change of residency period, and the provisions of the cadre rules has been or has not been amended/ modified, the persons so recommended by the DPC shall be promoted against the post assessed earlier within the validity period of the said select list as if the cadre has not been restructured or the rules not amended.

**FREQUENTLY ASKED QUESTIONS**

- Q:** What are the cases normally referred to the OPSC for holding Meetings of the DPC?
- Ans:** The cases of promotion within Group A and from Group B to Group A are referred to OPSC. Besides, cases where the Recruitment Rules provide for association of the Chairman or a member of OPSC with the DPC are also referred to OPSC.
- Q:** Can any other member from a Department replace the member mentioned in the DPC, as specified under the Recruitment Rules?
- Ans:** The DPC should comprise of minimum three members, with specific mention of the designation of the members comprising the DPC. The members cannot be replaced by any other member/ official from the Department concerned, unless otherwise included in the notified Recruitment Rules.



## 15

### **PAY AND MACP**

- ◆ **PAY**
- ◆ **TIME SCALE OF PAY**
- ◆ **IDENTICAL TIME SCALES OF PAY**
- ◆ **SAME TIME SCALE OF PAY**
- ◆ **SUBSTANTIVE PAY**
- ◆ **PRESUMPTIVE PAY**
- ◆ **PERSONAL PAY**
- ◆ **SPECIAL PAY**
- ◆ **PRINCIPLES OF PAY FIXATION**
- ◆ **STEPPING UP OF PAY**
- ◆ **FIXATION OF PAY ON PROFORMA PROMOTION**
- ◆ **REVISION OF PAY**
- ◆ **SALIENT FEATURES OF ORSP RULES, 2017**
- ◆ **FINANCIAL UPGRADATIONS**
- ◆ **TIME BOUND ADVANCEMENT SCALE (TBA)**
- ◆ **ASSURED CAREER PROGRESSION (ACP)**
- ◆ **REVISED ASSURED CAREER PROGRESSION (RACP)**
- ◆ **MODIFIED ASSURED CAREER PROGRESSION (MACP)**
- ◆ **FIXATION OF PAY UNDER ORSP RULES**
- ◆ **INCREMENT**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## PAY AND MACP

Government jobs in India are still one of the demanding career options available in the country. A Government employee brings in a lot of pride and respect in the society because of the standard salaries and job security. Since young Indians are attracted towards Government jobs, competitive examinations for Government jobs are going very tough now days. Therefore, before entering into the Government job, many aspirants enquire about the “salaries” or “pay” of the job. In fact, “Salary” or “Pay” refers to a fixed regular payment given to any Government employee for his/ her job on a monthly basis. The “pay” of different category of Government employees has been determined on the basis of duties and responsibilities assigned to the posts which undergo revision from time to time by the recommendations of the Pay Commission. The pay of the Odisha Government employees is regulated as per the rules laid down in the Odisha Service Code and circulars/ notifications issued by the Finance Department.

### **PAY:**

“Pay” means the amount drawn monthly by a Government servant by reasons of his position in the cadre. Pay is earned by duty only. It includes special pay (now abolished), personal pay and any other recurring emoluments classed as pay by the State Government But, it does not include special pay granted for his personal qualification. **(Rule-33 of OSC)**

### **TIME SCALE OF PAY:**

Time scale of pay means the pay which rises from minimum to maximum by periodical increments. In the context of ORSP Rules, 2017, it means the level in the pay matrix attached to the post held by the Government Servant. **(Rule-47 of OSC)**

### **IDENTICAL TIME SCALES OF PAY:**

Two posts are said to be in “identical scales” if the minimum and the maximum of the Scales of Pay (now Level in Pay Matrix) attached to the posts are identical but these two posts fall in different cadres. The duties and responsibilities of the posts in these two time scales are not, however, taken into consideration. **For example**, since the post of Section Officer in OSS cadre and ORS Officer are having similar scale of pay (Level-10) but belong to different cadres, they are said to be in identical time scale.

### **SAME TIME SCALE OF PAY:**

Two posts are said to be in a “same scale”, if the minimum and the maximum of the scale of pay (Level) attached to the posts are identical and the posts fall within a cadre. In cases of posts on same scale of

pay (Level), the duties or responsibilities attached to the two posts are also the same. For example all posts of Assistant Section Officers in different Departments in OSS Cadre are on same scale of pay.

### **SUBSTANTIVE PAY:**

“Substantive Pay” means pay, other than special pay or personal pay or any other emoluments classed as pay to which a Government servant is entitled in respect of a post to which he is appointed substantively or by reasons of his substantive position in a cadre. **(Rule-43 of OSC)**

### **PRESUMPTIVE PAY:**

“Presumptive pay” of a post means the pay to which a Government servant would be entitled if he held the post substantively and were performing its duties; but it does not include special pay. For *example*, an Assistant Section Officer transferred on deputation basis to a NAC as Executive Officer opted to avail the pay of the deputation post and after his reversion he will draw the presumptive pay of Assistant Section Officer in his cadre. **(Rule-38 of OSC)**

### **PERSONAL PAY:**

“Personal Pay” means the pay granted to a Government servant 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 to any reduction of such substantive pay otherwise than as a disciplinary measure. **(Rule-37 of OSC)**

### **SPECIAL PAY:**

“Special Pay” means an addition of the nature of pay, the emoluments of a post or of a Government servant, granted in consideration of

- (i) The specially arduous nature of the duties; or
- (ii) A specific and significant addition to the work or responsibility. **(Rule-40 of OSC)**

**(This has been abolished vide FD OM No 32353/F, dated 7.11.2017)**

### **PRINCIPLES OF PAY FIXATION:**

Pay fixation of Government servant is required in various circumstances such as at the time of first appointment to service/ promotion/ reversion/ pay revision/ re-appointment of a pensioner/ appointment on deputation etc. The procedure of pay fixation in different mode has been laid down under **Rule-74** of Odisha Service Code and ORSP Rules issued by the Government from time to time. The rules are briefly described below:

#### **Pay on first appointment:**

The initial pay of a person, other than one already in Government service shall be the minimum of the pay-scale (*i.e.*, 1<sup>st</sup> cell of the level in pay matrix) prescribed for the post.

**{ Rule-74(a) of OSC and Rule 8 of ORSP Rules, 2017 }**

#### **Illustration-1:**

Fixation of pay of a person appointed to the post of Asst. Section Officer in Level-9 of Pay Matrix (₹35,400 - ₹1,12,400) on 15.03.2020 as a fresh recruit.

**Solution:**

Name of the post	Asst. Section Officer
Scale of Pay	Level-9 of Pay Matrix (₹ 35,400- ₹ 1,12,400)
Date of Joining	15.03.2020
Pay to be fixed on 15.03.2020	₹ 35,400/- (Cell-1, Level-9)
Date of next Increment	01.03.2021

**Appointment/ Promotion to a post carrying higher responsibilities:**

Where a Government servant is promoted or appointed to a post carrying duties and responsibilities of greater importance than those attached to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has acquired. If he was drawing maximum pay in the scale of pay of the lower post, then his pay is to be increased by the amount equal to his last increment. { **Rule-74(b) of OSC** }

However, as per Rule 12(i) of ORSP Rules, 2017, the pay of the employee in the lower post shall be increased notionally by one increment and he shall be placed at a cell equal to the figure so arrived at in the Level of the promotional post and if no such cell is available, he shall be placed in the next higher cell in that Level. If that figure is less than the minimum Cell of the Level of the promotional post, then pay shall be stepped up to such minimum Cell.

**Illustration-2:**

Fixation of pay of a Government servant who is promoted to a post 'Y' in Level-4 of the Pay Matrix on 13.05.2020 while drawing a basic pay of ₹ 21,500/- in the lower post 'X' in the Cell-7 in Pay Level-3 of the Pay Matrix with effect from 01.03.2020.

**Solution:**

Increase his pay notionally by one increment in the Level from which the employee is promoted and he shall be placed at a cell equal to the figure so arrived at in the Level of the post to which he has been promoted and if no such cell is available in the Level of the promoted post, he shall be placed in the next higher cell in that Level.

Name of the lower post	X
Scale of Pay	Level-3 of Pay Matrix
Basic Pay	₹ 21,500 w.e.f 01.03.2020
Name of the higher post	Y
Scale of Pay	Level-4 of Pay Matrix
Date of Joining	13.05.2020
Pay after giving one promotional increment in level-3 of the lower post	₹ 22,100

Pay to be fixed in higher post	₹ 22,400 (Cell-5, Level-4)
on 13.05.2020	Next higher to ₹ 22,100 in Level-4
Date of next increment	01.05.2021

### **Appointment to another post not involving higher duties and responsibilities:**

When a Government servant is appointed to another post which does not involve assumption of duties and responsibilities of greater importance than those attached to the old post, his pay will be fixed at the stage of the time-scale which is equal to his pay in respect of the old post, or if there be no such stage, the stage next below that pay plus personal pay equal to the difference and in such case, he will continue to draw that pay, until such time as he would have received an increment in the time-scale of the old post or for the period after which an increment is earned in the time-scale of the new post, whichever is less. { **Rule-74(d) of OSC** }

Under Rule 12(ii) of ORSP Rules, 2017, if the Government servant exercises option to fix his promotional pay after accrual of next increment in the lower post within one month from the date joining in the promotional post, the pay is to be fixed at the Cell equal to the amount in the Level of the promotional post on the date of joining, if no such Cell is available in the higher Level, then, the pay is to be fixed in the Cell next below the pay of the lower post and the excess amount shall be paid as “Personal Pay”. If the pay is less than the minimum pay of promotional Level then the pay is to be placed at the minimum pay of that Level.

On the date of increment in the lower post, two increments will be given and he shall be placed at a cell equal to the figure so arrived at in the Level of the promotional post and if no such cell is available, he shall be placed in the next higher cell in that Level.

### **Illustration-3:**

A Government servant while drawing a basic pay of ₹ 24,200 in the post ‘X’ in Cell-11 in Level-3 of the Pay Matrix with effect from 1.11.2019 is appointed to a new post ‘Y’ in Level-4 of the Pay Matrix and it does not involve assumption of duties and responsibilities of greater importance than those attached to the old post on 10.01.2020.

### **Solution:**

Name of the old post	X
Scale of Pay	Level-3 of Pay Matrix
Basic Pay	₹ 24,200 w.e.f 01.11.2019
Name of the new post	Y
Scale of Pay	Level-4 of Pay Matrix
Date of Joining	10.01.2020
Pay to be fixed at the same stage in the level of the new post on 10.01.2020	₹ 23,800 (Cell-7, Level 4)+ ₹ 400 (personal pay) (Next lower Cell as there is no Cell having ₹ 24,200 in Level-4)
Date of next increment	01.11.2020 (normal increment date of the old post)

**Pay Fixation on Promotion:**

On promotion, a Government servant has following options to be exercised within one month from the date of promotion/appointment, to have his pay fixed from

- (i) the date of joining in the promotional post; or
- (ii) the date of accrual of next increment in the lower post.

***Date of joining in the promotional post***

If he opts to avail pay fixation benefit from the original date of joining, then the pay will be fixed as per the illustration -2 given above. { **Rule-74(b)** of OSC and **Rule-12(i)** of ORSP Rules, 2017 }

***Date of accrual of next increment***

In this case, his pay is to be fixed in 2 stages ;

- (i) On the date of joining under **Rule-74(d)** of OSC and **Rule-12(ii)** of ORSP Rules, 2017.
- (ii) the date of next increment under **Rule-74(b)** of OSC and **Rule-12(i)** of ORSP Rules, 2017 }

**Illustration-4:**

Mr. X, an Assistant Section Officer while drawing a pay of ₹ 47,600 in Level-9 of the Pay Matrix w.e.f 01.06.2019 was promoted to the post of Section Officer (Level-10) on 06.04.2020. He had exercised his option to fix his pay in the higher post after earning next increment in the lower post. Fixation of the pay of Mr. X in the post of Section Officer.

**Solution:**

On promotion, Mr. X has exercised the option to fix his pay in the promotional post of Section Officer not from the date of joining, but from the date of accrual of his next increment in the lower post of ASO. (**Rule-12** of ORSP Rules, 2017) His date of next increment is on 01.06.2020. Now, his pay shall be fixed in two stages;

- (i) Date of joining 06.04.2020. He will continue to draw his pay which he was drawing immediately before promotion in the level of the promotional post till re-fixation of his promotional pay in the higher level.

Pay drawn in Level-9 : ₹ 47,600

Level of the Promotion post : 10

His pay is to be fixed w.e.f 06.04.2020 - ₹ 47, 600 (Cell No.3, Level-10)

(*Rule 74(d) of OSC and Rule 12(ii) of ORSP Rules, 2017*).

- (ii) Date of next increment 01.06.2020. Before promotion, he was drawing a pay of ₹ 47,600 in Level-9 attached to the lower post of ASO. At first, he will be given his normal increment and then promotion increment in the said level. Pay after usual increment and promotional increment in level-9 is ₹ 50,500 Now, it is found that the figure of ₹ 50,500 is available at Cell No 8 in the higher level-10. Hence, his

pay is finally fixed at ₹ 50,500 w.e.f 01.06.2020. His next increment will fall due on 1.06.2021. (Rule 74(b) of OSC and Rule 12(i) of ORSP Rules, 2017) (**Rule-77 of OSC**)

### Revision of Pay of a post:

If substantive pay of the permanent post is at any time enhanced as a result of increment or otherwise, the pay of the Government servant shall be re-fixed from the date of such enhancement; where such re-fixation is to his advantage provided that the pay so re-fixed does not exceed the substantive pay in the permanent post. This shall not apply to a Govt. servant who is appointed on his own request to the new post. { **Rule-74(e)** }

### Illustration-5:

While a Govt. Servant was drawing the basic pay of ₹ 37,000 in the post 'X' in level-8 of Pay Matrix with date of next increment on 01.08.2020, the scale of pay of his post has been revised to level-9 of Pay Matrix with effect from 12-05-2020. Fix his pay in the revised scale of pay.

### Solution:

Name of the lower post	X
Scale of Pay of the post (old)	Level-8 of Pay Matrix
Basic Pay	₹ 37,000
Date of Next Increment	01.08.2020
Revised Scale of Pay	Level-9 of Pay Matrix
Date of Revision of Pay	12.05.2020
Pay after giving one promotional increment in level-8 of the lower post	₹ 38,100
Pay to be fixed in higher post on 12.05.2020	₹ 38,700 (Cell-4, Level-9) Next higher to ₹ 38,100 in Level-4
Date of next increment	01.05.2021

### Transfer to lower post on request:

When a Govt. servant is transferred to a lower post on his own request, his/her pay will be fixed at the stage equal to the pay drawn by him/her in the higher post. If no such stage is available, the pay will be fixed at the stage next below in the lower Level with respect to the pay drawn by him/her in the higher post and the difference in the pay may be granted as personal pay to be absorbed in future Increment(s). If maximum of the pay at the lower post in which he/she is appointed, happens to be less than the pay drawn by him/her in the higher post, his/her pay is to be fixed at the maximum of the scale of pay of the lower post.

{ **Rule-74(f)** of OSC }

### Illustration- 6:

An employee drawing a pay of ₹ 27,100 with date of next increment 01.09.2020 in the higher post in level- 7 (₹ 25,500 - ₹ 81,100) transferred to a lower post in level-4(₹ 19,900 - ₹ 63,200) of the Pay Matrix on 15.05.2020. Fix the pay of the employee in the lower post.



**Solution:**

Scale of Pay(Level) of Higher Post	Level-7
Pay	₹ 27,100
Date of Next Increment	1.09.2020
Scale of Pay (Level) of lower Post	Level-4
Date of Joining in the lower post	15.05.2020
Pay to be fixed on 15.05.2020	₹ 26,800 + ₹ 300(Personal Pay)(Cell-11, Level-4)
Date of Next Increment	1.09.2020

**STEPPING UP OF PAY:**

Stepping up of pay means enhancement of the pay of a senior Government servant to that of his junior to remove anomalies on account of fixation of pay of both in the higher promotional post. (**Rule-80 OSC**)

When a senior Govt. servant promoted or appointed to a higher post, draws less pay in that post than his junior who was promoted or appointed to the higher post subsequently, the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay fixed for the junior officer in that higher post and the stepping up should be done with effect from the date of promotion or appointment of the junior and also subject to the following conditions:-

- (i) Both the junior and senior officers should belong to the same cadre and the post to which they have been promoted/ appointed should be identical and in the same cadre;
- (ii) The scales of pay (Level) of the lower and higher posts in which they are entitled to draw pay should be identical;
- (iii) The senior officer is senior to the junior officer both in the lower post and higher post;
- (iv) The junior officer was not drawing a higher rate of pay than the senior in the lower post.

The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of stepping up of pay. (**FD Circular No. 19168/F, dated 3.05.1985**) The senior Govt. servant may be granted stepping up of pay with that of his junior for the 2<sup>nd</sup> time if the junior Govt. servant steps up his pay subsequently with his junior.

**Remember-** The following instances/events wherein juniors draw more pay than seniors do not constitute anomaly and, therefore, stepping up of pay will not be admissible in such events:

- (i) Postponement of increments of senior;
- (ii) Senior forgoes/refuses promotion;
- (iii) Senior is on deputation while junior avails of the promotion in the cadre;
- (iv) Senior joins the higher post later than the junior;
- (v) Exercise of option

### Sanction of Stepping of Pay

Administrative Departments are competent to sanction stepping up of pay with the concurrence of FA/A.F.A of their Departments.

#### Illustration-7 :

Two Assistant Section Officers Mr. X and his junior Mr. Y in OSS cadre were drawing equal pay of ₹ 49,000 in Level-9 of the Pay Matrix with effect from 01.01.2019. Mr. X was promoted to the post of Section Officer (Level-10) on 06.07.2019 and his pay was fixed in that post at ₹ 50,500 with DNI on 01.07.2020. Subsequently, Mr. Y was promoted to the post of Section Officer (Level-10) on 07.02.2020 while drawing a pay of ₹ 50,500 in Level-9 of the Pay Matrix with effect from 01.01.2020. Consequent upon his promotion, his pay was fixed in that post at ₹ 52,000 on 07.02.2020 with date of next increment on 01.02.2021. He is also junior to Mr. X in the post of Section Officer. In this situation, Mr. X has represented for grant of stepping up of pay with that of his junior Mr. Y.

#### Solution:

In the instant case, on scrutiny of the service records, gradation lists of ASOs and SOs and comparative statement of the pay drawn by both Mr. X and Mr. Y at different stages of their service, it is found that the claim of Mr. X for stepping up of pay with that of his junior is justified as he fulfills all the conditions for the purpose. Hence, the pay of Mr. X is to be fixed at ₹ 52,000/w.e.f 07.02.2020 on par with his junior Mr. Y. His date of next increment will fall due on 01.02.2021. (**Rule-80 OSC**)

#### PROTECTION OF PAY:

If an employee of the State Government, PSUs, Corporations, Universities, DRDA, Autonomous Bodies and Agencies owned or controlled by the State Government is appointed to another post under the State Government through recruitment process, his/her pay in the earlier post may be protected in the scale of pay of new post on fulfillment of the following conditions with concurrence of the Finance Department. (**Rule-80 of OSC**) This benefit of pay protection has also been extended to the employees of Indian Railways and Central Govt. on their subsequent appointment in State Govt. service. (**FD O.M No.40530/F, Dt.03.12.2019**)

#### Conditions:

- (i) Must have applied for the higher/ identical post through proper channel;
- (ii) Must have applied for the lower post before appointment in higher post and permitted to attend the examination or interview;
- (iii) Must have been relieved or resigned technically from the previous post;
- (iv) Must have joined the new post within the normal joining time admissible;
- (v) Interruption between the date of relief from the old post and joining the new post shall be regularized by way of grant of leave due and admissible.

There may arise the following 3 situations.

#### (i) Appointment to a post carrying lower scale of pay:

The pay of the Govt. Servant will be fixed in the time scale of the new post at the appropriate stage by allowing number of increments equal to the number of completed years of service rendered in the higher post

subject to the condition that the pay so fixed will not exceed the last pay drawn in the previous post or the maximum of the time scale of the new post. The next increment will be admissible from the usual date of increment. (F.D O.M No 46164-C.S/F, Dt.29.10.1992)

#### Illustration-8:

An employee of the Utkal University while drawing a pay of ₹ 29,600 in a post in level- 7(₹ 25,500 - ₹ 81,100) with date of next increment on 01.02.2020, is appointed to a post of the state Govt. in level-4 (₹ 19,900 - ₹ 63,200) of the Pay Matrix on 15.01.2020 through direct recruitment process. If he had completed 4 years service in the university, fix his pay in the new post under the state Govt.

#### Solution:

Scale of Pay(Level) of old Post	Level-7
Pay	₹ 29,600
Date of Next Increment	1.02.2020
Scale of Pay (Level) of new Post	Level-4
Date of Joining in the lower post	15.01.2020
Pay to be fixed on 15.01.2020	₹ 22,400 (Cell-5, Level-4)(4 increments given at the initial stage of level-4)
Date of Next Increment	1.02.2020(usual date of increment)

#### (ii) Appointment to a post carrying identical scale of pay:

The pay of the Govt. Servant will be fixed at the same stage which is equal to the pay last drawn in the previous post in old establishment in the scale of the new post. The date of next increment will be due on the anniversary date of last increment. (FD O.M No.48579/F, Dt.04.12.1999)

#### Illustration-9:

An employee of the OSRTC while drawing a pay of ₹ 24,500 in a post in level- 4 (₹ 19,900 - ₹ 63,200) of the Pay Matrix with date of next increment on 01.08.2020, is appointed to a post of the state Govt. carrying the same pay level on 23.03.2020 through direct recruitment process. Fix his pay in the new post under the State Government.

#### Solution:

Scale of Pay(Level) of old Post	Level-4
Pay	₹ 24,500
Date of Next Increment	1.08.2020
Scale of Pay (Level) of new Post	Level-4
Date of Joining in the lower post	23.03.2020
Pay to be fixed on 23.03.2020	₹24,500 (Cell-8, Level-4) ( same stage in same level)
Date of next increment	01.08.2020 (usual date of increment)

**(i) Appointment to a post carrying higher scale of pay:**

The pay of the Govt. Servant will be fixed at the stage equal to the pay last drawn in the old establishment in the scale of the new post. If there is no such stage, then the pay will be fixed below that stage and the difference of pay will be allowed as Reducible Personal Pay (RPP) to be subsumed in subsequent increments. The date of next increment will be due on the anniversary date of last increment. (FDO.M No. 22518/F., Dated 01.08.2014)

**Illustration-10:**

An employee of the state Govt. while drawing a pay of ₹ 25,600 in a post in level- 3(₹ 18,000 - ₹ 56,900) of the Pay Matrix with date of next increment on 01.09.2020, is appointed to another post carrying the pay level-6 on 28.05.2020 through direct recruitment. Fix his pay in the new post.

**Solution:**

Scale of Pay(Level) of old Post	Level-3
Pay	₹ 25,600
Date of Next Increment	1.09.2020
Scale of Pay (Level) of new Post	Level-6
Date of Joining in the higher post	28.05.2020
Pay to be fixed on 28.05.2020	₹ 25,000 + ₹ 600 (Personal Pay) (Cell-3, Level-6)(No exact stage. Hence, at lower stage plus difference as PP)
Date of next increment	1.09.2020(usual date of increment)

**FIXATION OF PAY ON PROFORMA PROMOTION:**

The Government servants on deputation within the Government outside the regular service, or on Foreign Service, are granted proforma promotion and their pay is fixed under Next Below Rule (NBR).

When an officer in a post is for any reason prevented from officiating in his turn in a post on a higher scale or grade borne on the cadre of the Service to which he belongs, he may be authorized by special order of the appropriate authority pro-forma officiating promotion into such scale or grade and thereupon be granted the pay of that scale or grade, if that be more advantageous to him, on each occasion on which the officer immediately junior to him in the cadre of his Service draws officiating pay in that scale or grade.

**REVISION OF PAY**

- The State Government had its own scales of pay for various posts under its control and the last one was issued in the year, 1985. In the year 1989, the State Government decided to adopt the principles of revision of scales of pay of Central Government servants for its employees with necessary state specific modifications. Since then the State Government has been revising the scales of pay of its employees basing on the recommendations of the Central Pay Commissions every 10 years through ORSP Rules, 1989, ORSP Rules, 1998 ORSP Rules, 2008 and ORSP Rules, 2017 effective from 1.05.1989, 1.01.1996, 1.01.2006 and 1.01.2016 respectively.

- When the pay of a post is changed/ revised, the incumbent of the post has option to retain his old pay till the date of earning his next or any subsequent increment on the old scale, or until he vacates his post or ceases to draw pay on that time-scale. The option once exercised shall be final.
- The latest revision of pay scales of the State Government employees has been implemented with effect from 01.01.2016 according to the provisions of ORSP Rules, 2017 issued vide Finance Department Notification No 27742(SRO No 414/2017), dated 20.09.2017 as per the recommendations of the 7<sup>th</sup> Pay Commission.

### **SALIENT FEATURES OF ORSP RULES, 2017:**

#### **Application:**

These rules are applicable to all persons in whole time employment of Government. The exemptions are provided in sub-rule-2 of Rule-2.

#### **Pre Revised Pay Structure:**

Under the ORSP Rules, 2008, there were 5 Pay Bands and 17 Grade Pay as follows:

<u>Pay Band</u>	<u>Grade Pay</u>
PB-IS (₹ 4750 - ₹ 14680)	₹ 1700 and ₹ 1775
PB-1 (₹ 5200 - ₹ 20200)	₹ 1800, ₹ 1900, ₹ 2000, ₹ 2200, ₹ 2400 and ₹ 2800
PB-2 (₹ 9300 - ₹ 34800)	₹ 4200, ₹ 4600, ₹ 4800 and ₹ 5400
PB-3 (₹ 15600- ₹ 39100)	₹ 5400, ₹ 6600 and ₹ 7600
PB-4 (₹ 37400- ₹ 67000)	₹ 8700, ₹ 8800 and ₹ 9000

#### **Revised Pay Structure:**

In ORSP Rules 2017, the system of Pay Band and Grade Pay has been done away with and are replaced with 17 levels, each level corresponding to their respective Grade Pay and Pay Band of the Pre-Revised Scales of Pay in the Pay Matrix at First Schedule.

#### **Pay Matrix:**

The Pay Matrix comprises of two dimensions; (i) Horizontal Range and (ii) Vertical Range. Horizontal Range denotes level while Vertical Range denotes pay progression for each level which is called Cell.

#### **Level:**

The Level of the post is the level attached to the corresponding Pay Band and Grade Pay of the post in pre –revised pay structure in the Pay Matrix.

#### **Drawal of Pay & Option:**

A Government servant shall draw his pay in the level attached to the post held by him or his MACP level whichever is higher and he may come over to the revised pay structure either from 01.01.2016, or from the date of his next or subsequent increment or from the date of promotion or up-gradation by exercising option in prescribed form at Schedule-2 within 3 months from the date of notification of these rules or from the date of Government servant's return from leave/deputation/ suspension. The process of assessment of level under MACP has been explained at **Examples -1 to 4** below.

**Fixation of Pay:**

The process of fixation of pay under ORSP Rules, 2017 is indicated below.

- The basic pay (Band Pay + Grade Pay) of the Govt. servant as on 01.01.2016 in the pre-revised pay structure shall be multiplied by a factor of 2.57, then the amount be rounded off to the nearest rupee and that figure will be searched in the applicable Level in the Pay Matrix. If there is a Cell having identical figure, the pay will be fixed at that Cell. If no such Cell is available, the pay shall be fixed at the immediate next higher Cell in that Level.
- If the minimum pay in the first cell of the applicable Level is more than the amount arrived at after multiplication, the pay shall be fixed at minimum pay in the first Cell of that applicable Level;
- If a Government servant is on leave/ study leave/deputation on 01.01.2016, he will be entitled to pay in revised scale of pay from 01.01.2016 or from the date of option exercised;
- If a Govt. servant is under suspension on 01.01.2016, he will continue to draw subsistence allowance in the pre-revised scale of pay;
- Where the existing emoluments exceed the revised emoluments, the difference shall be allowed as personal pay to be absorbed in future increases in pay;
- The stepping up of pay of senior Govt. servant with that of his junior is permissible subject to fulfilment of certain conditions.

**Fixation of Pay for fresh recruits:**

The pay of employees appointed by direct recruitment or by regularisation from contractual service on or after 1st day of January, 2016 shall be fixed at the minimum pay in the first Cell in the Level, applicable to the post. **(Rule 8 of ORSP Rules, 2017)**

**Date of next Increment:**

The date of next increment is twelve months from the date of last increment. If the pay is fixed at the minimum pay in the first Cell in the Level, the date of next increment is the anniversary of date of coming over to the revised pay structure. **(Rule 10 of ORSP Rules, 2017)**

**FINANCIAL UPGRADATIONS:**

In order to mitigate the stagnation of Government servants in a post for many years due to lack of promotional avenues, the State Govt. has extended the benefit of financial up-gradations in the form of Time Bound Advancement Scales of Pay (TBA), Assured Career Progression (ACP), Revised Assured Career Progression (RACP) and Modified Assured Career Progression (MACP) to its employees under different ORSP Rules issued from time to time. They are explained below.

**TIME BOUND ADVANCEMENT SCALE (TBA):**

- TBA Scales of pay was introduced for Group –D employees on completion of 20 years service and for Drivers and Junior Engineers on completion of 15 years and 25 years service in a post under ORSP Rules, 1989.
- This benefit was extended to all categories of employees on completion of 15 years and 25 years service in original post under ORSP Rules, 1998.

**ASSURED CAREER PROGRESSION (ACP):**

The benefit of ACP akin to TBA at 3 stages was granted to the State Government servants on completion of 15 years, 25 years and 30 years service in a post under ORSP Rules, 2008.

**REVISED ASSURED CAREER PROGRESSION (RACP):**

RACP benefit was also granted to the State Government servants on completion of 10 years, 20 years and 30 years service from direct entry grade within a cadre under ORSP Rules, 2008.

**MODIFIED ASSURED CAREER PROGRESSION (MACP):**

The MACP scheme has been implemented with effect from 01.01.2016 under ORSP Rules, 2017. The salient features of the MACP are given below:-

- (i) Three financial up-gradations on completion of 10 years, 20 years and 30 years service from direct entry grade or 10 years in a level whichever is earlier;
- (ii) Placement of the Govt. servant in the immediate next higher Level in the Pay Matrix. If promotion follows the MACP and lower post and higher post are not in consecutive levels, then he is to be placed in the level of the promotional post;
- (iii) Admissible up-to the Level-14 in the Pay Matrix;
- (iv) Screening Committee shall sit twice a year *i.e.*, in January and July to decide the eligibility of the cases for up-gradation under MACP;
- (v) Manner of pay fixation under the scheme is same as at the time of promotion. No further pay fixation is at the time of regular promotion, but where the level of promotional post is higher than the MACP level, then fitment of pay in the level of the promotion post is to be made with the date of next increment remains unchanged;
- (vi) Pay fixation benefits already availed under TBA, ACP and RACP would be adjusted while considering financial up-gradation under MACP;
- (vii) Where both feeder post and promotional post in the hierarchy belongs to same level, the employee shall move to immediate next higher cell; not to next level under MACP;
- (viii) Deferment of financial up-gradation under the MACP at any stage due to DP or judicial proceedings would have consequential effect on the subsequent financial up-gradation and it will also be delayed to the extent of delay in previous occasion;
- (ix) There shall be no change in the designation, classification or status of the post under MACP;
- (x) No reservation order shall apply to the MACP;
- (xi) Grant of MACP to the employees against whom disciplinary or judicial proceedings are pending shall be governed according to the normal promotion rules;
- (xii) No stepping up of pay/ antedating of increment between senior and junior under MACP;
- (xiii) If promotion is foregone, then no benefit under MACP. If promotion is foregone after MACP, the benefit shall not be withdrawn. But, next MACP would be deferred to the extent of period of debarment due to such refusal;
- (xiv) Deputationist need not revert to parent Government to avail MACP in the cadre post.
- (xv) Up-gradation of post in a cadre shall not be considered as an up-gradation under the MACPS;
- (xvi) An employee joining a post as an outsider will be counted afresh in that post for MACP benefits;
- (xvii) No MACP benefit, if found unsuitable for promotion.

**Assessment of Level:****Example-1**

Sl No	Events	Event date	GP under RACP (ORSP-2008)	Level under MACP (ORSP-2017)	Remarks on Col.5
1	Joined as Jr. Clerk	01.7.89	1900	(L-4)	Entry Level
2	Completed 10 yrs	01.7.99	(2400)	(L-5)	Next higher level
3	Promoted as Sr. Clerk	01.8.02	2400	(L-7)	Promotional level
4	Completed 20 yrs service	01.7.09	(4200)	(L-8)	Next higher from last promotional level
5	Next higher from last promotional level	01.01.13	4200	(L-8)	Same Level
6	Brought over to ORSP-2017	01.01.16	-	L-8	Pay fixed on L-8
7	Promoted to H.C	01.09.16	-	L-9	Promotional Level of Head Clerk

**Example-2**

Sl No	Events	Event date	GP under RACP (ORSP-2008)	Level under MACP (ORSP-2017)	Remarks on Col.5
1	Joined as Jr. Clerk	01.7.79	1900	(L-4)	Entry Level
2	Completed 10 yrs	01.7.89	(2400)	(L-5)	Next higher level
3	Completed 20 yrs service	01.7.99	(4200)	(L-6)	Next higher from last level
4	Promoted as Sr. Clerk	01.8.02	2400/ (4200)	(L-7)	promotional level
5	Completed 30 years	01.7.09	(4600)	(L-8)	Next higher from last Level
6	3rd RACP	01.01.13	4600	(L-9)	-do-
7	Brought over to ORSP-2017	01.01.16	-	L-9	Pay fixed on L-9
8	Promoted to H.C	01.05.17	-	L-9	Promotional Level of Head Clerk

**Example-3**

Sl No	Events	Event date	GP under RACP (ORSP-2008)	Level under MACP (ORSP-2017)	Remarks on Col.5
1	Joined as Jr Clerk	01.7.91	1900	(L-4)	Entry Level
2	Completed 10 yrs	01.7.01	(2400)	(L-5)	Next higher level (1st MACP)
3	Completed 20 yrs service	01.7.11	(4200)	(L-6)	Next higher from last level (2nd MACP)



4	Promoted as Sr Clerk	01.8.12	2400 (4200)	(L-7)	Promotional level
5	2nd RACP	01.01.13	4200	(L-8)	No change
6	Brought over to ORSP-2017	01.01.16	-	L-8	Pay fixed on L-8
7	Promoted to H.C	01.05.16	-	L-9	Promotional Level for Head Clerk

**Example-4**

SI No	Events	Event date	GP under RACP (ORSP-2008)	Level under MACP (ORSP-2017)	Remarks on Col.5
1	Joined as Peon	01.7.81	1700	(L-1)	Entry Level
2	Completed 10 yrs	01.7.91	(1775)	(L-2)	Next higher level (1st MACP)
3	Completed 20 yrs service	01.7.01	(1800)	(L-3)	Next higher from last level (2nd MACP)
4	Promoted to Jr Clerk (through 10% quota)	01.8.10	1900	(L-4)	Promotional level
5	Completed 30 years' service	01.07.11	1900	(L-6)	Next higher Level from last Level (3rd MACP)
6	RACP (not due since cadre changed)	01.01.13	1900	(L-6)	-
7	Brought over to ORSP-2017	01.01.16	-	L-6	Pay fixed on L-6

**FIXATION OF PAY UNDER ORSP RULES:****Illustration-11:**

Mr. X joined as Junior Clerk (Level-4) on 08.02.2006. He was drawing a pay of ₹ 8,200 in PB-1 with GP ₹ 1900 w.e.f 01.02.2015. He has exercised his option to come over to the revised pay structure under ORSP Rules, 2017 on 01.01.2016. Fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Junior Clerk
3	Existing Pay Band {Rule-3(ii)}	PB-1
4	Existing Grade Pay {Rule-3(ii)}	₹ 1900
5	Level attached to the present post held (Rule-4)	Level-4
6	Entry Grade Post and its Level	Junior Clerk, Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 8,200
8	Existing Basic Pay (Pay + Grade Pay) {Rule-3(i)}	₹ 10,100 (₹ 8200 + ₹ 1900)

9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee { Rule-7(i) }	₹ 25 957 (₹10100*2.57)
10	No of RACP availed (ORSP Rules,2008)	Nil
11	No of Promotions availed	Nil
12	No of RACP availed before Promotion	Nil
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP/promotion { Rule-5 }	4
15	Date of option exercised (Rule-6)	1.01.2016
16	Pay to be fixed in the Cell and Level{ Rule-7(i) }	₹ 26,000 (Cell-10, L-4)
17	Date of next increment (Rule-10)	1.02.2016

**Pay after increment**

Date of increment	Cell No and Pay Level	
01.02.2016	Cell-11, ₹ 26,800	4

**Illustration-12:**

Mr. X, who joined as Junior Clerk (level-4) on 12.04.1991, had availed TBA benefit on 12.04.2006 and the 2<sup>nd</sup> RACP on 01.01.2013 without any promotion and was drawing a pay of ₹ 12,250 in PB-2 with GP ₹ 4200 with date of next increment on 01.04.2016. If he has exercised his option to come over to the revised pay structure under ORSP rules, 2017 w.e.f 01.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Junior Clerk
3	Existing Pay Band	PB-2
4	Existing Grade Pay	₹ 4200
5	Level attached to the present post held	Level-4
6	Entry Grade Post and its Level	Junior Clerk , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 12250
8	Existing Basic Pay (Pay +Grade Pay)	₹ 16450 (₹ 12250 + ₹ 4200)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 42276.50 i.e ₹ 42,277 (₹16,450 * 2.57)
10	No of RACP availed	2
11	No of Promotions availed	Nil
12	No of RACP availed before Promotion	2

13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP	6
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 42,600 (Cell-21, L-6)
17	Date of next increment	1.04.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.04.2016	Cell-22, ₹ 43,900	6

**Illustration-13:**

Mr. X, a Sr. Clerk who joined as Junior Clerk (level-4) on 1.01.1998, had availed the 1<sup>st</sup> RACP benefit on 1.01.2013 and thereafter got promoted to the post of Sr. Clerk (level-7) on 14.08.2015 and was drawing a pay of ₹ 9560 in PB-1 with GP ₹ 2400 as on 01.01.2016 with date of next increment on 1.01.2017. If he has exercised his option to come over to the revised pay structures under ORSP Rules, 2017 w.e.f 1.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Senior Clerk
3	Existing Pay Band	PB-1
4	Existing Grade Pay	₹ 2400
5	Level attached to the present post held	Level-7
6	Entry Grade Post and its Level	Junior Clerk , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 9560
8	Existing Basic Pay (Pay +Grade Pay)	₹ 11,960 (₹ 9560 + ₹ 2400)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 30737.20 i.e ₹ 30737 (₹ 11960 * 2.57)
10	No of RACP availed	1
11	No of Promotions availed	1
12	No of RACP availed before Promotion	1
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP	7
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 31200 (Cell-8, L-7)
17	Date of next increment	01.01.2017

**Pay after increment**

Date of increment	Cell No and Pay	Level
01.01.2017	Cell-9, ₹ 32,300	7

**Illustration-14:**

Mr. X, joined as Junior Clerk (level-4) on 10.04.1994. He had availed ACP benefit on 10.04.2009 and the 2<sup>nd</sup> RACP on 10.04.2014. Then, he got promotion to Sr. Clerk (level-7) on 11.07.2015 and was drawing a pay of ₹ 11,300 in PB-2 with GP ₹ 4200 with date of next increment on 1.04.2016. If he has exercised his option to come over to the revised pay structure under ORSP Rules, 2017 w.e.f 1.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Senior Clerk
3	Existing Pay Band	PB-2
4	Existing Grade Pay	₹4200
5	Level attached to the present post held	Level-7
6	Entry Grade Post and its Level	Junior Clerk , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 11300
8	Existing Basic Pay (Pay +Grade Pay)	₹ 15500 (₹ 11300+₹ 4200)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 39,835 (₹ 15500 * 2.57)
10	No of RACP availed	2
11	No of Promotions availed	1
12	No of RACP availed before Promotion	2
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP	7
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 41000 (Cell-17, L-7)
17	Date of next increment	1.04.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.04.2016	Cell-18, ₹ 42200	7

**Illustration-15:**

Mr. X , a Senior Clerk who joined as Junior Clerk (level-4) on 11.07.1988, got promotion to Sr. Clerk (level-7) on 8.05.2006 after availing TBA benefit on 11.07.2003 Then, he availed 2<sup>nd</sup> RACP on 1.01.2013 and was drawing a pay of ₹ 14,100 in PB-2 with GP ₹ 4200 w.e.f 1.03.2015. If he has exercised his option

to come over to the revised pay structure under ORSP Rules, 2017 w.e.f 1.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Senior Clerk
3	Existing Pay Band	PB-2
4	Existing Grade Pay	₹ 4200
5	Level attached to the present post held	Level-7
6	Entry Grade Post and its Level	Junior Clerk , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 14100
8	Existing Basic Pay (Pay +Grade Pay)	₹ 18300 (₹ 14100+₹ 4200)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 47,031 (₹ 18300 * 2.57)
10	No of RACP availed	2
11	No of Promotions availed	1
12	No of RACP availed before Promotion	1
13	No of RACP availed after Promotion	1
14	Level in which the pay is to be fixed as per MACP	8
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 48200 (Cell-18, L-8)
17	Date of next increment	1.03.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.03.2016	Cell-19, ₹ 49600	8

**Illustration-16:**

Mr. X, a Senior Diarist (level-7) who joined as Junior Diarist (level-4) on 11.06.1985, got promotion to Sr. Diarist on 18.08.2015 after availing TBA benefit on 11.06.2000 and ACP benefits on 11.06.2010 and 3<sup>rd</sup> RACP on 11.06.2015. If he was drawing a pay of ₹ 15,850 in PB-2 with GP ₹ 4600 as on 1.01.2016 with date of next increment on 1.06.2016 and exercised his option to come over to the revised pay structure under ORSP Rules, 2017 w.e.f 1.01.2016, then fix his pay under the said Rules.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Senior Diarist
3	Existing Pay Band	PB-2

4	Existing Grade Pay	₹ 4600
5	Level attached to the present post held	Level-7
6	Entry Grade Post and its Level	Junior Diarist , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 15850
8	Existing Basic Pay (Pay +Grade Pay)	₹ 20450 (₹15850+ ₹ 4600)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 52556.50 i.e. ₹52557/-(₹20450 * 2.57)
10	No of RACP availed	3
11	No of Promotions availed	1
12	No of RACP availed before Promotion	3
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP	7
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 53500 (Cell-26, L-7)
17	Date of next increment	1.06.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.06.2016	Cell-27, ₹ 55100	7

**Illustration-17:**

Mr. Y', who joined as Peon on 21.05.1995, get promoted to the post of Jr. Diarist on 13.11.2012 after availing ACP on 21.05.2010. He was drawing a pay of ₹ 8,250 in PB- 1 with GP ₹ 1900. His last increment was sanctioned from 1.11.2015. If he has exercised his option to come over to the revised pay structure under ORSP Rules, 2017 w.e.f 1.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. Y
2	Post held	Junior Diarist
3	Existing Pay Band	PB-1
4	Existing Grade Pay	₹ 1900
5	Level attached to the present post held	Level-4
6	Entry Grade Post and its Level	Peon , Level-1
7	Existing Pay in Pay Band as on 1.01.2016	₹ 8250
8	Existing Basic Pay (Pay +Grade Pay)	₹ 10150 (₹ 8250 + ₹1900)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 26085.50 i.e. ₹ 26086 (₹ 10150 * 2.57)
10	No of RACP availed	Nil

11	No of Promotions availed	1
12	No of RACP availed before Promotion	Nil
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP	5 (2 <sup>nd</sup> MACP)
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 26,800 (Cell-8, L-5)
17	Date of next increment	1.11.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.11.2016	Cell-9, ₹ 27600	5

**Illustration-18:**

Mr. Y' joined as Peon on 5.10.1983. After availing 3 RACPs, he gets promoted to the post of ASO on 28.12.2013.. He was drawing a pay of ₹ 12,500 in PB- 2 with GP ₹ 4200 on 1.01.2016 with date of next increment on 1.12.2016. If he has exercised his option to come over to the revised pay structure under ORSP rules, 2017 w.e.f 1.01.2016, fix his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. Y
2	Post held	ASO
3	Existing Pay Band	PB-2
4	Existing Grade Pay	₹ 4200
5	Level attached to the present post held	Level-9
6	Entry Grade Post and its Level	Peon , Level-1
7	Existing Pay in Pay Band as on 1.01.2016	₹ 12500
8	Existing Basic Pay (Pay +Grade Pay)	₹ 16700 (₹ 12500+₹ 4200)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 42919 (₹ 16700 * 2.57)
10	No of RACP availed	3
11	No of Promotions availed	1
12	No of RACP availed before Promotion	3
13	No of RACP availed after Promotion	Nil
14	Level in which the pay is to be fixed as per MACP/Promotion	9
15	Date of option exercised	1.01.2016

16	Pay to be fixed in the Cell and Level	₹43600 (Cell-8, L-9)
17	Date of next increment	1.12.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.12.2016	Cell-9, ₹ 44900	9

**Illustration-19:**

Mr. X, now working as a Head Clerk, joined as Junior Clerk on 2.08.1984. He was promoted to Sr. Clerk and Head Clerk on 12.03.1998 and 25.06.2012 respectively. He was sanctioned 3<sup>rd</sup> RACP on 2.08.2014. He was drawing a pay of ₹18,390 in PB-2 with GP ₹ 4600 w.e.f 1.08.2015. If he has exercised his option to come over to the revised pay structure under ORSP rules, 2017 w.e.f 1.01.2016, calculate his pay under the said rule.

**Solution:**

1	Name of the Employee	Mr. X
2	Post held	Head Clerk
3	Existing Pay Band	PB-2
4	Existing Grade Pay	₹ 4600
5	Level attached to the present post held	Level-9
6	Entry Grade Post and its Level	Junior Clerk , Level-4
7	Existing Pay in Pay Band as on 1.01.2016	₹ 18390
8	Existing Basic Pay (Pay +Grade Pay)	₹ 22,990 (₹ 18390+₹ 4600)
9	Pay after multiplication by fitment factor of 2.57 and rounded off to nearest rupee	₹ 59084.30 i.e ₹ 59084 (₹ 22,990 * 2.57)
10	No of RACP availed	1
11	No of Promotions availed	2
12	No of RACP availed before Promotion	Nil
13	No of RACP availed after Promotion	1
14	Level in which the pay is to be fixed as per MACP	10
15	Date of option exercised	1.01.2016
16	Pay to be fixed in the Cell and Level	₹ 60400 (Cell-11, L-10)
17	Date of next increment	1.08.2016

**Pay after increment**

Date of increment	Cell No and Pay	Level
1.08.2016	Cell-12, ₹ 62200	10



**INCREMENT:**

Increment means annual increase in the pay of a Government servant. A Govt. servant earns increment with the increase in his efficiency and capacity to put up more volume of work with every year of service. Increment shall ordinarily be drawn as a matter of course unless it is withheld.

**Period which counts for Increment:**

The following periods of service count towards increment:

- (i) All periods of duty in a post on a time-scale;
- (ii) Service in a higher temporary post;
- (iii) Officiating Service in a higher post;
- (iv) Period of Deputation;
- (v) Period of Foreign service;
- (vi) All kinds of leave other than extraordinary leave;
- (vii) Extraordinary leave. on medical ground or for prosecuting higher studies and technical studies;
- (viii) Joining time.

**Period which does not count for Increment:**

The following periods of service do not count towards increment:

- (i) EOL on private ground;
  - (ii) Suspension period treated as such;
  - (iii) Period of over-stayal of leave;
  - (iv) Period of break in service. (**Rule-79 of OSC**)
- While sanctioning the leave, the sanctioning authority is to issue a service continuity certificate as per **Rule- 79(b)(2) of OSC**. Increment is sanctioned with effect from the 1<sup>st</sup> day of the month in which it falls due instead of from the actual date on which it accrues.
  - If a Govt. servant is on leave or is availing joining time on the 1<sup>st</sup> of the month, the increment shall be sanctioned from that date, but increased pay will be drawn from the date, he resumes his duty.
  - If a Govt. servant takes casual leave on 1<sup>st</sup> of the month or the 1<sup>st</sup> of the month is a Govt. holiday which is either prefixed or suffixed to leave, the increment shall be sanctioned and drawn from that date.
  - Increment(s) of a Govt. servant falling due during the period of suspension shall not be granted. After his reinstatement in service, pending finalization of the suspension period, his increment may be sanctioned by excluding the suspension period. On finalization of the suspension period, the increment order may be modified accordingly.
  - The date of next increment is 12 months from the date of increment last sanctioned. The period of services not counting towards increment, if any, shall be added to the date of next increment to determine the new date of increment. It will be sanctioned from the 1<sup>st</sup> of that month.

**Illustration-20:**

A Govt. servant was granted increment on 01.09.2018. His next increment was due on 01.09.2019. But, he availed EOL without MC in two spells *i.e.*, from 14.10.2018 to 22.10.2018 and from 03.11.2018 to 09.04.2019 and was suspended from service from 12.06.2019 to 15.09.2019 which is subsequently treated as such. Calculate the date of next increment.

**Solution:**

Date of last increment : 01.09.2018

Date of next increment due : 01.09.2019

Period of service not counting for increment:

Sl No	Period	Year	Month	Days
(i)	14-10-2018 to 22-10-2018	0	0	9
(ii)	03-11-2018 to 30-11-2018	0	0	28
(iii)	01-12-2018 to 31-03-2019	0	4	0
(iv)	01-04-2019 to 09-04-2019	0	0	9
(v)	12-06-2019 to 30-06-2019	0	0	19
(vi)	01-07-2019 to 31-08-2019	0	2	0
(vii)	01-09-2019 to 15-09-2019	0	0	15
	<b>Total</b>	<b>0</b>	<b>6</b>	<b>80</b>

80 days to be converted to month and year: 00-02-20

The total period comes to 8 months 20 days

Add 8 months 20 days to the date of next increment due: 01.09.2019

Date of next increment: 21.05.2020 to be granted from 01.05.2020

**Withholding Increment:**

An increment may be withheld from a Govt. servant by the disciplinary authority, if his conduct has not been good, or his work is not satisfactory. Increment may be withheld as a measure of punishment in 2 ways:

- (i) Withholding of increment without cumulative effect (minor punishment)
- (ii) Withholding of increment with cumulative effect (major punishment).

When increment is withheld, the order should state the period for which it is to be withheld and whether it shall have the future effect. The procedure as envisaged in the OCS (CC&A) Rules, 1962 is followed for withholding the increment.

**Illustration-21:**

A Govt. servant was granted annual increment on 1.3.2016 raising his pay to ₹ 31,400 per month in level-7 of pay matrix. He was imposed with a penalty of withholding of next increment when due for a period of three years with cumulative effect vide order dated 19.03.2016. Calculate his pay at different stages due to the said penalty order. What would his pay at different stages, if he was imposed with the penalty of withholding of 3 increments without cumulative effect?

**Solution:**

The increment in the instant case has to be drawn as follows:-

Date	Normal	without cumulative effect	with cumulative effect
01.03.2016	₹ 31,400	-	-
01.03.2017	₹ 32,300	₹ 31,400	₹ 31,400 1 <sup>st</sup> Increment stopped
01.03.2018	₹ 33,300	₹ 31,400	₹ 31,400 2 <sup>nd</sup> Increment stopped
01.03.2019	₹ 34,300	₹ 31,400	₹ 31,400 3 <sup>rd</sup> Increment stopped
01.03.2020	₹ 35,300	₹ 35,300 (Increment restored)	₹ 32,300 Increment after penalty

**More than one punishment concurrently:**

In cases where penalties of withholding of increments are imposed on an officer, one after another, in separate disciplinary cases, the effect of the first order withholding increment will continue for the period specified in that order. Thereafter, the pay will be fixed by granting the increments which would have been admissible, but for the imposition of penalty and only then the second order withholding increment will be implemented, which will continue to be in force for the period specified therein.

**Reduction of a Government Servant to a lower stage:**

As a measure of punishment, a Government servant may be reduced to a lower stage of a time-scale or lower service, grade or post or to lower time-scale for a specified period and his pay is to be regulated accordingly.

**Pre-mature Increment:**

The State Government may, in exceptional circumstances, grant a premature increment to a Government servant on a time-scale of pay. **For example**, advance increment to a Government servant for possessing higher qualification, for passing departmental examination with outstanding merit, advance increment to police officers etc. (**Rule-80 of OSC**)

**Antedating of Increment:**

Where a senior Government servant joins the promotional post on a later date than his junior due to any reason, then his date of next increment in the promotional post will fall later than his junior. In this case, the date of next increment of the senior Government servant shall be antedated to that of his junior. Such antedating of increment is also admissible for the 2<sup>nd</sup> time.

**Dismissal and Removal from Service:**

The pay and allowances of a Government servant who is dismissed or removed from service are not drawn for the date of such dismissal or removal.

**Additional Pay for Combination of Appointment:**

Where a Government Servant is formally appointed to hold full charge of higher post in the same office/ establishment in addition to his own duties by the appointing authority, he shall be allowed the officiating pay of the higher post only without any additional pay for performing the duties for the lower post subject to the following conditions:

- (i) Both the lower and higher post must belong to same cadre and one above the other;
  - (ii) Must be appointed by the appointing authority;
  - (iii) Period of combination of appointment should not be less than one month or more than six months;
  - (iv) Additional charge of the higher post beyond six months requires the prior concurrence of Finance Department;
  - (v) If the normal promotion of a Govt. servant is followed by the combination of appointments, the pay of such officials shall be fixed in the promotional post basing on his presumptive pay of the lower post. No seniority or protection of pay or increment in the promotional post is allowed. **(Rule-96 of OSC read with FDOM No. 5067/F, dated 5.02.2004)**
- Provided further that a Government servant while in foreign service or while on deputation to other Governments (Corporation/ Boards/ Public sector undertakings) may be appointed in a post under parent Government on promotion or repatriation and his pay in foreign service or deputation shall not be taken into account in fixing his pay on his appointment under the parent Government and his pay shall be fixed in the same manner and at the same stage as would have been fixed had he been in Government service during the said period.

### FREQUENTLY ASKED QUESTIONS

- Q:** Whether pay level would be changed at the time of grant of financial up-gradation under MACPS?  
**Ans:** Yes.
- Q:** Whether the promotions in same grade would be counted for the purpose of MACPS?  
**Ans:** The financial up-gradation under the MACPS is in the immediate next higher pay level in the pay matrix as given in ORSP Rules, 2017. However if the promotional hierarchy as per recruitment rules is such that promotions are earned in the same grade pay level, then the same shall be counted for the purpose of MACPS.
- Q:** What are the periods included in the regular service?  
**Ans:** All period spent on deputation/ Foreign Service, study leave and all other kind of leave, duly sanctioned by the competent authority shall be included in the regular service.
- Q:** Up to what level the benefits under the / MACPS is allowed?  
**Ans:** Level – 14.



## 16

### LEAVE RULES

- ◆ APPLICABILITY
- ◆ GENERAL PRINCIPLES OF GRANT OF LEAVE
- ◆ EARNED LEAVE
- ◆ HALFPAY LEAVE
- ◆ COMMUTED LEAVE
- ◆ LEAVE NOT DUE
- ◆ EXTRA ORDINARY LEAVE
- ◆ MATERNITY LEAVE
- ◆ CHILD ADOPTION LEAVE
- ◆ PATERNITY LEAVE
- ◆ STUDY LEAVE
- ◆ HOSPITAL LEAVE
- ◆ SPECIAL DISABILITY LEAVE
- ◆ OTHER SHORT PERIOD LEAVES
- ◆ CASUAL LEAVE / SPECIAL CASUAL LEAVE
- ◆ QUARENTINE LEAVE
- ◆ FREQUENTLY ASKED QUESTIONS

## LEAVE RULES

Leave is a provision to stay away from work by a Govt. servant for genuine reasons with prior approval of the competent authority. It may be granted for a casual purpose or a planned activity, on medical grounds or in extra-ordinary conditions. However, leave cannot be claimed as a matter of right. Rules governing different types of leave are contained in Chapter VI (Rule 130-197) of Odisha Service Code and the Odisha Leave Rules, 1966 (Appendix- 10 of OSC). Besides, Finance Department issue instructions relating to admissibility as well as procedure to avail different types of leaves from time to time.

### APPLICABILITY:

These leave rules shall be applicable to all permanent/ temporary/ contractual employees of Government of Odisha with certain restrictions in some cases as issued by Govt. from time to time.

### GENERAL PRINCIPLES OF GRANT OF LEAVE:

- Leave cannot be claimed as a matter of right. Leave sanctioning authority may refuse or revoke leave of any kind in exigency of public service. (Rule-131, OSC)
- Leave may not be granted to a Government servant under suspension. (Rule-132, OSC)
- Leave shall be earned by duty only. (Rule-133, OSC)
- Leave begins on the day in which transfer of charge is effected and ends on which charge is resumed. When a Government servant avails of joining time in continuation of leave his leave ends on the date before commencement of the joining time (Rule-137, OSC)
- Holiday can be prefixed and/ or suffixed to leave. (Rule-138, OSC)
- A Government servant serving in a vacation department and District and Sessions Judges may be permitted to combine vacation with leave either at the beginning or at the end. Vacation shall not be both prefixed and suffixed to leave. Similarly, leave shall not be both prefixed and suffixed to vacation. (Rule-139, OSC)
- When a Government servant is granted leave on medical ground he has to produce a medical certificate of fitness at the time of joining. (Rule-140, OSC)
- A Government servant on leave may be recalled to duty before expiry of his leave. (Rule-142, OSC)
- A Government servant who remains absent after the end of his leave is entitled to no leave salary for the period of such absence. It will be treated as misconduct which may attract disciplinary action. (Rule-144, OSC)
- A Government servant on leave should not take up any service or employment elsewhere without obtaining prior sanction of the competent authority. (Rule-146, OSC)

- No Government servant shall be granted leave of any kind for a continuous period exceeding five years. .(Rule-72(1), OSC)
- Where a Govt. servant does not resume duty after remaining on leave for 5 years or after expiry of the leave granted, unless otherwise ordered by Govt. in exceptional circumstances, he shall be removed from service by following the procedures of the OCS(CC&A) Rules, 1962. .(Rule-72(2), OSC)
- A Government servant's claim to leave is regulated by the rules in force at the time the leave is applied for and granted.(Rule-7, OSC)
- Leave may be granted with retrospective effect from the date on which it is admissible. ( Rule 16(b) of the Leave Procedure Rules,- Appendix-13, OSC)
- A Government servant intending to leave his headquarters during the leave must obtain permission for the purpose and he has to furnish his address in the application. ( Rule 20(b) of the Leave Procedure Rules)
- Appointing Authorities, Heads of Departments and Collectors are delegated with the powers by Finance Deptt. to sanction leave to the officers and staff serving under them. They may re-delegate such powers to their respective subordinate officers.(Appendix-1 to OSC)
- **Power to grant leave** by different authorities is as follows;
 

(i) Appointing Authority	-	Full Power
(ii) Heads of Departments	-	90 days to Group- A officers and 120 days to Group- B officers
(iii) Collectors	-	60 days to Group- A officers and 90 days to Group- B officers

*(FD OM No. 12598/F, Dt.28.03.2011)*

### **KINDS OF LEAVE:**

The following kinds of leave shall be admissible to the employees of the Government of Odisha.

- (i) Earned Leave (EL)
- (ii) Half Pay Leave (HPL)
- (iii) Commuted Leave
- (iv) Leave Not Due (LND)
- (v) Extra-Ordinary Leave (EOL)
- (vi) Maternity Leave
- (vii) Paternity Leave
- (viii) Child Adoption Leave
- (ix) Study Leave
- (x) Hospital Leave
- (xi) Special Disability Leave

**EARNED LEAVE:**

- Earned Leave means leave earned in respect of periods spent on duty. [Rule-3(iv), OLR, 1966]
- Earned Leave admissible to an employee of a Deptt. other than vacation Deptt. shall be 30 days in a calendar year. 15 days of EL is credited in advance on the first January and first July every calendar year. (*FD OM No. 20584/F., Dt.17.05.1995*)
- The leave at the credit of the incumbent at the close of the previous half year will be carried forward to the next half year.
- The leave at the credit of a Govt. servant should not exceed 300 days. The balance EL in excess of 300 days, if any, after credit of 15 days on the first day of January or July of a year, shall be shown with a plus mark inside a bracket [300+(10)] in leave account and the same will be lapsed unless availed during that half year. (*FD OM No. 7351/F., Dt.19.02.2003*)
- Earned leave shall be credited to the leave account of a Government servant at the rate of 2½ days for each completed calendar month of service which he is likely to render in a half-year of the calendar year in which he is appointed/retired/resigned. If a Government servant joins in a middle of a month, no E.L is credited to his leave account for that month.
- If a Government servant has availed any extraordinary leave in a half-year, the credit to be afforded to his leave account at the commencement of the next half-year shall be reduced by 1/10th of the period of such leave subject to a maximum of 15 days. (*FD. OM No. 31633/F., Dt.14.08.1989*)
- While affording credit of earned leave, fractions of a day shall be rounded off to the nearest day.
- Un-availed portion of Joining Time of a Govt. servant up to a maximum of 10 days is credited to his leave account as EL and after such credit the total EL shall not exceed its maximum limit.
- If vacation is fully availed of in a year, the earned leave admissible to a Govt. servant serving in a Vacation Deptt. (School & Mass Education Deptt., higher Education Deptt. and Industries Deptt.) shall be reduced by 20 days and for Subordinate Judges & Munsifs by 15 days. If it is partly availed, the reduction shall be fraction of 20 days or 15 days proportionate to vacation availed and full vacation. (Rule-8, OLR and *FD OM No. 28118/F., Dt.17.06.1970*)
- Vacation can be combined with other kinds of leave including EL and the total duration of both shall not exceed 180 days. The total duration of Vacation, EL and Commuted Leave shall not exceed 240 days.
- Application for EL is made in OGFR Form No.-3.
- The maximum earned leave that may be granted at a time to a Govt. servant shall be 120 days [Rule-7(2), Odisha Leave Rules, 1966]
- Earned Leave is debited to Leave Account maintained in the prescribed form annexed to OLR, 1966.
- A Govt. servant on earned leave is entitled to leave salary equal to the pay drawn by him immediately before proceeding on such leave. [Rule-17(1), OLR and *FD OM No. 14463/F., Dt.30.03.1976*]



- A Govt. servant who retires on superannuation/ voluntary retirement/ invalid retirement/ premature retirement is entitled to leave salary in lieu of un-utilised EL for a maximum of 300 days at his credit on the date of such retirement. It is also applicable for the family members of the deceased Govt. servant.
- In case of resignation, half of the no. of days of EL at his credit on the date of resignation shall be encashed. No application is required for the purpose.
- Additional Earned Leave of 15 days is allowed to the staff of Odisha Bhawan, Utkal Bhawan, State Guest House, Police Service and Fire Service Personnel and Jail employees for working on Sundays/ Public Holidays which can be surrendered for leave salary in every year.

**HALF PAY LEAVE:**

- Half Pay Leave means, leave earned in respect of every completed year of service. [Rule-3(vii), OLR, 1966]
- Half Pay Leave shall be credited to the leave account of a Government servant at the rate of 20 days for each completed year of service inclusive of periods spent on duty as well as on leave, including extraordinary leave. [Rule-9(1), OLR, 1966]
- It is granted either on medical certificate or on private ground. [Rule-9(2), OLR, 1966]
- It may be granted to a Govt. servant at his option even if earned leave is due to him.
- There is no maximum ceiling for grant of HPL due.
- Half Pay Leave may be converted to Commuted Leave on medical ground. [Rule-9(3), OLR, 1966]
- Half Pay Leave availed by a Govt. servant is debited from his Leave Account.
- A Govt. servant on Half Pay Leave is entitled to leave salary equal to half of the pay drawn by him immediately before proceeding on such leave. [Rule-17(3), OLR and FD OM No. 14463/F., Dt.30.03.1976]

**COMMUTED LEAVE:**

- Commuted Leave is a converted form of Half Pay Leave.
- Commuted Leave not exceeding half the amount of half-pay leave due may be granted to a Govt. servant on medical certificate. (Rule-9(3), OLR, 1966]
- It is also granted on production of medical certificate.
- It is granted to a Govt. servant who desires to convert half pay leave into full pay leave.
- It is granted to both the permanent and temporary employees.
- When commuted leave is granted twice the amount of such leave is debited against the half pay leave due. [Rule-9(3), OLR, 1966]
- The commuted leave for the entire service period shall be limited to a maximum of 240 days. [Rule-9(3), OLR, 1966]

- The total duration of earned leave and commuted leave taken in conjunction shall not exceed 240 days. It is granted only when the leave sanctioning authority is satisfied that there is reason to believe that the employee will return to duty on expiry of the leave. [Rule-9(3), OLR,1966]

**LEAVE NOT DUE:**

- Leave not due is granted to a permanent Government servant who has no half pay leave at his credit.
- The period of leave not due shall not exceed 360 days during the entire service period of the Government servant.
- It is granted either on medical certificate or on private ground.
- It is granted for a period of 90 days at a time and 180 days in the entire service period without medical certificate.
- The amount of leave is to be limited to the half pay leave, that the Government servant is likely to earn subsequently.
- Leave Not Due is debited against the Half Pay Leave .
- Leave salary on Half pay Leave is admissible in case of Leave Not Due. (Rule-10, OLR,1966)

**EXTRA ORDINARY LEAVE:**

- Extraordinary Leave is a leave without pay.
- It is granted to any Government servant in special circumstances i.e (i) when no other leave is admissible or (ii) when other leave is admissible, but the Government servant applies in writing for the grant of extraordinary leave. [Rule-159(1), OSC and Rule-13, OLR,1966]
- There is no limit of Extraordinary leave in case of a permanent Government servant/ a temporary Govt. servant who has rendered 3 years of continuous service. However, the maximum period of continuous absence of 5 years from service by a Govt. servant is required to be followed. [Rule-13(2), OLR,1966]
- In case of a temporary Govt. servant rendering less than three years of continuous service, the extraordinary leave on any one occasion should not exceed two months/four months supported by medical certificate/ eighteen months for undergoing treatment of tuberculosis and leprosy. [Rule-13(2), OLR,1966]
- It may be granted in combination or in continuation of any kind of leave that is admissible to a Government servant. [Rule-159(2), OSC]
- Periods of absence by a Govt. servant may be converted into extraordinary leave retrospectively. [Rule-159(2), OSC]
- Extraordinary leave shall not be taken into account while calculating the maximum period of continuous absence from duty on leave or on vacation and leave combined i.e twenty eight months. (Rule-160, OSC)
- Extra Ordinary Leave is not debited against Leave Account. [Rule-159(3), OSC]
- No leave salary is admissible for the period of extraordinary leave. [Rule-159(3), OSC]

**MATERNITY LEAVE:**

- Maternity Leave is granted to a female Govt. servant having less than two surviving children for child birth and for abortion including miscarriage. [Rule-194(a), OSC, *FD OM No. 63452/F., Dt.13.12.1977* and *FD OM No. 42786/F., Dt.18.10.1992*]
- It is also admissible to female contractual Government servant engaged against sanctioned posts following recruitment process. (*FD OM No. 22188/F., Dt.10.08.2016*)
- It is not admissible to female contractual employees engaged on outsourcing basis through service providing agency. (*FD OM No. 22188/F., Dt.10.08.2016*)
- The application for such leave is to be filed with a certificate from an authorised medical practitioner. But in case of miscarriage/abortion, the certificate from a private registered medical practitioner may be accepted. (*FD OM No. 26950/F., Dt.05.08.1961*)
- A female Government servant is entitled for the maternity leave for third time for subsequent issues provided that she is having less than two surviving children.
- The maximum ceiling of maternity leave is 180 days. [Rule-194(b), OSC and *FD OM No. 51856/F., Dt.07.12.2011*]
- The maximum limit of Maternity Leave for miscarriage is 6 weeks.
- It can be combined with leave of any other kind if supported by medical certificate. [Rule-194(d), OSC]
- It is not debited against the leave account. [Rule-194(e), OSC]
- The leave salary on maternity leave will be equal to the pay drawn by the female Govt. servant at the time of taking such leave. [Rule-194(c), OSC]
- It may be invariably sanctioned before the female Govt. servant proceeds on such leave and leave salary shall be drawn on sanction. (*FD OM No. 37478/F., Dt.01.12.2018*)

**CHILD ADOPTION LEAVE**

- Child Adoption Leave is granted to a female Govt. servant having less than two surviving children on adoption of a child up to one year of age for a period of 180 days inline with maternity leave.
- The application for such leave shall be supported by the legal deed of adoption and the certificate of birth of the child from the competent authority.
- It is not debited against the leave account.
- It shall be granted by the authority competent to grant ordinary leaves. Head of Office is also competent to grant the leave. (*FD OM No. 31056/F., Dt.18.11.2016*)
- It is also admissible to female contractual Government servant engaged against sanctioned posts following recruitment process. (*FD OM No. 31059/F., Dt.18.11.2016*)
- It is not admissible to female contractual employees engaged on outsourcing basis through service providing agency. (*FD OM No. 31059/F., Dt.18.11.2016*)
- The leave salary on Child Adoption Leave will be equal to the pay drawn by the female Govt. servant at the time of taking such leave. (*FD OM No. 31056/F., Dt.18.11.2016*)

**PATERNITY LEAVE:**

- The paternity leave can be availed by a male Government servant with less than two surviving children during the confinement of his wife for child birth, i.e. upto 15 days or upto six months from the date of delivery of the child.
- It can be availed for a maximum period of 15 days.
- It may be combined with leave of any other kind.
- It will not be debited against the leave account.
- If it is not availed within the aforesaid period than it will be lapsed.
- Normally, the paternity leave shall not be refused under any circumstances except in case of exigencies of service.
- The leave salary on paternity leave will be equal to the pay drawn by the female Govt. servant at the time of taking such leave. *(F.D O.M. No. 51861/F, Dt. 07.12.2011)*

**STUDY LEAVE:**

- Study Leave is granted to a Govt. servant to enable him to study scientific, technical or similar problems or to undergo a special course of instruction in the public interest. [Rule-179(a), OSC]
- It is not granted to a govt. servant of a subordinate service except in very exceptional cases. (Note to Rule-179, OSC)
- Study leave will not ordinarily be granted to Govt. servants of less than five years service or to Govt. servants within three years of the date at which they have the option of retiring or if they have the option of retiring after 20 years service, within three years of the date at which they will complete 25 years service. In case of Doctors, working under the administrative control of H & FW Department, study leave may be granted within the first five years of service. (Rule-180, OSC)(FD OM No 10235/F, dt. 31.03.2023)
- Study leave should not exceed two years during the whole period of service and the total period of study leave in combination with other kinds of leave except leave on medical certificate or extraordinary leave involving absence from duty for more than 30 months. (Rule-181, OSC and *F.D.O.M. No. 38447/F, Dt. 29.07.1980*)
- The maximum period of study leave admissible for Doctors of Health and Family Welfare Department is six years for pursuing PG and Post PG higher studies.
- The incumbent is to execute a bond prescribed for the purpose in case of study leave/higher study within the country.
- The cost of courses of study shall be borne by the Govt. servants concerned. (Rule-189, OSC)
- A Govt. servant on study leave will not be entitled to Travelling Allowance for journey. *(F.D O.M. No. 38447/F, Dt. 29.07.1980)*
- The journey time will be included in Study Leave to be granted. *(F.D O.M. No. 38447/F, Dt. 29.07.1980)*

- Study leave will count as service for promotion and pension but not for leave. It will not affect any leave which may already be due to a Govt. servant. . (Rule-191, OSC)
- Study leave is not debited against the leave account. [Rule-179(a), OSC]
- The leave salary on study leave will be equal to the pay and Dearness Allowance admissible to the Govt. servant while on duty immediately before proceeding on leave. (*FD O.M. No. 38447/F, Dt. 29.07.1980*)
- Scholarship, fellowship, stipend or any remuneration received during the course of study leave shall be adjusted against the leave salary and it will not be less than the leave salary admissible during half pay leave. (*FD O.M. No. 38447/F, Dt. 29.07.1980*)
- No Study Allowance will be paid during Study Leave. (F.D.O.M. No. 38447/F, Dt. 29.07.1980)
- Study leave counts for increment, but financial benefit arising out of increment will be from the date of return from the leave. (*FD O.M. No. 8990/F, Dt. 12.03.1985*)

#### **HOSPITAL LEAVE:**

- Hospital leave is granted to Group-D Government servants and such Group-C Government servants whose duties involve the handling of dangerous machinery, explosive materials, poisonous drugs etc. or the performance of hazardous tasks for medical treatment in a hospital or otherwise, for illness or injury sustained during the course of their official duties.
- Hospital leave is limited to 3 months on average pay in any period of 3 years.
- Hospital leave may be combined with leave of any other kind, provided that the total period of leave, after such combination shall not exceed 28 months.
- It shall be granted by the authority which is competent to grant ordinary leaves.
- Hospital leave shall be granted on the production of medical certificate from an Authorized Medical Attendant.
- Hospital leave shall not be debited against the leave account.
- The leave salary on Hospital Leave will be equal to the leave salary on EL or HPL depending upon the leave sanctioned. (Rule-195, OSC)

#### **SPECIAL DISABILITY LEAVE:**

- The special disability leave is granted to a Govt. servant disabled by accidental injury caused during performance of his official duties .
- Disability should be manifested itself within three months of the occurrence of the cause and brought to the notice of the authority with due promptitude.
- The period of leave shall be granted as per the certificate furnished by a medical board.
- The maximum limit of the leave is 24 months for one disability.
- It may be combined with leave of any other kind.
- It may be granted more than once if the disability is aggravated or reproduced at a later date.

- It is treated as qualifying service for pension
- It is not debited against the leave account.
- The leave salary on Special Disability Leave for first 4 months will be equal to the leave salary on EL and for remaining period it is equal to leave salary on HPL.
- The leave salary shall be reduced by the amount of compensation if received any, under Workmen's Compensation Act. (Rule-176 and 177, OSC)

#### **OTHER SHORT PERIOD LEAVES AND LEAVE OF ABSENCE**

- Casual Leave (CL)
- Special Casual Leave (Spl. CL)
- Quarentine Leave

#### **CASUAL LEAVE / SPECIAL CASUAL LEAVE:**

- Casual Leave is applicable to all Govt. servant.
- Casual Leave is not a recognized form of leave as per the Odisha Leave Rules, 1966.
- It is regulated as per the rules contained in **Appendix-6** to the Odisha Service Code.
- Casual Leave is not earned by duty.
- Technically, a Govt. servant on Casual Leave is not treated as absent from duty.
- CL cannot be claimed as of right.
- A Govt. servant can avail up to a maximum of 10 days of CL in a calendar year.
- A Govt. servant may be granted 5 days of Special Casual Leave a year in special circumstances.
- If a person enters in to service in the middle of the year or a Govt. servant whose service does not extend to a full calendar year, he will be granted CL and Special CL proportionate to period of service.
- It is meant to meet emergencies; not for rest or change.
- The probable grounds for grant of CL/ Spl. CL may be illness, temporary indisposition,, death of near relatives performance of religious rites, obtaining of medical advice, meeting or seeing off of wife or children at a railway station or an airport, urgent family or business affairs, etc.
- It shall not be granted on vague and general grounds like, urgent affairs, or for certain ceremony. The purpose must be specific and definite.
- Casual Leave or/and Special Casual Leave combined with intervening Sundays and other authorised holidays shall not be more than ten days at a time.
- It shall not be granted at short intervals.
- Generally, applications for CL/ Spl. CL shall be made 3 days prior to the date of such leave except in unforeseen circumstances.

- A Govt. servant may also be granted half day's casual leave to attend to urgent private work which will be debited to his CL account (*FD O.M. No. 25168/F, Dt. 15.07.1994*)
- Govt. servant who takes half day's casual leave for forenoon session is required to come to office at 2.00 PM and Govt. servant who takes half day's casual leave for afternoon session may be allowed to leave office at 1.30 PM.
- Administrative Departments and Heads of departments may delegate powers to their respective subordinate authorities preferably Heads of Offices to sanction CL to the staff serving under them.
- In Administrative Departments, the Section Officers are delegated with the powers to grant 2 days of CL at a stretch and 7 days CL in a year to the officers and staff serving under their control. (*GA Deptt. L No. 25980, dated 29.09.1981*)
- A CL Register showing details of casual leave granted shall be maintained by the authority competent to sanction the leave. CL can not be combined with other kinds of regular leave(s).
- Special leave of 12 days shall be granted in favour of the persons engaged through contract basis in different Departments and Government agencies during the period of engagement for one year. (*FD O.M. No. 30794/F, Dt. 06.11.2021*)
- The leave will not be carried over to the next year and will lapse.

#### **QUARENTINE LEAVE**

- Quarantine leave is a leave of absence from duty in consequence of the presence of infectious disease like Cholera, Small pox, Plague, Diptheria, Typhos fever and Cerebrospinal meningitis in the family or household of a Govt. servant.
- It may be granted by the sanctioning authority on the certificate of a Medical or Public Health Officer.
- It is granted for a period not exceeding 21 days or in exceptional circumstances, 30 days.
- Further leave necessary for the purpose shall be treated as ordinary leave as admissible.
- It can be combined with other kinds of leave.
- A Govt. servant on quarantine leave is not treated as absent from duty and his pay is not intermitted. (Rule-5 of Appendix-6 to OSC)

#### **Illustration**

##### **Calculation of Leave**

Date of appointment- 02.02.2018

Availed EL from 1.08.2019 to 19.08.2019

Availed HPL from 02.03.2020 to 28.03.2020

Availed EOL from 15.10.2020 to 10.11.2020

Availed EL for 15 days for LTC from 11.05.2021 to 25.05.2021

Availed Commuted Leave from 10.03.2021 to 19.03.2021

Calculate EL and HPL at credit as on 01.07.2021 .

**Solution**

Earned Leave	No. of Days		
	Earned	Availed	Balance
Credit on 02.02.2018 @ 2 and ½ days per completed calendar month of service likely to render up to 30.06.2018. No leave to be earned for February' 16.	10	-	10
01.07.2018 to 31.12.2018	15	-	25
01.01.2019 to 30.06.2019	15	-	40
01.07.2019 to 31.12.2019	15	-	55
EL taken from 01.08.2019 to 19.08.2019 (50 days)	-	50	05
01.01.2020 to 30.06.2020	15	-	20
01.07.2020 to 31.12.2020	15	-	35
EOL taken from 15.10.2020 to 10.11.2020 (27 days)	-	-	-
01.01.2021 to 30.06.2021 (EL to be reduced by 1/10 <sup>th</sup> of EOL taken during previous half year. 1/10 <sup>th</sup> of 27 = 2.7 to be rounded off to nearest day = 3)	12(15-3)	-	47
EL taken from 11.05.2021 to 25.05.2021 (15 days)	-	15	32
01.07.2021 to 31.12.2021	15	-	<b>47</b>

**Half Pay Leave**

	No. of Days		
	Earned	Availed	Balance
Credit on 02.02.2018	-	-	-
02.02.2019 (02.02.2018 to 01.02.2019)	20	-	20
02.02.2020 (02.02.2019 to 01.02.2020)	20	-	40
HPL availed from (02.03.2020 to 28.03.2020 = 27 days)	-	27	13
02.02.2021 (02.02.2020 to 01.02.2021)	20	-	33
Commuted Leave from 10.03.2021 to 19.03.2021 = 10 days (10*2=20 days of HPL is to be debited )	-	20	<b>13</b>

As per the above computation, EL and HPL at credit as on 01.07.2021 is 47 and 13 respectively.



**FREQUENTLY ASKED QUESTIONS:**

- Q:** What is the maximum period of leave of any kind which can be allowed to a Government servant?
- Ans:** The Government servant shall be granted leave of any kind for a continuous period of 5 years. Normally, absence from duty, with or without leave, for a continuous period exceeding 5 years other than on foreign service, implies that such Government servant has deemed to have resigned from Government service.
- Q:** Whether leave encashment can be sanctioned to a Govt. servant on his dismissal/removal, from service?
- Ans:** A Government servant, who is dismissed/removed from service, ceases to have any claim to leave at his credit from the date of such dismissal. Hence he is not entitled to any leave encashment.
- Q:** What is the maximum amount of study leave which can be availed?
- Ans:** The maximum amount of study leave for other than Medical officers of Health & Family Welfare Department is restricted to twenty four months during the entire service period and ordinarily it can be allowed for up to twelve months at a time. For Medical Officers of H & FW Department, the ceiling is for 6 years for acquiring PG qualifications.
- Q:** Whether study leave can be clubbed with other leave?
- Ans:** Yes. Study leave may be combined with other kinds of leave, but in no case shall be grant of this leave in combination with leave, other than extraordinary leave involve a total absence of more than twenty eight months generally and thirty-six months for the courses leading to PhD. degree from the regular duties of the Government servant.
- Q:** Whether commuted leave is admissible based on medical certificates of Hospitals/Medical Practitioners approved by employer in cases where the concerned employee has been allowed to avail such facilities from the employer?
- Ans:** Leave on medical grounds may be allowed on the basis of certificates issued by Hospitals/Medical Practitioners approved by the employer.
- Q:** An employee's increment falls due on the 1<sup>st</sup> of October. On the plea that he was on CL for 3 days from 1<sup>st</sup> to 3<sup>rd</sup> October, increment is allowed only from 4<sup>th</sup> October. Can Casual Leave be equated with other leave and increment postponed on the ground of absence?
- Ans:** CL is not treated as a kind of regular leave. During the period of CL a Government servant draws only duty pay and not leave salary. In the instant case, the increased pay consequent on accrual of increment during CL is admissible for 1<sup>st</sup> October and not from 4<sup>th</sup> October.
- Q:** Whether leave encashment can be sanctioned to a Government Servant on his superannuation while under suspension?
- Ans:** Leave encashment may be allowed in such cases. However, Leave Rules allows withholding of leave encashment in the case of a Government servant who retires from service on attaining the age of superannuation while under suspension or while disciplinary or criminal proceedings are pending

against him, if in view of the authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings he will become eligible to the amount so withheld after adjustment of Government dues, if any.

**Q:** The wife of a Government servant gave birth to her first child on 8-8-2020. He applied for Paternity Leave from 4-3-2021 to 18-3-2021. But the OE Section denied the leave saying that under the existing rule, it is required to exhaust the Paternity Leave within six months from the date of delivery. Please state whether the action taken by the OE Section is in order.

**Ans:** Paternity Leave has to be availed within six months from the date of delivery of the child and there is no provision that it should be exhausted within that period. Hence, the contention of Office Establishment is not correct.

**Q:** Is it necessary as per rules for a female Government employee to produce Medical Certificate before proceeding on Maternity Leave?

**Ans:** Production of Medical Certificate is not necessary for availing Maternity Leave.



## 17

### JOINING TIME

- ◆ MEANING
- ◆ CIRCUMSTANCES UNDER WHICH JOINING TIME ADMISSIBLE
- ◆ QUANTUM OF JOINING TIME
- ◆ ROUTE BY WHICH JOINING TIME IS CALCULATED
- ◆ COMMENCEMENT OF JOINING TIME
- ◆ AVAILING OF LEAVE WHILE IN TRANSIT
- ◆ APPOINTMENT TO NEW POST WHILE ON LEAVE
- ◆ JOINING TIME IN VACATION DEPARTMENT
- ◆ EXTENSION OF JOINING TIME
- ◆ POWER TO EXTEND JOINING TIME
- ◆ JOINING TIME PAY
- ◆ OVERSTAYAL OF JOINING TIME
- ◆ UNAVAILED PORTION OF JOINING TIME
- ◆ COUNTING OF JOINING TIME FOR INCREMENT
- ◆ FREQUENTLY ASKED QUESTIONS

## JOINING TIME

Transfer and promotion is a regular feature in government service. When a government servant is transferred from one place to another or is promoted to a higher rank involving change of station or joins his earlier station on return from training etc., he/ she is allowed joining time of specified length so as to enable him to join the place of posting. The extent of joining time is dependent on several factors/ situations. For instance, more joining time is allowed to a government servant transferred from Cuttack to Rourkela than what is allowed in case of transfer from Cuttack to Bhubaneswar. The rules governing sanction of joining time as framed from time to time are discussed below.

### MEANING:

Joining time is the time allowed to a government servant -

- (i) to join a new post either at the same station or a new station on transfer;
- (ii) to proceed to the place of training or return from it to the station to which he is posted.

**(Rule-24, OSC)**

### CIRCUMSTANCES UNDER WHICH JOINING TIME ADMISSIBLE:

Joining time may be granted to a government servant to enable him

- (i) to join a new post without availing himself of any leave after relinquishing the charge of his post;
- (ii) to join a new post on return from leave of not more than six months;
- (iii) to join a new post on return from leave of more than six months duration when he has not had sufficient notice of his appointment to new post.
- (iv) to proceed to the place of training or return from it to the station to which he is posted.
- (v) to join a new post on discharge from the post in one office due to reduction of establishment and reappointed to another Government office if the order of appointment to the new post is received while working in the old post.
- (vi) to join a new post after a break period not exceeding 30 days where he is appointed to the new post in another office after being discharged from the old post due to reduction of establishment and has since completed 3 years continuous service on the date of his discharge. But, no joining time pay shall be paid to him/her. **(Rule-198, OSC)**
- (vii) to join a new post got through direct recruitment under the state Government, if application for the post was made through proper channel.

**QUANTUM OF JOINING TIME:**

- (i) **Transfer within the same station** – One day including a holiday as it does not involve change of residence.

For this purpose, the term “same station” may be interpreted to mean the area falling within the jurisdiction of the urban local bodies such as municipality or corporation or notified area councils

**(Rule-199, OSC)**

- (ii) **Transfer from one station to another** - Preparation time is 6 days.

But, no preparation time is allowed to the Government servant to join or return from the training of not more than 3 months' duration. He may be allowed the minimum period required for transit including Sundays and holidays.

In addition, the time to cover the distance between the old and new station calculated as per the table below

Sl. No	Mode of Journey	Distance in km	Number of days
1	Aircraft	-	Actual time spent in the journey treated as one day
2	Railways	500	One day
3	Motor Vehicle	160	One day
4	Ocean Steamer	350	One day or any longer time actually spent
5	River Steamer	150	One day
6	Horse drawn conveyance	50	One day
7	In any other way	25	One day

- (iii) Travel by road not exceeding 8 kms to or from a Railway station or Bus terminus or Steamer ghat at the beginning or end of a journey does not count for joining time.
- (iv) For any fractional portion of any distance prescribed in the above table, an extra day is allowed;
- (v) A Sunday does not count as a day for the purpose of the calculation in this rule, but Sundays are included in the maximum period of thirty days.
- (vi) When the period of training does not exceed three months, the Govt. servant may be allowed as joining time the minimum period required for transit including Sundays and holidays.
- (vii) The period unavoidably spent in awaiting the departure of steamer at the steamer ghat is also admissible in addition to normal joining time
- (viii) The maximum period of joining time admissible to a Govt. servant is 30 days **(Rule-200, OSC)**

**ROUTE BY WHICH JOINING TIME IS CALCULATED:**

The joining time is calculated with reference to the distance between the old headquarters and the new headquarters or the distance from or to the place where he makes over or takes over the charge by direct route which is ordinarily used by travelers.

**(Rule-202 & 203, OSC)**

**COMMENCEMENT OF JOINING TIME:**

Joining time begins from the date of relinquishment of charge of the old Post; if the charge is made over in the forenoon or from the following date if the charge is made over in the afternoon.

**APPOINTMENT TO NEW POST WHILE IN TRANSIT:**

In this case, a fresh spell of joining time begins on the day following that on which the Govt. servant receives the revised order of appointment and it is calculated from the place at which he received the order to the new place of posting. But, no second period of six days for preparation is admissible in such case. **(Rule-204, OSC)**

**AVAILING OF LEAVE WHILE IN TRANSIT:**

- (i) If a Government servant takes leave while in transit, the period of joining time actually availed of since he handed over charge of his old post must be included in his leave. On the expiry of leave, the Government servant may be allowed normal joining time. **(Rule-205, OSC)**
- (ii) In cases where leave on medical grounds is taken by the Government servant after availing a portion of normal joining time, then that portion of joining time may be allowed to stand as such and the balance joining time be allowed after expiry of the leave. **(F.D No.21554/F dated 30.08.1956)**

**APPOINTMENT TO NEW POST WHILE ON LEAVE:**

If a Government servant is appointed to a new post while on leave of not more than six months, his joining time is calculated from the old station or from the place where he received the order which entitles him less joining time.

**JOINING TIME IN VACATION DEPARTMENT:**

- (i) If the Govt. servant has not been allowed to avail vacation, he is entitled to the joining time ordinarily admissible to him from the date of relieve of the duties of his former post.
- (ii) If the Govt. servant is allowed to avail vacation and relieved from the duties of his former post on the last working day before vacation, he must take over charge of his new duties on the first working day after such period.
- (iii) If the Govt. servant is transferred during the vacation and the period of vacation equal to or more than the normal joining time is remained by that date, he shall not be entitled to any joining time and where there is lesser period, the difference between the joining time admissible and left out vacation period will be allowed as joining time along with vacation.
- (iv) If vacation is suffixed to leave, no joining time is admissible to the Govt. servant. **(Rule-207, OSC)**

**EXTENSION OF JOINING TIME:**

Extension of joining time beyond the admissible limits may be granted to the Govt. servants under the following circumstances.

- (i) If the Govt. servant is unable to use the ordinary mode of travelling and has spent more time than is allowed unavoidably on the journey.
- (ii) When the Govt. servant has been unable to take over charge of the post after reporting himself at the place of posting due to circumstances beyond his control
- (iii) When extension is considered necessary for the public convenience
- (i) When the rules in any particular case operates harshly, as for example when a Govt. has though no fault on his part missed a steamer or fallen sick on the journey. **(Rule-208, OSC)**

**POWER TO EXTEND JOINING TIME:**

- (i) Appointing Authority : 90 days (Maximum)
- (ii) Administrative Department : 120 days(Maximum)
- (iii) For extension of joining time beyond 120 days, the Administrative Department has to take the concurrence of Finance Department

**JOINING TIME PAY:**

Joining time is treated as duty. **[Rule-13(a)(ii), OSC]** During that period, a Government servant on is entitled to;

- (i) Where Govt. servant joins without availing of any kind of leave, Joining time pay is equal to the pay which was drawn before relinquishment of charge in the old post or the pay which he will draw on taking charge of the new post, whichever is less.
- (ii) Where the joining time follows leave of not more than 6 months, Joining time pay is equal to leave salary applicable in case of earned leave.
- (i) Where the joining time is granted to enable the Govt. servant to proceed to the place of training or return there from, the joining time pay is equal to the pay which is drawn by him prior to joining the place of training or which will be drawn by him on return to the station to which he is posted after training or the pay drawn by him while on training, whichever is least;
- (ii) Compensatory Allowances such as Dearness Allowance, House Rent Allowance at the rates of old headquarters, Incentive Allowance etc. shall also be paid.
- (iii) In the case of transfer at own request, though the normal joining time is admissible to the Govt. servant, he is not entitled to joining time pay. **(Rule-209, OSC)**

**OVERSTAYAL OF JOINING TIME:**

A Government servant who overstays his joining time, it is considered as willful absence from duty and misconduct and he is not entitled to pay or leave salary after the end of the joining time. **(Rule-210, OSC)**

**UNAVAILED PORTION OF JOINING TIME:**

The un-availed portion of Joining Time admissible subject to a maximum of 10 days reduced by the number of days of joining time actually availed of is credited to the leave account of the Govt. servant as

Earned Leave by the leave sanctioning authority and thereafter leave at his credit should not exceed 300 days.  
(FD No 42876/F, dated 7.10.1992)

### COUNTING OF JOINING TIME FOR INCREMENT:

- (i) Joining time counts for increment. (Rule-79, OSC)
- (ii) If increment falls during the period of joining time, the increment will be sanctioned from its due date, but the financial benefit will be paid from the date of assuming the charge of the new post.

### Illustration:

Calculate the joining time admissible to a Government servant who is transferred from station 'A' to station 'B' from the following particulars indicating the last date by which he may join the new post at station 'B'.

- (i) Relieved of charges at station 'A' on 16.03.2020(A.N)
- (ii) Undertook the following journeys
- (a) By Road from Residence to Railway Station at 'A' 8 Km
  - (b) By Rail 510 Km
  - (c) By Bus 200 Km
  - (d) By Rail 50 Km
  - (e) By River Steamer 150 Km (had to wait at the Steamer Ghat for 1 day for the departure of the Steamer and the Steamer took 2 days in the journeys)
  - (f) By Road from Steamer Ghat to Residence at 'B' 5 Km
  - (g) 8 days E.L granted on Medical certificate from 19.03.2020 to 26.03.2020

### Solution:

- (A) Relieved of charges at station "A" : 16.03.2020(AN)
- (B) Therefore, Joining time commences: 17.03.2020
- (i) Preparation time ..... 6 days.
  - (ii) Journey from Residence to Railway Station "A" 8 km, no joining time . 0 day  
(Road journeys from Residence to Railway Station at 'A' and from the Steamer Ghat to Residence at 'B' i.e., 8 Km and 5 Km respectively, no joining time is admissible as the distance does not exceed 8 Km in each case)[Rule-200(1)(d)]
  - (iii) Journey by Rail = 510 km + 50 km = Total 560 km ..... 2 days  
(For the purpose of applying the rates of different modes of travel, the total distance travelled by each mode should first be worked out and only then the rates be applied)
  - (iv) Journey by Bus = 200 km ..... 2 days
  - (v) Journey by River Steamer 150 km ..... 2 days



(Actual time taken in the journey is allowed) [Rule-200(1)(ii)]

(vi) Time spent for awaiting at ..... 1 day

Steamer ghat for the departure of the Steamer [Rule-200(1)(c)]

(vii) Journey from Steamer Ghat to Residence at 'B' 5 Km by road, no joining time ..... 0 day  
[Rule-200(1)(d)]

(viii) **Total : 6 days + 2 days + 2 days + 2 days + 1 day = 13 days**

In cases, where Leave on Medical Certificate is taken after availing of Normal Joining Time, the split up of spell of absence allowing Joining Time first and leave afterwards may be allowed to stand.

**(F.D No.21554/F dated 30.08.1956)**

Hence, the Joining Time is regulated as under;

(i) Normal Joining Time before leave ..... 02 days (17.03.2020 to 18.03.2020)

(ii) Earned Leave for 8 days from ... 08 days i.e from 19.03.2020 to 26.03.2020

(iii) Remaining portion of Joining time from ....(13-2)= 11 days (27.03.2020 to 6.04.2020)

Therefore, the officer has to join the new post on 7.04.2020 by the latest. However, the intervening Sunday on 5.04.2020 will not be counted as a day. [Rule-200(1)(e)]

The Government servant is entitled to joining time for 13 days along with E.L and Sunday i.e from 17.03.2020 to 7.04.2020. Hence, the official is due to join duty at station 'B' on 08.04.2020.

## FREQUENTLY ASKED QUESTIONS

**Q:** How many days of joining time is admissible to a Govt. servant to join a new post in the same station?

**A:** One day including holiday.

**Q:** How many days of preparatory time is admissible to a Govt. servant to join in a nother station?

**A:** 6 days. It may be extended where the Govt. servant spent more time awaiting the departure of steamer.

**Q:** What is the maximum limit of joining time?

**A:** 30 days

**Q:** Can joining time be combined with Casual leave?

**A:** No

**Q:** Can joining time be combined with vacation?

**A:** Yes

**Q:** When does joining time commence?

**A:** Joining time commences from the date of relinquishment of charge of the old Post; if the charge is made over in the forenoon or from the following date if the charge is made over in the afternoon.

**Q:** How the over stoyal of joining time is treated?

- A:** Over stayal of joining time is treated as willful absence and misconduct.
- Q:** Is joining time admissible to a Govt. servant for transfer at his own request?
- A:** No
- Q:** Are compensatory allowances paid to Govt. servant during joining time?
- A:** **Yes**
- Q:** How Sundays and holidays are counted for calculation of the joining time?
- A:** A holiday counts as a day for joining in a new post on transfer within the same headquarters. A Sunday does not count as a day for calculation of normal joining time on transfer to another station. But, Sundays are included in calculation of joining time of maximum 30 days. Besides, Sundays and holidays are included in the joining time to join the training of not more than 3 months duration.
- Q:** Can the joining time admissible be reduced and if so by whom?
- A:** Yes. it can be reduced by the authority sanctioning the transfer.
- Q:** When will the increment falling due during the joining time be drawn?
- A:** The financial benefit of increment shall be drawn from the date of assumption of the charge of the new post.
- Q:** Who is the competent authority to sanction the extension of joining time?
- A:** The Appointing Authority and the Administrative Department are the competent authorities to sanction the extension of joining time up to 90 days and 120 days respectively.
- Q:** What is the amount of joining time pay when joining time is combined with leave?
- A:** The joining time pay is equal to the leave salary as on Earned Leave.
- Q:** By which rules the joining time of a state Government servant deputed to another Government is governed?
- A:** The joining time of a state Government servant deputed to another Government is governed by the rules of that Government.
- Q:** What are the conditions for credit of un-availed portion of joining time in the Leave Account as E.L?
- A:** (i) Where Govt. servant is directed to join the new post without availing the full joining time entitled to.
- (iii) Where Govt. servant proceeds alone to join the new post without availing the full joining time and takes his family to the new station later.
- Q:** How a part of the day for journey by air is treated towards joining time?
- A:** One day.



## 18

### **DEPUTATION AND FOREIGN SERVICE**

- ◆ **DEPUTATION**
- ◆ **FOREIGN SERVICE**
- ◆ **TERMS AND CONDITIONS OF DEPUTATION**
- ◆ **LEAVE SALARY AND PENSION CONTRIBUTION**
- ◆ **ADMISSIBILITY OF PAY**
- ◆ **PRINCIPLES OF FIXATION OF PAY**
- ◆ **ADMISSIBILITY OF ALLOWANCES AND BENEFITS**
- ◆ **TENURE OF DEPUTATION AND FOREIGN SERVICE**
- ◆ **SANCTIONING AUTHORITY**
- ◆ **MAINTENANCE OF SERVICE BOOK**
- ◆ **COMPUTATION OF DEPUTATION PERIOD**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## DEPUTATION AND FOREIGN SERVICE

A Government servant quite often comes across a period in his/ her service career called deputation and foreign service. The rules governing the terms and conditions of such deputation and foreign service are contained in the Odisha Service Code. Both the deputation/ foreign service refer to temporary transfer of Government servants to posts outside his regular line in public interest.

### DEPUTATION

Deputation means the transfer of a Government servant to a post outside his regular line i.e. outside his cadre in other Department of state Government or Central Government or another state Government in which he receives his pay from the Consolidated Fund of India or of a State.

### FOREIGN SERVICE

Foreign Service means the service of a Government servant under a non-Government body in which he receives his pay with the sanction of Government from any source other than the Consolidated Fund of India or of a State. (*Rule-16, OSC*)

### TERMS AND CONDITIONS OF DEPUTATION AND FOREIGN SERVICE:

- (i) Consent of the Government servant should be obtained. [**Rule-212(a), OSC**]
- (ii) No consent is necessary for deputation to foreign bodies such as Corporations, Boards, Aided private schools and colleges, Cooperative Societies, Universities etc. under the State Government. [**Rule-212(proviso), OSC**]
- (iii) Transfer of a Government servant to foreign service in India and outside India requires the sanction by the State Government. [**Rule-212(b), OSC**]
- (iv) Duties of the deputation post should be such as usually performed by a Government servant. [**Rule-212(c), OSC**]
- (v) The deputation of a Government servant on foreign service to a private individual or society should not be allowed. (**Rule-212, OSC**)
- (vi) If a Government servant is transferred on foreign service or on deputation to another Government while on leave, he ceases from the date of such transfer to be on leave and to draw leave salary. (**Rule-213, OSC**)
- (vii) A Government servant transferred to foreign service or on deputation to another Government shall remain in the cadre in which he was included in a substantive or officiating capacity immediately before his transfer and avail all benefits including promotion. [**Rule-214, OSC**]

- (viii) A Government Servant on foreign service is entitled to Pro-forma promotion in his parent department under the 'next below rule' on 'one -for-one basis'. (**Rule-214, OSC**)
- (ix) A Government servant in foreign service or while on deputation to another Government may officiate in a post under the parent Government. Fixation of pay shall be made as per his presumptive pay. (**Rule-215, OSC**)
- (x) A Government servant shall not accept any pension or gratuity from his foreign employer. (**Rule-216, OSC**)
- (xi) Leave of a Government servant on foreign service in India shall be granted by the State Government or by the authority sanctioning deputation as per leave rules of the State Government. [**Rule-217(a), OSC**]
- (xii) Leave of a Government servant deputed to other Governments may be granted by the borrowing Government as per leave rules of the state Government. [**Rule-217(b), OSC**]
- (xiii) A Government servant on foreign service in India shall not accept any financial benefit to which he is not entitled under the rules of his deputation from the foreign employer. (**Rule-218, OSC**)
- (xiv) Leave of a Government servant in foreign service out of India may be granted by his employer as per the conditions mutually agreed to by the employer and the state Government and the leave salary be paid by him. The leave will not be debited against the Government servant's leave account. [**Rule-219(a), OSC**]
- (xv) Leave of a Government servant in foreign service out of India may be granted by his employer as per leave rules of the state Government, if leave salary contribution is paid to the Consolidated Fund of the State. [**Rule-219(b), OSC**]
- (xvi) Deputation of a Government servant commences from the date of relief, if the relief is in the forenoon and from the next day, if the relief is in the afternoon. (**Rule-220, OSC**)
- (xvii) A Government servant reverts from foreign service or deputation under another Government on the date on which he takes charge of his post under the parent Government after availing of leave, if any, on termination of the period of deputation, other than leave preparatory to retirement. (**Rule-220, OSC**)

#### **LEAVE SALARY AND PENSION CONTRIBUTION:**

- (i) While a Government servant is in foreign service, the cost of his pension contributions must be paid to the Consolidated Fund of the State. [**Rule-221(1)(a), OSC**]
- (ii) If the Foreign Service is in India, the cost of his leave salary contributions must also be paid. [**Rule-221(1)(b), OSC**]
- (iii) Leave salary and pension contributions shall be paid by the Government servant himself, unless the foreign employer agrees to pay them. [**Rule-221(1)(c), OSC**]
- (iv) If the Leave Salary Contribution and Pension Contribution is not paid by the Government Servant, then that period will not count towards his/her qualifying service and accrual of leave. (**F.D No. 14326/F., dated 13.05. 2015**)

- (v) If the Government Servant dies while on deputation or after deputation, the unpaid pension contribution and leave salary contribution will be recovered from the DCRG and the period will count towards pension / credit of leave. **(F.D No. 14326 /F., dated 13.05. 2015)**
- (vi) Leave salary and pension contributions shall not be payable for the period of leave taken while on foreign service. **[Rule-221(1)(c), OSC]**
- (vii) In case of deputation to another Government in India, no pension contribution may be paid by the borrowing Government but the pension and gratuity when sanctioned will be apportioned between the Government of Odisha and the borrowing Government on the basis of the length of service rendered under each. **[Rule-221(2), OSC]**
- (viii) If the Government servant is on a Contributory Provident Fund system, the employer's share of the contribution for the period of deputation is payable by the borrowing Government/ Organization. **[Rule-221(2), OSC]**

#### **Rates of Leave Salary & Pension Contribution:**

- (i) At present, the monthly rate of leave salary contribution is 11 % of the pay drawn by the Government servant in foreign service. **(Rule-222 & Appendix -9 of OSC)**
- (ii) The monthly rate of pension contribution varies from 4% to 23% for different groups of Government servant depending upon the length of service completed by him. It has been worked out basing on the basic pay of the post held by the Government servant at the time of proceeding on foreign service or the pay fixed on proforma promotion/ financial up gradation. **(Rule-222 & Appendix -9 of OSC)**

#### **Time Limit for Payment of Contribution:**

- (i) Contributions are to be paid within fifteen days from the end of the month. **[Rule-223(a), OSC]**
- (ii) Interest shall be levied at the rate of two paise per ₹ 100 a day. **[Rule-223(a), OSC]**

#### **ADMISSIBILITY OF PAY:**

- (i) Pay shall be drawn from the foreign employer or borrowing Government from the date of relinquishing charge of his post under the state Government **[Rule-226(a), OSC]**
- (ii) His pay shall cease to be paid by the foreign employer or the borrowing Government and his contribution shall be discontinued with effect from the date of reversion. **[Rule-226(b), OSC]**
- (iii) A Government servant has the option to elect the pay of the deputation post or his basic pay in the parent Government plus personal pay, if any, plus deputation allowance as admissible by the orders issued from time to time. **[Rule-228(1), OSC]**
- (iv) The basic pay of the Government servant plus the deputation allowance should not exceed the maximum of the scale of pay of the deputation post. **[Rule-228(2), OSC]**
- (v) If the basic pay of the Government servant exceeds maximum of the scale of pay of the deputation post during the period of foreign service, he should be reverted to his parent department within 6 months.

- (vi) The option once exercised shall be final. Fresh option can be exercised in the event of proforma promotion or reversion to a lower grade or appointment to another grade. [**Rule-228(3), OSC**]

### **PRINCIPLES OF FIXATION OF PAY:**

- (i) If the Government servant elects to get the pay of the deputation post, then his initial pay shall be fixed as per the procedures envisaged in **Rule-74 of Odisha Service Code**.
- (ii) Where a Government servant on deputation to another Government outside his regular service, or on foreign service, is granted proforma promotion, his pay is fixed under '**Next Below Rule**'
- When an officer in a post is for any reason prevented from officiating in his turn in a higher promotional post or grade in his cadre, he may be granted the benefit of fixation of pay of that post or grade, if that be more advantageous to him, from the date on which the officer immediately junior to him in the cadre of his service starts to draw the officiating pay in that scale of the higher post or grade under the parent Government subject to the following conditions
  - All the officers senior to him should have been given officiating promotion and are drawing pay in the higher scale or grade.
  - The benefit of the '**Next Below Rule**' should be given to only one senior most fit officer in a series of adjacent officers outside the ordinary line against one officiating vacancy filled within his cadre by his junior.
- (iii) Where there is a vacancy in the higher post or grade in the cadre and no suitable junior officer is available for promotion to that post, the benefit of '**Next Below Rule**' can be extended to the senior most officer who is outside his regular line and has got proforma promotion subject to the conditions that the authority competent to fill up the higher post shall issue an order to the effect that the post is lying vacant and no suitable junior officer exist in the cadre to fill up the said post.
- (iv) No claim for such benefit should be entertained if the period involved is less than 3 months or more than 6 months.

### **ADMISSIBILITY OF ALLOWANCES AND BENEFITS:**

#### **Dearness Allowance:**

The Government servant shall be entitled to dearness allowance at the rates prevailing in the borrowing organization/Government or in the parent Government according to the option exercised to retain the pay.

#### **Other Allowances:**

The following allowances will be regulated with mutual consent of the borrowing Government/Organization and parent Government precisely indicated in the Sanction Order.

- (i) HRA/Transport Allowance;
- (ii) Joining time and Joining Time Pay;
- (iii) Travelling Allowances and Transfer T.A;

- (iv) Medical concessions;
- (v) Leave Travel Concession.
- Ordinarily, the payment of these allowances are regulated as per the rules of the borrowing Government/ Organization and shall be borne by them.

#### **Deputation Allowance:**

- (i) No deputation allowance shall be granted to a Government servant deputed on foreign service to Corporations, Boards, Aided Private Schools and Colleges, Co-operative Societies, Universities etc. under the State Government.
- (ii) The present rate of deputation allowances prescribed by Government of India is as follows;
  - ♦ Within same station: 5% of the Basic Pay subject to a maximum of ₹ 4500 pm.
  - ♦ In other stations: 10% of the Basic Pay subject to a maximum of ₹ 9000 pm.
  - ♦ The ceiling will increase by 25% each time & the DA is increased by 50%.

#### **TENURE OF DEPUTATION AND FOREIGN SERVICE:**

- (i) Ordinarily, the term of deputation of a Government servant to other Government/ foreign service is 5 years.
- (ii) No deputation beyond 7 years.
- (iii) After completion of seven years, if the services of the concerned Government Servant are still necessary and the borrowing Organization requests the Administrative Department well in advance, the term of his deputation may be extended annually up to a maximum period of ten years in a spell.
- (iv) Extension of deputation beyond ten years shall not be allowed in any case. Thereafter, the Government servant shall revert back to his service under parent Government. If the foreign body still requires his services, necessary steps for his permanent absorption in the foreign body may be taken with the consent of the Government servant and State Government.

#### **SANCTIONING AUTHORITY:**

- (i) The Appointing Authority has delegated with powers to sanction deputation up to a period of 5 years.
- (ii) Administrative Department can sanction deputation up to a period of 10 years.

#### **MAINTENANCE OF SERVICE BOOK:**

The service book of the deputed Government servant shall be forwarded to the Principal Accountant General (A&E), Odisha for recording and attestation of all entries relating to the period of deputation.

#### **COMPUTATION OF DEPUTATION PERIOD:**

The process to compute the deputation period is explained below with an illustration.

#### **Illustration:**

On transfer to a foreign service, an employee of Government of Odisha was relieved from his post under the parent Government on 21.06.2011(A.N) and joined the foreign body on 28.06.2021(F.N) after



availing joining time from 22.06.2011 to 27.06.2011. He continued there up to 03.01.2018 and being relieved from the foreign body in the afternoon of 03.01.2018, he assumed the charge of his post under Government of Odisha on 09.02.2018(F.N) after availing Earned Leave from 04.01.2018 to 08.02.2018. Calculate the period of foreign service in this case.

**Solution:**

- |        |                                      |   |                                  |
|--------|--------------------------------------|---|----------------------------------|
| (i)    | Relief from the post of Government   | : | 21.06.2011(A.N)                  |
| (ii)   | Commencement of Foreign service      | : | 22 .06.2011                      |
| (iii)  | Joining Time                         | : | 22.06.2011 to 27.06.2011         |
|        | <i>(Included in Foreign Service)</i> |   |                                  |
| (iv)   | Joining in foreign body              | : | 28.06.20211(F.N)                 |
| (v)    | Relief from the foreign body         | : | 03.01.2018                       |
| (vi)   | Earned Leave availed after relief    | : | 04.01.2018 to 08.02.2018         |
|        | <i>(Included in Foreign Service)</i> |   |                                  |
| (vii)  | Assumption of charge of his post     | : | 09.02.2018(F.N)                  |
| (viii) | End of Foreign Service               | : | 08.02.2018                       |
| (ix)   | <b>Deputation Period</b>             | : | <b>22 .06.2011 to 08.02.2018</b> |

**FREQUENTLY ASKED QUESTIONS**

**Q:** What is the maximum period of deputation in a spell?

**Ans:** 10 years

**Q:** Which office has got the authority to sanction deputation?

**Ans:** The appointing authority has delegated the power to sanction deputation upto 5 years while the administrative department has the power to sanction the period of deputation upto 10 years.

**Q:** Which office maintains the service book of the officer on deputation?

**Ans:** All the entries and attestation etc. in the service book of the officer under deputation are maintained by AG(A & E), Odisha.

**Q:** Whether the promotion case of a Govt. servant can be considered in his/her parent cadre?

**Ans:** Yes. The Govt. servant concerned on deputation can be considered for his/her proforma promotion by the parent cadre "Next Below Rule" on one for one basis.

**Q:** Which office bears of the P.C. and LSC for the Govt. servant on deputation?

**Ans:** The P.C. and LSC for the Govt servant on deputation are borne either by the borrowing organisation or the Govt. servant as per the terms and conditions of deputation and is deposited with the AG(A & E), Odisha.

**Q:** Can Govt. servant be transferred to foreign service against his will?

**Ans:** No. The Govt. servant may not be transferred to foreign service against his will. against his will.

**Q:** How will the medical facilities be regulated while on deputation / foreign service?

**Ans:** Medical facilities shall be regulated in accordance with the rules of the borrowing organization.

**Q:** Can a Govt servant whose basic pay is more than the maximum of the scale of pay of the deputation post be deputed to such a post?

**Ans:** No. The Govt. servant cannot be deputed to such a post.

**Q:** Who bears the TA of the Govt. servant for proceeding to foreign service?

**Ans:** The foreign employer bears the cost of TA of the Govt. servant.



## 19

### **FEE AND HONOURARIUM**

- ◆ **FEE**
- ◆ **HONORARIUM**
- ◆ **REMEMBER**
- ◆ **FREQUENTLYASKED QUESTIONS**

## FEE AND HONOURARIUM

A Government servant receives monthly salaries including pay and allowances for works rendered by him/her as per the prescribed scales attached to the post. Sometimes, the Government servant receives extra remuneration in addition to the pay and allowances for some special works in special circumstances. Such remunerations are called 'Fee' and 'Honorarium'. The main difference between them is the source from which they are received. Any recurring or non-recurring remuneration received by a Government servant directly or indirectly from a source other than the Consolidated Fund of India or State or U.T. for the work or service rendered by him may be categorized as 'Fee'.

### Income not coming under purview of Fee

- (i) income from property, dividends and interest on securities;
- (ii) income from literary, cultural or artistic efforts if such efforts are not aided by the knowledge acquired by the Government servant in the course of his service;
- (iii) income from scientific or technological efforts;
- (iv) Income from participation in sports activities as amateur. **(Rule -14 of OSC)**

### Conditions

- (i) Previous sanction/permission of the State Government is required for undertaking the work or service and also for acceptance of fee. **(Rule -116 of OSC)**
- (ii) The competent authority should certify that the work in question can be done without detriment to the official duties and responsibilities of the Government servant performing it. **(Rule -117 of OSC)**
- (iii) Fee earned by a Government servant during his official time shall be credited to the Consolidated Fund of the Government under which he is employed. **(Rule -119 of OSC)**
- (iv) The sanctioning authority may, for special reasons to be recorded, pay the whole or any part of it to the Government servant. **(Rule -119 of OSC)**
- (v) The sanctioning authority shall record the reasons justifying the grant of extra remuneration. **(Rule 121 of OSC)**
- (vi) Amount of fee shall be fixed with due regard to the value of the service rendered. **(Rule -122 of OSC)**
- (vii) A Government servant of an educational service may be permitted to receive any amount of fees for private tuition during any one scholastic term or vacation by a subordinate authority who is delegated with the powers of sanction to that limit. **(Rule -123 of OSC)**

**Share of Fee Payable to Government**

- (i) **Recurring Fee** (total received in a financial year) share to be credited to Government
  - ◆ Fee Received Up to ₹ 250: Nil
  - ◆ Above ₹ 250: One-third of the Fee received subject to the condition that the Fee retained by the employee does not fall short of ₹ 250. (FD No. 30509/F dated 02.08.1975)
- (ii) **Non- Recurring Fee** (total received in a financial year)
  - ◆ Up to ₹ 400: Nil
  - ◆ Above ₹ 400: One-third of the Fee received subject to the condition that the Fee retained by the employee does not fall short of ₹ 400. (FD No. 30501/F dated 02.08.1975)

**Fees not subject to payment of share to Government**

- (i) Fees received from recognized Universities and other examining bodies for working as examiners, paper setters, superintendents, invigilators, checkers etc.
- (ii) Fees received from the revenues of another Government for rendering services to that Government.
- (iii) Fees received by the Medical Officers for professional attendance on patients in their private capacity.
- (iv) Fees received by the Government servants under a statutory rule.
- (v) Fees received by the Government servants in their capacity as Directors of Companies and Corporations.

**HONORARIUM:**

A recurring or non-recurring payment granted to a Government servant from the Consolidated Fund of India or a State as remuneration for special work of an occasional or intermittent character is termed as Honorarium. (Rule -22 and Rule-120 of OSC)

**Conditions**

- (i) Previous sanction/permission of the State Government is required for grant of honorarium and also for acceptance of honorarium. (Rule -116 of OSC)
- (ii) The work must be undertaken with the prior consent of the Competent Authority. (Rule -120 of OSC)
- (iii) The work is either so laborious or of such special merit as to justify grant of a special reward and do not fall within the scope of his ordinary duties. (Rule -120 of OSC)
- (iv) The sanctioning authority shall record the reasons justifying the grant of extra remuneration. (Rule-121 of OSC)
- (v) Amount of honorarium shall be fixed with due regard to the value of the service rendered. (Rule- 122 of OSC)
- (vi) The Upper ceiling of honorarium payable to a Government servant during a financial year is ₹ 50,000 only.

**Upper limit of honorarium payable to different categories of Government servants**

Sl No	Category of the Post	Pay Level in Pay Matrix	Maximum Limit of Honorarium
1	Addl. Secy/Joint Secy	Level 14, 15 & 16	₹ 50,000
2	Dy. Secy/Under Secy/ Pr. P.S/ Sr. P.S	Level 12 & 13	₹ 44,000
3	D.O/S.O/A.S.O/P.S/P.A/Issue Supdt ./Diary Supdt/ Sr. Steno/ Sr. DEO and equivalent	Level 9, 10 & 11	₹ 38,000
4	Typist/Jr. Steno and equivalent	Level 3, 4, 5, 6, 7 & 8	₹ 31,000
5	Diarist/Datary/Peon & equivalent	Level 1 & 2	₹ 25,000

(FD No. 6998/F dated 23.03.2022)

**REMEMBER:** Share of honorarium is not payable to Government.**No honorarium is admissible for;**

- (i) Temporary increase in routine work.
- (ii) For setting up of companies/corporations, to the officers for whom it forms part of their normal duties.
- (iii) Performing the duties of another sanctioned post in addition to his normal duties.

**Apart from the above, a Government servant can receive and retain following items without any special permission.**

- (i) The premium awarded for any essay or plan in public competitions;
- (ii) Any reward offered for the arrest of a criminal, or for information or special service in connection with the administration of justice;
- (iii) Any reward in accordance with the provision of any Act or Regulation or rules framed there under;
- (iv) Any reward sanctioned for services in connection with the administration of the customs and excise laws; and
- (v) Any fees payable to a Government servant for duties which he is required to perform in his official capacity under any special or local law or by order of the Government. **(Rule- 126 of OSC)**
- (vi) No Govt. servant may act as an arbitrator in any case which is likely to come before him in any shape by virtue of any judicial or executive post which he may be holding. **(Rule- 124 of OSC)**
- (vii) A Govt. servant called upon by a court of law to act at a commission to give evidence on technical matters may comply with the request, if the case is not of such a nature that it will be likely to come before him in the course of his official duties and may accept such remuneration as is fixed by the court. **(Rule- 125 of OSC)**

**FREQUENTLY ASKED QUESTIONS:**

- Q:** Whether the income of a Government servant from the property comes within the purview of fee?
- Ans:** No. Income from the property does not count as fee.
- Q:** How much share of fee is payable to Government by a Government servant?
- Ans:** One third of the fee in excess of ₹ 400 and ₹ 250 in case of non-recurring and recurring fee respectively is payable to the Government.
- Q:** Whether the fees received by a Medical Officer for professional attendance on patients in his private capacity is subject to credit to the Government account?
- Ans:** No. the Medical Officers are exempted from paying the share from the fees earned by them to the Government.
- Q:** Under which rule, the honourarium is sanctioned to a Government servant?
- Ans:** Honourarium is sanctioned to a Government servant as per provisions under Rule 120 of Odisha Service Code.
- Q:** What is the upper ceiling of honourarium paid to a Government servant?
- Ans:** The upper ceiling of honourarium is ₹ 50,000.
- Q:** What is the main difference between fee and honourarium?
- Ans:** Fee is received by a Government servant from a service outside the Consolidated Fund of India/ State/ Union Territory; whereas honourarium is received from the Consolidated Fund of India/ State/ Union Territory.
- Q:** Is previous sanction of the Government is necessary for receipt of fee and honourarium?
- Ans:** Yes. Prior sanction of the Government is necessary before undertaking the work and receipt of fee and honourarium for such work.



**20****COMPENSATORY ALLOWANCE**

- ◆ **IMPORTANT FEATURES**
- ◆ **HOUSE RENT ALLOWANCE**
- ◆ **CONDITIONS FOR SANCTION**
- ◆ **SANCTIONING AUTHORITY**
- ◆ **CONVEYANCE ALLOWANCE TO PERSONS WITH DISABILITY**
- ◆ **CONDITIONS FOR SANCTION**
- ◆ **WASHING ALLOWANCE**
- ◆ **PERMANENT TRAVELLING ALLOWANCE**
- ◆ **DISCONTINUED COMPENSATORY ALLOWANCES**
- ◆ **COMPENSATORY ALLOWANCES DURING JOINING TIME**
- ◆ **TRAVELLING ALLOWANCE**
- ◆ **FREQUENTLY ASKED QUESTIONS**



## COMPENSATORY ALLOWANCE

Different scales of pay and allowance have been prescribed for different category posts on the basis of educational qualification, nature of work and responsibilities etc attached to the posts. The allowances include Dearness Allowance, House Rent Allowance, Travelling Allowance etc.. In fact, compensatory allowance means an allowance granted to a Government servant to meet the personal expenditure or to compensate loss of amenities, necessitated by the special circumstances in which duty is performed by the Government servant.

It includes Dearness Allowance, House Rent Allowance, and Travelling Allowance which are admissible to Government employees irrespective of their designation. In addition to above, certain allowances are also admissible to particular category of employees. Incentive Allowance to Green Card Holders, Conveyance Allowance to Persons with Disabilities, Washing Allowance to Group -D employees, City Compensatory Allowance, Non-Practicing Allowance to doctors, Backward Area Allowance, Construction Allowance to employees working in Projects etc. are some of the examples of compensatory allowance.

Chapter V of Odisha Service Code deals with grant of various types of compensatory allowances to State Government employees. The important features of such Compensatory Allowance are indicated below.

### IMPORTANT FEATURES:

- Compensatory allowance does not include the grant of a free-passage to or from any place outside India. **(Rule-12 of OSC)**
- **Allowance not to be a source of profit:** The amount of a compensatory allowance shall be so regulated that it is not on the whole a source of profit to the recipient. **(Rule-98 of OSC)**
- **Allowance drawn by Govt. servant performing duties of a post:** A compensatory allowance attached to a post shall not be drawn except by the Govt. servant actually performing the duties of that post. **(Rule-99 of OSC).**
- **Compensatory Allowance during Leave:** A compensatory allowance, other than a house-rent allowance or a permanent travelling allowance may be drawn up to a maximum period of 4 months by a Government servant who takes leave or is transferred for not more than 4 months to another post as well as by the Government servant performing the duties of the post subject to condition that the authority sanctioning the leave or transfer certifies that the Government servant ;
  - (i) is likely to return on the expiry of his leave or temporary duty to the post to which the allowance is attached or to another post carrying a similar allowance; and

- (ii) continue to incur the whole or a considerable part of the expenses to meet which the allowance was granted. **(Rule-100 of OSC)**

### **HOUSE RENT ALLOWANCE:**

- **House Rent Allowance during leave:** A house rent allowance may be drawn up to a maximum period of 4 months by a Govt. servant who takes leave on full or half pay or is transferred on temporary basis from the post to which the allowance is attached.

#### **Exceptions –**

- (i) A female Government servant who takes maternity leave can draw the house rent allowance for a maximum period of 6 months.
- (ii) A Government servant who remains on leave for a reason beyond his/her control can draw the house rent allowance for a period of more than 4 months with the concurrence of Finance Department
- **House Rent Allowance during suspension:** House Rent Allowance will be admissible to the employee during the period of suspension if Government accommodation has not been provided to him/her at the place of his Headquarters as fixed by the competent authority.

### **CONDITIONS FOR SANCTION:**

- The Head of the Office certifies that no extra cost has been caused to the Govt. on account of grant of the allowance to the Govt. servant
- The authority sanctioning the leave or transfer, as the case may be, certifies that the Govt. servant is likely to return on the expiry of his leave or temporary duty to the post to which the allowance is attached or to another post carrying a similar allowance, and continues to incur the whole or a considerable part of the expense on rent to meet which the allowance was granted. (Rule 101 of OSC)
- A Government employee must be staying in a hired accommodation / living in his own house either within a radius of 8 KM from Headquarter or the limits of the Urban Local Body (Municipal Corporation, Municipality and Notified Area Council). **(FD O.M. No.-8741/F., dated 31.03.2017)**
- If both the husband and wife are Government servants and are posted at the same Headquarters, H.R.A. will be payable to one of them.
- H.R.A. will not be admissible to a State Government employee whose husband/wife is in receipt of H.R.A. or provided with accommodation by the Central Government or Reserve Bank of India, Nationalized Banks or Regional Rural Banks, Co-operative Organizations of State Government, autonomous body, local body, undertakings, companies etc. owned, controlled or aided by Central/ State Government.
- Government employees staying in a hired accommodation/own house while posted in Bhubaneswar and Cuttack, if transferred to Cuttack and Bhubaneswar respectively and are allowed by the concerned

Head of Office/ Head of Department to commute between the two cities to attend office will be eligible for House Rent Allowance. (FD O.M. No.- 8745/F., dated 31.03.2017)

- ◆ Furnishing of Certificate: The Government employees shall furnish a certificate in the form prescribed in FD Memo No.46151 (265)/F., dated 29.09.2005 along-with his first claim for drawal of House Rent Allowance and also in July of each year. (Annexure-1)
- ◆ **RATE:**
  - (i) BBSR & Cuttack (Urban Area) - 20% of Basic Pay and Grade Pay under ORSP Rules, 2008
  - (ii) Rourkela, Berhampur, Sambalpur, Puri, Baragarh, Brajarajnagar, Bhadrak, Balasore, Bolangir, Bhawanipatna, Barbil, Baripada, Dhenkanal, Jeypore, Jharsuguda, Jatni, Keonjhar, Paradeep, Rayagada, Sunabeda (Urban Area)- 10 % of Basic Pay and Grade Pay;
  - (iii) Other areas- 5% of Basic Pay and Grade Pay. (FD O.M. No.- 55376/F., dated 26.12.2008)

#### **SANCTIONING AUTHORITY:**

The Head of Office is the competent authority to sanction the HRA on receipt of the certificate from the Govt. servant in the prescribed form.

#### **CONVEYANCE ALLOWANCE TO PERSONS WITH DISABILITY:**

Conveyance Allowance of ₹ 700 per month is granted to blind and physically handicapped Govt. employees. (FD O.M. No 30128/F., dated 03.12.2022)

#### **CONDITIONS FOR SANCTION:**

- (i) The concerned blind and physically handicapped Govt. employee is not provided with Government accommodation within a distance of one kilometre from the place of work or residence in the campus housing.
- (ii) A certificate to the above effect is required to be furnished by the concerned employee.
- (iii) The allowance shall not be admissible to those employees who have been provided with the facility of Government transport.
- (iv) This allowance will not be admissible during absence from duty exceeding 30 days due to leave, training, tour, etc. (FD O.M. No- 8145/F., dated 05.03.1999)

#### **WASHING ALLOWANCE:**

A Washing Allowance of ₹ 200 per month may be granted to all Group -D employees of the state Govt. subject to the satisfaction of the Head of the Office that the concerned Group-D employee actually puts on the liveries.. (FD O.M. No- 28422/F., dated 08.10.2021)

#### **PERMANENT TRAVELLING ALLOWANCE:**

The Permanent Travelling Allowance at a monthly rate is granted to some category of employees of Revenue & Disaster Management Department, Agriculture & Farmers Empowerment Department., Excise Department., Fisheries & Animal Husbandry Department, School & Mass Education Department etc. for whom compulsory monthly tour has been fixed by Government.

**DISCONTINUED COMPENSATORY ALLOWANCES:**

Some of the Compensatory Allowances such as, Incentive Allowance to Green Card Holders, Non-Practicing Allowance to doctors, Backward Area Allowance, Construction Allowance to Govt. servants working in Projects etc. have since been discontinued by the state Govt.

**COMPENSATORY ALLOWANCES DURING JOINING TIME:**

If a Govt. servant is transferred from one post to another and a compensatory allowance is attached to both the posts on account of the high cost of living, he may draw the allowance during joining time at the lower rate only, if the rates of such allowance differ in the two posts. **(Rule -209 of OSC)**

**TRAVELLING ALLOWANCE**

The grant of travelling allowance which is a form of compensatory allowance is subject to the rules contained in the Odisha Travelling Allowance Rules. It does not need further elaboration as it has been given in a separate chapter **(Rule-103 of OSC)**

**Annexure-I****CERTIFICATE TO BE FURNISHED BY A GOVERNMENT EMPLOYEE****FOR GRANT OF HOUSE RENT ALLOWANCE****Particulars furnished by the Officers**

<b>Sl.No</b>	<b>Description of the particular</b>	<b>Remarks</b>
1	Whether Government accommodation has been provided to the self/spouse during the period at place of posting	Yes/No
2	Staying in house owned by me/ wife/ son/ children/ father/ mother/ husband within a radius of 8 KM from Headquarter	Yes/No
3	Staying in house owned by me/ wife/ son/ children/ father/ mother/ husband within the limits of the Urban Local Body (Municipal Corporation, Municipality, Notified Area Council) of Headquarter	Yes/No
4	Staying in a hired accommodation within a radius of 8 KM from Headquarter	Yes/No
5	Staying in a hired accommodation within the limits of the Urban Local Body (Municipal Corporation, Municipality, Notified Area Council) of Headquarter	Yes/No
6	Allowed to retain the Government accommodation at my old place of posting to retain my family on payment of normal rent/ penal rent for the period from .....to .....	Yes/No

7	My spouse is a Government servant	Yes/No
8	Whether widow/widower/Unmarried	Yes/No
9	My spouse is posted in the same Headquarter	Yes/No
10	My spouse is in receipt of HRA	Yes/No

\* Strike out which is not applicable. @ if the answer is yes, the period is to be mentioned in Column no.2.

I certify that the above particulars are true to the best of my knowledge.

Present Local residential address Designation

Date

Signature

### FREQUENTLY ASKED QUESTIONS:

**Q:** Is a free passage granted to a Government servant for journey to or from to a place outside India treated as a Compensatory Allowance?

**Ans:** No. It is not traeted as a Compensatory Allowance.

**Q:** Can a Government servant draw HRA during the leave of more than 4 months period?

**Ans:** A female Government servant is entitled to HRA for the entire period of maternity leave. In other cases it can be drawn beyond 4 months, if the leave is taken for a reason beyond his/ her control with concurrence of Finance Department.

**Q:** Whether Permanent Travelling Allowance (PTA) is admissible to a Government servant during the period of leave / joining time?

**Ans:** No. It is not admissible during leave/ joining time.

**Q:** A Government servant resides in his own house after surrender of accommodation. Is he eligible for HRA?

**Ans:** Yes. he is eligible to get HRA.

**Q:** What is the entitlement of HRA of a Government servant who shares an accommodation allotted to his/ her spouse?

**Ans:** He/ She will not be eligible for HRA.

**Q:** What is the amount of Conveyance Allowance grnated to a Government servant having benchmark deformity?

**Ans:** The amount of Conveyance Allowance is ₹ 700 per month.



**21****CONDUCT RULES**

- ◆ **OBJECTIVES**
- ◆ **MEMBERS OF FAMILY**
- ◆ **SALIENT FEATURES**
- ◆ **DOs**
- ◆ **DON'Ts**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## CONDUCT RULES

The **Odisha Government Servants' Conduct Rules, 1959** was formulated by the erstwhile Political and Services Department (now GA & PG Department) vide their **Notification No 4757Gen, Dated 07.04.1959** setting out moral standards for conduct of Government servants in relation to discharge of Government duties. These rules prescribe how a Government servant should conduct himself in public as well as in private life, what he should or should not do or could do with the permission of the appropriate authority. Infraction of the provisions of these rules would invite disciplinary action under the OCS(CCA) Rules, 1962. However, some additional rules on conduct and discipline in respect of Secretariat employees have been laid down in **Chapter –III** of the **Odisha Secretariat Instructions**.

### OBJECTIVES:

- (i) To ensure high standard of integrity, probity and devotion in discharging duties by a Government servant;
- (ii) To prevent a Government servant from aligning against Government or exercising undue influence or duress.

### MEMBERS OF FAMILY:

In terms of these rules, the members of family of a Government servant includes:-

- (i) the wife or husband, as the case may be;
- (ii) child or step child;
- (iii) any other person related whether by blood or by marriage and wholly dependent on him/ her.  
[Rule-2(c)]

### SALIENT FEATURES:

Most of these rules are ethical in nature and have been set not only for the Government servant but also for his family members in some cases. These rules have drawn a distinct line between dos and don'ts for a Government servant.

### DOs:

A Government servant should, at all times -

- (i) maintain absolute integrity, decorum of conduct, devotion to duty;
- (ii) transparency and accountability;
- (iii) do nothing which amounts to personal immorality like habits of drink, sex and gambling;  
[Rule-3 & 24(A)]

- (iv) maintain honesty, political neutrality, high ethical standard, public order, democratic values, security of the State, Simultaneously, he should promote principle of merit, fairness, impartiality in discharging his duties; **(Rule-5)**
- (v) carry out the orders/ instructions of his superior authorities in official duties; **(Rule-4)**
- (vi) submit the details of his assets and liabilities, at the time of his first appointment, regarding immovable property in his name or members of his family or any other person and year wise property statement in HRMS. **(Rule-21)**
- (vii) intimate his appointing authority, in case he is arrested. Failure to do so will be treated as suppression of material information and he will be liable to disciplinary action. **[Rule-20(A)]**
- (viii) intimate the nature of relationship with an individual, in case, he takes any action in his official capacity with respect to that individual. **(Rule-18)**
- (ix) abide by the law relating to drinks or drugs applicable to the area where he is being at present. **[Rule-24(A)]**
- A Government servant can participate in activities or work of public utility provided these do not interfere with the performance of his official duties and can join as volunteer in the Civil Defense Service/ St. John Ambulance Brigade/ Home Guards Organization/ Territorial Army. **(Rule-17)**

### **DON'Ts**

A Government servant should not:-

- (i) Be associated with any political party or organization.
- (ii) Allow members of his family in assisting any movement or activity which is subversive of the Government; **(Rule-5)**
- (iii) Own any newspaper/ periodicals without previous sanction;
- (iv) Participate in an electronic broadcast;
- (v) Contribute any article or write any letter to any newspaper/ periodicals except on literary/ artistic or scientific subjects; **(Rule-6)**
- (vi) Indulge in any adverse criticism of Government policies; Do anything which can embarrass the relations between Government of India and State Government and Government of India and foreign State; **(Rule-7)**
- (vii) participate in any strike/demonstration/agitation which is likely to disturb public tranquility; **(Rule-8)**
- (viii) be connected to an association whose objects or activities are prejudicial to the interests of sovereignty and integrity of India, or public order or morality; **(Rule-9)**
- (ix) communicate any official document or classified information to any person to which he is not authorized except as per provisions of Right to Information Act, 2005; **(Rule-11)**
- (x) give or take or abet the giving or taking of dowry; **[Rule-14(A)]**



- (xi) neither enter into any pecuniary arrangement with other party nor engage himself directly or indirectly in any trade or business or under any employment; **(Rule-16 & 17)**
  - (xii) purchase or sale of shares, securities or other investments except in case of occasional investments through authorized stock brokers or persons registered under law; **(Rule-19)**
  - (xiii) attempt to bring political or any other outside influence on any supervisor authority in support of his interests regarding service under the Government; **(Rule-23)**
  - (xiv) enter into or contract marriage with a person having a spouse living. However, if it is permissible under any personal law, prior permission of Government is required; **(Rule-24)**
  - (xv) withhold payment neither for any article purchased nor for any service availed by him; **(Rule-27 & 28)**
  - (xvi) use conveyances belonging to private persons except cases where appropriate fair is paid; **(Rule-29)**
  - (xvii) misuse amenities provided for him by the Government to discharge his duties; **(Rule-26)**
  - (xviii) indulge in any act of sexual harassment of any woman at any work place; **(Rule-3)**
  - (xix) sublet or lease accommodation allotted to him. **(Rule-21)**
- However, in following cases, with previous sanction of the Government, a Government servant can-
- (i) participate in the editing/management of any newspaper or periodical publication or electronic media or in a radio broadcast or contribute or write any article/ letter either in his own name or anonymously to any news paper or periodical;
  - (ii) give evidence in connection with an enquiry conducted by any person, committee or authority;
  - (iii) ask or accept contributions or associate with raising of any fund or collections;
  - (iv) apply for any concession, help or loan granted by the Government, if he is likely to deal with such application in his official capacity;
  - (v) accept or allow a member of his family to accept any gift whatsoever from any person who is not a close relation of the family. The expression “close relation” has been defined in erstwhile P & S Department OM No 1677, dated 11.02.1977.
  - (vi) receive any complementary or valedictory address or attend any meeting or entertainment;
  - (vii) acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family;
  - (viii) have recourse to any court or to the press for vindication of any official act which has been the subject matter of adverse criticism or an attack of defamatory character.

**FREQUENTLY ASKED QUESTIONS**

**Q** : Is the husband of a woman Government servant treated as a member of her family?

**Ans** : Yes. The husband of the woman Government servant residing with her and dependant on her shall be a member of her family.

**Q** : What will you do if your son is a member of a banned organization?

**Ans** : The Government servant should first try to dissuade him from participating in any activities carried out by the banned organization. In case, he fails to do so he should inform the matter to Government.

**Q** : Can a Government servant criticize imposing President's Rule on any part of the country in a gathering of officers?

**Ans** : No. Rule 7 prohibits such criticism.

**Q** : Can an OSS officer become an office bearer of an association other than OSSA?

**Ans** : No. But, with approval of the Government he can be an office bearer of another association.

**Q** : Can a Government servant canvas for the insurance agency of his wife?

**Ans** : No. This will be a breach of sub-rule (1) of Rule 17.

**Q** : Who can drive a Government owned vehicle?

**Ans** : The driver appointed for the purpose.. If any other Government servant drives the vehicle compensation awarded by Claims Tribunals shall be recovered from the Government servant in addition to other action. (Transport Department Memo No.1004, dated 21.02.59)

**Q** : Can a Government servant take part in a public auction?

**Ans** : It is undesirable for a Government Servant to bid at auctions arranged by his own department. (erstwhile P&S Department Memo No.4021 dated 22.03.1958)

**Q** : Is sanction of prescribed authority necessary for letting out houses?

**Ans** : As this amounts to disposal of immovable property by lease for a specified period, prior sanction is necessary.

**Q** : A Government servant has been allowed u/R 17(1) to take honorary work as President/Secretary of a public welfare institution. Can he collect donations from the public? Shall he be accountable for the transactions?

**Ans** : Yes. He must maintain account of the funds, receipt/expenditure properly done, cash book maintained, money kept in Bank, statement of receipts and expenditure submitted and annual audit made. (P & S Department O.M.No.3166, dated 21.03.1960)

**Q** : Can Government servants purchase tribal land in the name of their family members even with permission under Regulation 2 of 1956?

**Ans** : Even if the transaction is legally correct, in view of declared policy of the Govt., morally unjustified. Violation is liable for disciplinary action. (C.S. Circular No.449, dated 17.01.1983)

**Q** : Is smoking by a Govt. servant allowed?

**Ans** : Smoking in State Government offices/ institutions/ public transport system/ meetings conducted by Government and other public authority is banned. (C.S.D.O. Letter No.12457, dated 25.04.1989)

**Q** : What action can be taken against a Government servant found to have encroached Government land?

**Ans** : Disciplinary action, besides eviction from the Government land as per OPLE ACT/Rules. (G.A Department L.No.25990, dated, 15.09.1990)

**Q** : How can grievance petitions submitted by relatives of Government servants pertaining to service matters of the Government servant be treated?

**Ans** : Such representations through relatives amount to misconduct within the meaning of Rule 23. If the Government servant expresses his consent for the petition, he shall be liable for disciplinary action; if he pleads ignorance no action on the petition is necessary.

**Q** : What are the guidelines issued by the Supreme Court in case of Vishaka & others vs. State of Rajasthan to prevent sexual harassment of working women?

**Ans** : Guidelines include duty of the Employer /other responsible persons to deter commission of such acts and provide for settlement/prosecution for acts of sexual harassment; complaint mechanism to determine whether such conduct is an offence under the law or violation of conduct rules and initiate action accordingly. (Rule 4A inserted vide G.A Department. Notification No.33648, dated 08.09.2000)

**Q** : What do you mean by “devotion to duty” as per Rule-3 of the Odisha Government Servant Conduct Rules, 1959?

**Ans** : Devotion to duty implies due care on the part of the employee in the performance of the work assigned to him. It is something opposed to indifference to duty or easy going or light hearted approach to duty.



## 22

### DEPARTMENTAL PROCEEDINGS

- ◆ CONSTITUTIONAL PROVISIONS
- ◆ APPLICABILITY
- ◆ CLASSIFICATION
- ◆ APPOINTING AUTHORITY
- ◆ DISCIPLINARY AUTHORITY
- ◆ SUSPENSION
- ◆ TYPES OF PENALTIES
- ◆ PROCEDURE FOR IMPOSING PENALTIES
- ◆ ENQUIRY
- ◆ MINOR PENALTY PROCEEDINGS
- ◆ MAJOR PENALTY PROCEEDINGS
- ◆ BORROWING AND LENDING AUTHORITY
- ◆ SPECIAL CASES WHERE PRESCRIBED PROCEDURES NEED NOT BE FOLLOWED
- ◆ APPEALS
- ◆ REVIEW
- ◆ DEPARTMENTAL PROCEEDINGS AFTER RETIREMENT
- ◆ EFFECT OF D.P. ON PROMOTION
- ◆ TIME LINE FOR PROCESSING THE D.P. CASES
- ◆ MODEL FORMATS
- ◆ FREQUENTLY ASKED QUESTIONS

## DEPARTMENTAL PROCEEDINGS

Government servants play a vital role in running the administration of a state. They are the important constituents of the administrative set up entrusted with implementing Government programmes and policies, providing public service to the citizens at the grass root level and taking steps for resolution of public grievances.

It is obligatory on the part of a Government servant to conduct in a manner consistent with high standards of integrity, probity, morality, efficiency and devotion to duty. Since Government interacts with the people and operates through them, their overall public demeanor moulds people's perception about the Government and shapes Government's image. It is, therefore, essential that his/her conduct should not be unbecoming of standards set for a Government servant and repugnant to established norms evolved over the years for discharge of official duties.

The model conduct of a Government servant has been laid down in "The Odisha Government Servants' Conduct Rules, 1959" and described in the chapter "Conduct Rules". This chapter shall cover various facets of discipline, procedures laid down regarding initiation and conclusion of disciplinary proceedings against erring Government servants and award of penalties and rules with regard to appeal and review etc. as contained in the "The Odisha Civil Services (Classification, Control, and Appeal) Rules, 1962",

### CONSTITUTIONAL PROVISIONS:

Articles 309, 310 and 311 are relevant in the matter of appointment of persons to public services or posts under state Govt., regulation of their different conditions of services including disciplinary proceedings. These Articles are discussed below:-

- Article 309 gives power to the legislature to enact laws governing the conditions of services of the persons appointed in connection with the affairs of the states. Proviso to this Article provides that pending enactment of the laws, the Governor of a state may frame rules for the above purpose. Accordingly, invoking the said powers conferred on him, the Governor of Odisha has framed several service rules including OCS (CCA) Rules 1962 to regulate various conditions of services of a Govt. servant.
- Article 310 of the Constitution which is known as "Doctrine of Pleasure" provides that the term of appointment of the State Government employees shall depend upon the pleasure of the Governor.
- On the other hand, Article 311 basically grants two protections to the Government servants. The two protections relate to **who** and **how**. The first part of the Article provides that no person shall be dismissed or removed from service by an authority subordinate to the one by which he was appointed. Thus, the protection is that, before being sent out of service, a Government servant is entitled to have his case considered by the authority that is equal in rank to the one who appointed him to the service. If the penalty of dismissal or

removal from service is imposed by an authority that is lower in rank than the Appointing Authority, the same will be unconstitutional. The Appointing Authority means the authority who is competent to make appointment to the present post held by the Govt. servant.

The second protection as envisaged in Clause 2 of the said Article speaks how a Government Servant can be dismissed, or removed from service or reduced in rank. It provides that no one can be dismissed or removed from service or reduced in rank except after an inquiry. The inquiry must satisfy the following two conditions:

- (i) The individual concerned must be informed of the charges;
- (ii) The individual must be given a reasonable opportunity of being heard in respect of those charges. The phrase reasonable opportunity has not been defined in the Constitution; but this implies that the accused Govt. servant has a right to:
  - know the charge,
  - know the evidence led by the Disciplinary Authority in support of the charge,
  - inspect documents,
  - cross examine the witness deposing for the Disciplinary Authority lead evidence in defence, etc.

Article 311 also provides that under the following circumstances, a Government servant may be dismissed or removed from service or reduced in rank without an inquiry.

- (i) Where the penalty is being imposed on the ground of conduct which has led to his conviction on a criminal charge; or.
- (ii) Where the disciplinary authority is satisfied, for reasons to be recorded, that it is not reasonably practicable to hold an inquiry in the case; or
- (iii) Where the Governor is satisfied that in the interest of the security of the state it is not expedient to hold the inquiry.

#### **APPLICABILITY:**

These Rules apply to all Government servants except-

- (a) persons in casual employment;
- (b) persons for whose appointment and other matters covered by these rules special provision is made by or under any law for the time being in force, in regard to the matters covered by such law; and
- (c) members of All-India Services.

#### **CLASSIFICATION:**

The **Civil Services of the State** have been classified into three groups:

- (i) State Civil Services, Group-A
- (ii) State Civil Services, Group-B

(iii) State Civil Services, Group-C

While, the **Civil Posts under the State** may be classified into four types:

- (i) State Civil Posts, Group-A
- (ii) State Civil Posts, Group-B
- (iii) State Civil Posts, Group-C
- (iv) State Civil Posts, Group-D

Normally, **State Civil Services** are created by the State Government for general and specific execution of its policies whereas **State Civil Posts** are different posts created in an establishment to handle day to day official works of the Government. A post belonging to any classification when included in a Cadre Rule framed by the Governor comes within the meaning of the State Civil Services and the posts for which no cadre rule has been framed are known as State Civil Posts. (**GA Department letter No. 25922-SC-6/11/88-Gen., dated 08.07.1988**).

#### **APPOINTING AUTHORITY:**

- ◆ All appointments to State Civil Services, Group-A and State Civil Post, Group-A, shall be made by the Governor
- ◆ Governor may, by a general or special order, delegate to any other authority the power to make such appointment. (**Rule-10**)
- ◆ All appointments to State Civil Services (other than State Civil Services, Group-A and General State Services) shall be made by the authorities specified in the Schedule.
- ◆ All appointments to State Civil Posts, Group-B, Group-C and Group-D included in the General State Services shall be made by the authorities specified by a general or special order of the Governor or, where no such order has been made by the authorities specified in the Schedule. (**Rule-11**)

#### **DISCIPLINARY AUTHORITY:**

As defined in Rule 2 (c) of the OCS (CCA) Rules, 1962, the term Disciplinary Authority refers to such authority, who has been entrusted with powers to impose any penalty on the employee(s) in pursuance of these rules.

- ◆ Disciplinary Authorities may be of two types:
  - (a) those who can impose all penalties; and
  - (b) the authorities who can impose only minor penalties.

The Governor may impose any of the penalties on any Government servant. (**Rule-14**)

#### **Relation between Appointing and Disciplinary Authority:**

Appointing Authorities are empowered to impose all types of penalties. No major penalty shall be imposed by any authority lower than the appointing authority. In most of the situations, the powers for imposing major penalties are entrusted to the Appointing Authorities. Thus, Appointing Authorities happen to be

Disciplinary Authorities. However, there are other authorities as specified in the Schedule to aforesaid rules who may be empowered to impose only minor penalties.

### **SUSPENSION:**

- ◆ Suspension means temporary withdrawal of duties from a government servant, pending inquiry into his/ her mis-conduct. He/She is not allowed to discharge the functions of his/her office during the period of suspension; but gets subsistence allowance sitting idle. So, an order of suspension should be made with considerable amount of care and thought. Before placing a Government servant under suspension, it should be explored if the purpose could be achieved by transferring him to another place or asking him to go on leave, etc.
- ◆ Initially, it is not a penalty. On conclusion of the disciplinary proceedings, the disciplinary authority shall pass orders whether the suspension would be treated as a punishment or not.

### **Grounds of Suspension:**

- (i) Where a disciplinary proceeding against him is contemplated or is pending; or
- (ii) Where a case against him in respect of any criminal offence is under investigation or trial;
- (iii) A Government servant who is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention. **(Deemed Suspension) (Rule-12)**
- (iv) Although the rule is silent about the circumstances under which a Government servant shall be placed under suspension, the authority must consider the gravity of an offence as to whether an official should be placed under suspension or not. The following are some of the possible circumstances in which a Government servant may be placed under suspension.
  - a) Where the continuance in office of the Government servant will prejudice investigation, trial or any inquiry (e.g.-apprehended tampering with witnesses or documents);
  - b) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which he is working;
  - c) Where a preliminary enquiry into allegations has revealed a prima-facie case justifying criminal or departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service;
  - d) An offence or conduct involving moral turpitude;
  - e) Corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gains;
  - f) Serious negligence and dereliction of duty resulting in considerable loss to Government;
  - g) Desertion of duty;
  - h) Refusal or deliberate failure to carry out written orders of superior officers.

*(Erstwhile P & S Department Circular No 3559(76) Gen, dated 15.03.1958)*



**Competent Authority to Suspend:**

- ♦ The appointing authority or any authority to which it is subordinate or any authority empowered by the Governor or the appointing authority may place a Government servant under suspension.
- ♦ The borrowing authority shall have the powers of the appointing authority for placing a Govt. servant on deputation to other Govt. or on Foreign Service under suspension or to initiate the disciplinary proceedings under intimation to the lending authority.
- ♦ If the borrowing authority is other than the Union or a State Government, the concurrence of the lending authority shall be taken before such action is taken except that in the event of the Government servant being implicated in a criminal case.
- ♦ In the event of disagreement between the borrowing and the lending authority, the services of the Government servant shall be replaced at the disposal of the later.

**Head quarters during suspension:**

- ♦ The headquarters of a Govt. servant under suspension should normally be fixed at his last place of duty or the competent authority may change the headquarter, if necessary.

**Date of effect of order of suspension:**

- ♦ Except in the case of 'deemed suspension' which may take effect from a retrospective date, an order of suspension shall take effect only from the date on which it is made.

**Competent Authority for Revocation of Suspension Order :**

- ♦ An order of suspension shall be revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate and the Govt. servant be reinstated into service.

**Time line for Suspension Cases:**

- ♦ Serving of charges to the officer under suspension - 3 months
- ♦ Ordinary limit of the Suspension period - 6 months from the date of framing charges.
- ♦ Review for extension of suspension cases - Quarterly

**(GA Deptt. Letter No.24042, Dt.13.09.1991)**

**Leave During Suspension:**

Leave may not be granted to a Govt. servant during the period of suspension.

**Entitlement During Suspension:**

- ♦ **Subsistence allowance:** Equal to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or on half pay in addition to DA based on such leave salary.
- ♦ The amount of subsistence allowance can be increased or reduced by not exceeding 50% of the subsistence allowance if the suspension period exceeds 12 months depending on whether or not the prolongation of suspension is attributable to the Government servant or not. However, for reduction of subsistence allowance, the suspended employee should be given an opportunity to show cause.

- ♦ Submission of non engagement certificate is necessary for drawal of subsistence allowance. (**Rule 90 of OSC**)

### **Recoveries from Subsistence Allowance:**

#### **A-Compulsory Deductions**

- (a) Income Tax
- (b) House rent( License fee) and allied charges
- (c) Repayment of loans and advances

#### **B-Optional Deductions**

- (a) Premium of Life Insurance
- (b) Amounts due to cooperative societies
- (c) Refund of GPF advance

#### **C-Deductions not to be made**

- (a) GPF Subscription
- (b) Amount due to court attachment
- (c) Recovery of loss to Govt.

**(Subsidiary Rule-187-A of Odisha Treasury Code)**

### **TYPES OF PENALTIES:**

The penalty imposed on a Govt. servant may be minor or major depending upon the gravity of misconduct.

#### **Minor Penalties**

- (i) Fine (imposed only upon Group-D Govt. Servant)
- (ii) Censure
- (iii) Withholding of increments (without cumulative effect)
- (iii-A) Withholding of promotion
- (iv) Recovery from pay of the whole, or part of any pecuniary loss caused to Government by negligence or breach of orders
- (v) Suspension

#### **Major Penalties:**

- (vi) Reduction to a lower service, grade or post or to a lower time-scale or to a lower stage in a time-scale
- (vi-A) Withholding of increments (with cumulative effect)
- (vii) Compulsory retirement
- (viii) Removal from service which shall not be disqualification for future employment
- (ix) Dismissal from service which shall ordinarily be a disqualification for future employment. (**Rule-13**)

**Non -Penalties**

The following shall not amount to a penalty within the meaning of this rule

- (a) Withholding of increments for failure to pass a departmental examination
- (b) Non-promotion after consideration of his case by the DPC.
- (c) Reversion to a lower service, grade or post due to his unsuitability for such higher service, grade or post, or on administrative grounds unconnected with his conduct.
- (d) Reversion to his permanent service, grade or post of a Government servant appointed on probation to another service.
- (e) Replacement of the service of a Government servant by the borrowing authority to the lending authority.
- (f) Compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement.
- (g) Termination of the services of a Government servant appointed on probation during or at the end of the period of probation.
- (h) Termination of the services of temporary Government servant as per the terms of his appointment; or
- (i) Termination of the services of a Government servant employed under an agreement as per the terms of such agreement. **(Rule-13)**

**N.B:** *Rules silent about the particular procedure to be adopted in individual cases:*

A disciplinary authority may initiate proceedings prescribed for imposing major penalties against a Govt. servant against whom no serious charge is alleged and impose a major penalty; and conversely, where the charge is of sufficiently serious nature, it may initiate enquiry under the rules prescribing the procedure for imposing minor penalties and impose any one of the minor penalties. For instance, where a Govt. servant is only guilty of overstaying after expiry of leave for a day, an enquiry under the rules as provided for imposing a major penalty could be upheld and he could be dismissed from service. Similarly, in cases where the charge is of serious nature like cheating the government or misappropriation of the government funds, an enquiry prescribed for imposing a minor penalty can be initiated and a minor penalty may be imposed. A review of orders passed in disciplinary proceedings reveals several cases where the punishment imposed is highly disproportionate to the charges proved i.e., either the imposition of a heavy penalty for minor charges and a minor penalty for serious charges has been upheld in several cases. In the absence of a specific provision in the rules indicating the nature of the charges in respect of which the procedure prescribed for imposing major penalties should be adopted and those in respect of which the procedure prescribed for imposing minor penalties should be adopted, the disciplinary authority has to decide the penalty which it considers expedient to impose having regard to the nature of the charges first and then to initiate enquiry according to the appropriate procedure.

**PROCEDURE FOR IMPOSING PENALTIES**

The following procedures shall be followed for imposing penalties on delinquent Government servants.

**ENQUIRY:**

The enquiry under these rules comprises of the following four parts: -

- (i) Preliminary Investigation;
  - (ii) Framing and issue of charge sheet;
  - (iii) Conducting Inquiry;
  - (iv) Inquiry report with findings.
- ◆ After receipt of allegations against the Govt. servant, the authority shall conduct a preliminary investigation either departmentally or through police authorities to check the veracity of the complaint; and If the complaint is true, to collect evidence in support of the charge.
  - ◆ On receipt of the preliminary investigation report, the disciplinary authority shall examine the evidence collected and take a decision whether to initiate criminal proceeding or disciplinary proceeding for imposition of minor or major penalty if a prima facie case exists against the conduct of the officer complained against.

**MINOR PENALTY PROCEEDINGS:**

The following procedures shall be followed for imposing minor penalties on delinquent Government servants.

- (a) Communication of statement of allegations along with any documentary evidence in support of the charge in writing on the basis of which it is proposed to take up action against the Government servant.
- (b) The Government servant is given an opportunity to make any representation he may wish to.
- (c) Any request by the Government servant for inspection of records or supply of copies of documents may be allowed if its denial will amount to denial of reasonable opportunity.
- (d) Such representation, if any is taken into consideration by the disciplinary authority.
- (e) Consultation with the OPSC wherever necessary is made.
- (f) On examination of the reply of the delinquent officer, or on expiry of the time allowed for submitting reply, a reasoned order may be passed. **(Rule-16)**

**Records in Minor Penalty Proceedings:**

- (i) A copy of the intimation to the Government servant of the proposal to take action against him;
- (ii) A copy of the statement of allegations communicated to him;
- (iii) His representation, if any;
- (iv) The advice of the Commission and
- (v) The orders on the charges together with reasons thereof.

No minor penalty shall be imposed without giving an opportunity to the Government servant concerned to make any representation he may wish to. **(Rule-16)**

**MAJOR PENALTY PROCEEDINGS:**

For imposition of major penalties, the procedures as laid down in Rule- 15 of the OCS (CCA) Rules, 1962 are to be followed. It has been made mandatory therein to hold an enquiry before imposing major penalties. It is based on the provisions of Article 311 of the Constitution which *inter alia* lays down as follows:

- (i) No Government servant shall be dismissed or removed by an authority subordinate to that by which he was appointed;
- (ii) No employee shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. The reasonable opportunity means:-
- (iii) That, the person proceeded against should clearly and specifically told the charges leveled against him;
- (iv) He should be given full and adequate opportunity to explain and establish his innocence;
- (v) He should be allowed to show cause against the punishment;
- (vi) There must not be mala fide intention anywhere;
- (vii) The whole thing must be in a fair deal with a sense of responsibility.

**Framing & Issue of Charge Sheet:**

After the preliminary investigation, if the disciplinary authority decides to initiate disciplinary proceeding for imposition of major penalty, definite charges shall be framed on the basis of the allegations on which the enquiry is to be held.

The charge sheets shall comprise of the followings;

- (i) Memorandum
- (ii) Article of charges (**Annexure-I**)
- (iii) Statement of imputations on misconduct (**Annexure-II**)
- (iv) Memos of documentary evidences and witnesses (**Annexure-III**)

**First show cause notice**

- ♦ The charges along with statement of allegations shall be communicated to the delinquent employee requiring him to submit his written statement of defence within a reasonable period not ordinarily exceeding one month.
- ♦ (The charge sheet should be served in person or communicated through registered post with AD. In case of registered post, if the AD is received back with remarks such as addressee not found etc. the correct course should be to keep the charge sheet along with the cover bearing the postal authorities' remarks, on record and proceed further with disciplinary proceedings. When the charge-sheet is returned with remark "**refused to accept**" the envelope should be kept in file without opening it. Refusal to accept charge-sheet is an act of misconduct- separate proceedings can be initiated for such refusal.)

- ♦ The delinquent employee shall be supplied with relevant records and can be permitted to inspect and take extracts from such other records considered relevant.
- ♦ The accused employee in the written statement of defence may (i) admit the charges; or (ii) deny the charges, or refrain from submitting written reply.
- ♦ On receipt of written statement of defence or if no such statement is received within the time specified, the disciplinary authority may itself enquire into the charges that are not admitted or may appoint an inquiring officer to enquire into the charges.
- ♦ If the disciplinary authority on consideration of the written statement of defence is of the view that the facts of the case do not justify award of a major penalty, may impose minor penalty after recording reasons thereof and close the case.
- ♦ If charges are admitted in the written statement, no inquiry is necessary.

### **Conduct of Inquiry:**

- ♦ The disciplinary authority may (i) enquire into the charges as are not admitted; or (ii) appoint an inquiry officer.
- ♦ The order appointing the Inquiring Officer should be signed by the Secretary only in case the proceedings relate to officers belonging to Group B and above officers.
- ♦ The disciplinary authority may nominate a marshalling officer/presenting officer/state representative to present the case before the Inquiring Officer.
- ♦ The delinquent employee may be allowed to engage a lawyer in case the marshalling officer/presenting officer is a legal practitioner.
- ♦ The Inquiring Officer shall consider documentary evidences, take oral evidences and permit the delinquent employee to cross examine witnesses.
- ♦ The marshalling officer/presenting officer can also cross examine the delinquent employee or witnesses examined in his/her defence.
- ♦ On conclusion of the enquiry, the Inquiring Officer shall prepare the enquiry report recording his/her findings on each charge with reasons. He/She may recommend award of penalty.
- ♦ Neither the findings nor the recommendations of the Inquiring Officer are binding on the disciplinary authority.
- ♦ The record of enquiry shall include:
  - (i) The charges framed against the Government servant and the statement of allegations furnished to him/her.
  - (ii) His/Her written statement of defence, if any;
  - (iii) The oral evidence taken in the course of inquiry;
  - (iv) The documentary evidence considered in the course of inquiry;
  - (v) The orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry;

- (vi) A report setting out the findings on each charge and the reasons thereof; and
- (viii) The recommendations of the Inquiring Officer, if any, regarding the punishment to be inflicted.

#### **Consideration of the Inquiry Report by the Disciplinary Authority:**

- ◆ The disciplinary authority shall consider the record of enquiry and record its findings on each charge.
- ◆ A copy of the report of inquiring officer shall be furnished to the delinquent employee with a notice calling upon him to submit representation within 15 days against the findings of the inquiring officer.
- ◆ The representation shall be considered and the major penalty proposed to be imposed shall be communicated to the delinquent employee along with findings on each charge and reasons of disagreement with the findings of the inquiring officer calling upon the delinquent employee to represent against the proposed penalty within a specified time (**second show cause notice**).
- ◆ As per provisions contained in Odisha Public Service Commission (Limitations of Functions) Regulations, 1989, read with provisions of Rules 15 and 16 of O.C.S. (CCA) Rules, 1962, the OPSC shall be consulted before imposition of any of the penalties specified under Rule 13 of OCS(CCA) Rules on a Government Servant. (*GA & PG Department Letter No. 26992-SC-3-8/99-Gen., dated 16.09.1999*)
- ◆ The disciplinary authority shall pass appropriate orders in consideration of the representation submitted by the delinquent employee and the advice of the OPSC.
- ◆ The orders of the disciplinary authority shall be communicated to the delinquent employee along with copy of the inquiry report, findings of the disciplinary authority, advice of the OPSC etc. (**Rule-15**)

#### **Enquiry through Commissioner for Departmental Inquiries (CDI):**

- ◆ Departmental inquiries in major proceeding cases in respect of Govt. servants under the disciplinary authority of Government may be referred to the Commissioner for Departmental Inquiries (C.D.I). (*GA Department OM No. 21., dated 09.01.1985*)
- ◆ Composite proceeding cases shall not be referred to the C.D.I. [*GA (DPT)Department No. 142/DPT., dated 10.08.1987*]
- ◆ The State Representative shall be appointed under Rule 15(5) of the OCS(CC&A) Rules, 1962 for adducing evidence and presenting the case in support of the charges before the C.D.I.
- ◆ The appointment of CDI as the Inquiring Authority and S.R as the Presenting Officer can only be made after the defence statement of the D.O is received and considered by the Disciplinary Authority or when no defence statement is received from the D.O after the stipulated period. [*GA (AT)Department No. 124/DPT., dated 02.05.1984*]
- ◆ The CDI shall submit his Inquiry Report to the disciplinary authority.

#### **Ex-Parte Enquiry:**

Ex-parte enquiry is an inquiry which is conducted in absence of the delinquent Govt. servant. It can be resorted to only when;

- (i) the delinquent Govt. servant avoids to receive charges framed against him/her.
- (ii) the whereabouts of the delinquent Govt. servant are not known.
- ◆ In the above circumstances, the fact regarding framing of charges against him for his/her acts and omissions shall be published in the newspaper calling upon him/her to appear before the concerned authority on any particular day to receive a copy of the charges and to submit a written statement of his/her defence.
- ◆ If the delinquent does not appear before the concerned authority or does not submit written statement of his/her defence, the enquiry may be conducted in his/her absence and a decision taken on merits whether he/she is guilty.
- ◆ Similarly, the communication of the second show cause notice for imposition of the proposed penalty with a direction to show cause within the stipulated time and the final order imposing the punishment against the delinquent shall be made in the manner indicated above.

#### **De Novo Enquiry or Fresh Enquiry:**

- ◆ The disciplinary authority cannot pass orders for re-enquiry by appointing another Inquiry Officer for same set of charges except where the previous Inquiry Officer is dead or has retired from Government service or is not available.
- ◆ If the Disciplinary Authority disagrees with the findings of the Inquiry Officer or the enquiry report, in his/her opinion, suffers from some material irregularity, he/she can remit/remand the proceedings to the very same Inquiry Officer with direction to record further evidence and to give findings on each charge.

#### **Joint Enquiry/ Common Proceedings:**

- (1) Where two or more Government servants are concerned in any case, the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.
- (2) The said order shall specify –
  - (i) the authority which may function as the disciplinary authority for the purpose of such common proceedings;
  - (ii) which disciplinary authority shall be competent to impose; the penalties specified in rule 13 and
  - (iii) whether the procedure prescribed in rule 16; may be followed in the proceedings. **(Rule-17)**

#### **BORROWING AND LENDING AUTHORITY:**

- (i) Borrowing Authority (other Govt. or any local authority) shall have powers of Disciplinary Authority for the purpose of initiation of disciplinary proceedings by framing charges against the Govt. servants deputed to them.



- (ii) If at the end of the proceedings, it is felt appropriate to impose a minor penalty, the borrowing authority may do so after consulting lending authority. In case, there is any difference of opinion between the two authorities, the employee shall be reverted back to the parent Govt.
- (iii) If on conclusion of the proceedings, the borrowing authority is of the opinion that a major penalty needs to be imposed, the Govt. servant concerned will be repatriated to the parent Govt. and the records of the case will be transmitted to the parent Govt.
- (iv) However, findings of the enquiry conducted by borrowing authority are not binding on lending Govt. It may conduct such further inquiry as deemed necessary.
- (v) The Borrowing Authority cannot frame charges, enquire into it and inflict punishment on the employee for his lapses committed while serving under it. In such cases, they will have to request the lending authority to take suitable disciplinary action. **(Rule-19)**

#### **SPECIAL CASES WHERE PRESCRIBED PROCEDURE NEED NOT BE FOLLOWED:**

Following are the special circumstances where the prescribed procedure for enquiry need not be followed.

- (i) where a penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge; or
  - (ii) where the disciplinary authority is satisfied for reasons to be recorded in writing by that authority, that it is not reasonably practicable to follow the procedure prescribed in the said rule; or
  - (iii) where the Governor is satisfied that in the interest of the security of the State it is not expedient to follow such procedure.
- The disciplinary authority may consider the circumstances of the case and pass such orders thereon as it deems fit.
  - However, the Commission shall be consulted before passing such orders in any case in which consultation is necessary. **(Rule-18)**

#### **APPEALS:**

When an employee is aggrieved by an order adversely affecting his/her career has departmental remedies in the form of Appeal.

- Orders made by the Governor are not appealable. **( Rule 21)**
- The following kinds of orders are appealable:
  - (i) an order which-
    - (a) denies or varies to his/her disadvantage to pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or
    - (b) interprets to his/her disadvantage the provisions of any such rule or agreement;
  - (ii) an order-

- (a) reverting him/her while officiating in a higher service, grade or post, to a lower service, grade or post, otherwise than as a penalty;
- (b) reducing or withholding the pension or denying the maximum pension admissible to him/her under the rules;
- (c) determining the subsistence and other allowances to be paid to him/her for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;
- (d) determining his pay and allowances- for the period of suspension, or for the period from the date of his/her dismissal, removal or compulsory retirement from service, or from the date of his/her reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his/her reinstatement or restoration to his/her service, grade or post;
- (e) determining whether or not the period from the date of his suspension or from the date of his/her dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his/her reinstatement or restoration to his/her service, grade or post shall be treated as a period spent on duty for any purpose. ( **Rule- 22 & 23** )

#### **Appellate Authority:**

Appellate authority in various cases has been mentioned in the schedule to the O.C.S. (CCA) Rules, 1962.

- ◆ Appeals can lie before the competent authority against an order imposing any of the penalties.
- ◆ A group C/Group D employee may file appeal to the appropriate authority as specially empowered by an order of the Governor/as specified in the schedule or to the next higher authority of the disciplinary authority.
- ◆ A Group A/Group B employee can file appeal against the order of penalty to the Governor.
- ◆ In a common proceeding, appeal shall lie to the next higher authority of the disciplinary authority.

#### **Period of limitation for appeals:**

Appeal has to be preferred within 3 months from the date of receipt of the order imposing penalty.

#### **Submission of Appeal:**

The appeal shall be addressed to the appellate authority and submitted to the authority which imposed the penalty. A copy of the appeal may be submitted direct to the appellate authority.

#### **Withholding of Appeal:**

The disciplinary authority can withhold the appeal on the following grounds and inform the fact to the appellant.

- (i) it is an appeal against an order from which no appeal lies; or

- (ii) it does not comply with any of the provisions of rule 25; or
- (iii) it is not submitted within the period specified in rule 24 and no reasonable cause is shown for the delay; or
- (iv) it is a repetition of an appeal already decided and no new facts or circumstances are adduced:

The disciplinary authority shall transmit the appeal to the appellate authority with his/her comments along with relevant records.

#### **Consideration of Appeals:**

- ◆ The appellate authority shall consider the appeal and pass orders setting aside, reducing, confirming or enhancing the penalty or remitting the case to the disciplinary authority.
- ◆ Consultation with the OPSC shall be necessary in appropriate cases.
- ◆ For enhancement of penalty, the appellant shall be given opportunity of making representation. Enquiry, if not held earlier, is a must for award of any of the major penalty.
- ◆ Copy of the orders of the appellate authority shall be supplied to the appellant free of cost.

#### **Implementation of Orders in Appeal:**

- ◆ The orders of the appellate authority shall be given effect to by the disciplinary authority.

#### **REVIEW:**

##### **Governor's Power to Review**

- ◆ The Governor may on his own motion or otherwise, after calling for the records of the case, review any order and
  - (a) Confirm, modify or set aside the orders;
  - (b) Impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
  - (c) Remit the case to the authority which made the order or any other authority directing such further action or enquiry as he considers proper in the circumstances of the case;
  - (d) Pass such orders as he/she deems fit after consultation with the Commission wherever necessary.
- ◆ In case of imposing or enhancing a penalty, the delinquent employee shall be given an opportunity of making representation. No major penalty can be imposed without conducting enquiry. The reviewing authority can direct for holding enquiry where such enquiry has not been made.

##### **Review by other Appellate Authority:**

- ◆ The appellate authority may, of its own motion or otherwise, call for the records of the case in a disciplinary proceedings, review any order passed in such a case and after consultation with the Commission, where necessary, pass such orders as it deems fit as if the Government servant had preferred an appeal against such order.

- ◆ Provided that no action under this rule shall be initiated more than six months after the date of the order to be reviewed.

#### **DEPARTMENTAL PROCEEDINGS AFTER RETIREMENT:**

- (i) After retirement of the Government servant, the departmental proceedings instituted against him/her while in service or during his/her re-employment shall be deemed to be the proceedings under Rule-7 of the OCS (Pension) Rules, 1992.
- (ii) It shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.
- (iii) The departmental proceedings can be initiated against a Government servant after his/her retirement in respect of any event which took place within four years before such initiation.
- (iv) Sanction of Government is necessary for initiation of such departmental proceedings.
- (v) It shall be conducted by the authority as decided by the Government and in accordance with the procedure adopted for imposition of a penalty of dismissal from service to a Government servant during his service.
- (vi) The Government can withhold a pension or gratuity, or both either in full or in part, or withdraw a pension in full or in part permanently or for specified period and can order recovery of any pecuniary loss caused to the Government from a pension or gratuity.
- (vii) If a part of pension is withheld/ withdrawn, the amount of such pension cannot be reduced below the minimum pension.
- (viii) The recovery of pecuniary loss, if ordered, cannot be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.
- (ix) Consultation with the Odisha Public Service Commission is necessary before any final orders are passed.
- (x) The provisional pension can be sanctioned during the pendency of the departmental proceedings. **(Rule-7 of The OCS (Pension) Rules, 1992)**

#### **EFFECT OF DP ON PROMOTION:**

- ◆ Continuance of a minor penalty proceeding— No effect on service benefits, No sealed cover procedure in the matter of promotion. **(GA & PG Department OM No.14640, Dt.04.07.1995).**
- ◆ Continuance of a major penalty proceeding – Sealed cover procedure for promotion. **(GA & PG Department OM No.3928, Dt.18.02.1994).**
- ◆ Major Penalty Proceeding instituted after found suitable for promotion by DPC but before actual promotion – Deemed sealed cover procedure. **(GA & PG Department OM No.3928, Dt.18.02.1994)**

- ◆ After conclusion of the proceedings–Sealed cover shall be opened. If completely exonerated, recommendation of the DPC shall be acted upon. **(GA & PG Department OM No.29699, Dt.01.11.1997)**
- ◆ If after conclusion of major penalty proceeding
  - (i) If penalty of fine, censure, withholding of increments, recovery of pecuniary loss caused is imposed, he will be given promotion considering the finding of the sealed cover notionally from the date of his/her immediate junior get promoted.
  - (ii) If penalty of “suspension” has been awarded, promotion shall be effective from the date of reinstatement in service.
  - (iii) If penalty of “withholding of promotion” is imposed, no promotion can be instantly given. His/her case shall be considered in the next DPC. **(GA & PG Department OM No.29699, Dt.01.11.1997).**
- ◆ If a major penalty proceeding is imposed in a disciplinary proceeding or found guilty in criminal prosecution, then the findings of the sealed cover shall not be acted open. Case of promotion may be considered by next DPC in normal course having regard to the penalty imposed. **(GA & PG Department OM No. 29699 dt. 01.11.1997).**
- ◆ Adhoc promotion during pendency of a major penalty proceeding – If D.P is continued and denial of promotion would not be of public interest, after the expiry of 2 years from the first DPC, his case can be considered in the next DPC held in due course and if found suitable, adhoc promotion can be given. **(GA & PG Department OM No.14640, Dt.04.07.1995).**
- ◆ Denial of promotion for disciplinary proceeding/criminal case – Promotion cannot be denied merely because a disciplinary proceeding/criminal case is pending against an employee. To deny the benefit of promotion, it must be shown at the time disciplinary proceedings/criminal cases are pending at the stage when charge sheet has already been issued to the employee and not before that. (Union of India Vrs. K.V.Janakiraman) and in case of a criminal case, it must be established that cognizance has been taken by the Court after filing Charge Sheet. **(GA & PG Department Letter No.11962, Dt.28.05.2012)**

#### **TIME LINE FOR PROCESSING THE D.P. CASES:**

- ◆ Submission of written statement of defence on the charges by the Govt. servant – Not exceeding 1 month
- ◆ Submission of representation by the Delinquent Officer against the findings of the Inquiring Officer- 15 days
- ◆ Submission of appeal against the penalty imposed – 3 months
- ◆ Re-submission of the withheld and returned appeal with compliance - 1 month

Review of the orders of punishment-6 months [OCS(CC&A) Rules, 1962]

**SCHEDULE**

SI No	Description of the Services/Post	Appointing Authority	Authorities competent to impose penalties		Appellate Authority
			Authority	Penalties which may be imposed with reference to item number in rule 13	
(1)	(2)	(3)	(4)	(5)	(6)
1.	State Civil Services, Class II and State Civil posts, Class II. (Group-B)	Government	In respect of Officer Serving- (i) in any Department of the Secretariat – Secretary of the Department and	(ii) to (v)	Government
			(ii) under any Heads of the Department – Head of the Department.	(ii) to (v)	Government
2.	Specially declared gazetted service/posts. (Group-B)	(a) For employees serving in any department of the Secretariat except those belonging to the Orissa Secretariat Service – Secretary of the Department	Secretary of the Department concerned.	All excluding (i)	Government
		(b) For employees belonging to the Orissa Secretariat Service – Secretary, Home Department.	(i) Secretary of the Department concerned.	(ii) to (v)	Government
			(ii) Secretary of the Home Department.	(vi) to (ix)	Government
		(c) For employees serving in any other Office – Head of the Department.	Head of the Department	All excluding (i)	Secretary of the concerned Department

3.	State Civil Service, Class-III and State Civil Posts, Class-III. (Group-C)	(a) For employees serving in any Department of the Secretariat – Secretary of the Department.	(i) Secretary of the Department	All excluding (i)	Government
			(ii) An officer of the rank of Under-Secretary or above in charge of the Establishment.	(ii) to (v)	Secretary of the Department.
		(b) For employees serving in the Office of any Head of the Department.	(i) Head of the Department	All excluding (i)	Secretary of the concerned Department.
			(ii) Establishment Officer or any other officer of equivalent or higher rank nominated by the Head of the Department.	(ii) to (v)	Head of the Department.
		In respect of Extension Officer (including the Junior Engineer; Additional Junior Engineer, Social Education Organiser, Progress Assistant; Industries Promotion Officer; and Sub-Inspector of Schools) – Head of the Department	(i) Collector	(ii) to (v)	Secretary of the concerned Department.
		(d) For employees serving in any other office – Head of the Department or Head of the office, as the case may be.	(ii) Head of the Department  (A) In respect of employees appointed by the Head of the Department -	All excluding (i)	Secretary of the concerned Department.

			(i) Head of the Department	All excluding (i)	Secretary of the concerned Department.
			(ii) Head of the office	(ii) to (v)	Head of the Department.
			(B) In respect of the employees appointed by the Head of Office – Head of the office.	All excluding (i)	Head of the Department.
4.	State Civil Posts Class-IV. (Group-D)	(a) For employees serving in any Department of the Secretariat – Secretary of the Department	(i) An officer of the rank of Under-Secretary or above in-charge of the establishment.	(i) to (v)	Secretary of the Department.
			(ii) Secretary of the Department	All	Government
		(b) For employees serving in the office of any Head of the Department – Head of the Department.	(i) Establishment officer or any other officer nominated by Head of the Department.	(i) to (v)	Head of the Department.
			(ii) Head of the Department.	All	Government
		(c) For employees attached to respective Departments of a Medical college – Superintendent of the College.	(i) Professor and Head of the Department.  (ii) Superintendent of the College.	(i) to (v)  All	Superintendent of the Medical College.  Director of Medical Education and Training.
		(d) For employees serving in any other office – Head of the office.	Head of the office	All	Head of the Department.



**SAMPLE MODELS:****Charge Sheet on Disciplinary Proceedings:**

**Government of Odisha**  
**Revenue & DM Department**

\*\*\*\*

**MEMORANDUM**

No \_\_\_\_\_

Date \_\_\_\_\_

Shri 'X', OAS, Ex- Tahasildar, BBSR is hereby informed that it is proposed to hold an inquiry against him under Rule 15 of the Orissa Civil Service (Classification, Control and Appeal) Rules, 1962. The substance of the imputation of misconduct in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (**Annexure-I**). A statement of the imputation of misconduct to support the article of charges is enclosed (**Annexure-II**). A list of documents by which, and a list of witnesses by whom, the article of charges are proposed to be sustained is also enclosed (**Annexure-III**).

2. Shri 'X' is directed to submit his written statement of defence within 30 days from the date of receipt of the memorandum and also to state if he desires to be heard in person.
3. He may peruse the relevant documents in the office of the Tahasildar, Bhubaneswar as well as in Revenue & DM Department and take relevant extracts thereof to submit his written statement of defence with permission from the competent authority.
4. If he fails to submit his written statement of defence within the stipulated period of 30 days from the date of receipt of the memorandum, it will be presumed that he has no explanation to offer and action will be taken as deemed proper *ex parte*.
5. The receipt of the memorandum should be acknowledged by him.

By order of the Governor

Secretary to Government

OR

Designation of the Disciplinary Authority.

**Annexure-I**

Shri 'X', OAS, Ex- Tahasildar, BBSR has committed following irregularities.

Thus, the following article of charges are framed against him for violation of rules of the Odisha Govt. Servants' Conduct Rules, 1959.

**Article - I (Disobedience of Govt. order)**

*Shri 'X', while working as Tahasildar, Bhubaneswar was transferred and posted as Tahasildar, Malkangiri by Govt. of Odisha. But, he defied the Govt. order and did not join his new place of posting after his relieve from the old post. Instead, he went on leave on health issue and extended his leave from time to time to avoid transfer and tried to modify the transfer order through representation to Govt. by his wife. He was directed to appear before the Medical Board which he did not attend. His leave was refused and he was asked to join his new place of posting immediately. He did not pay heed to such order. Such act of Shri 'X' is highly unbecoming on the part of a responsible Govt. servant like him and against the public interest. As such, he had violated the rules of The Odisha Government Servants' Conduct Rules, 1959 and the Odisha Service Code.*

**Article -II** (Un-authorized absence from duty)

*Shri 'X' after his relieve from the post did not join his new assignment, but went on leave on medical ground. After expiry of leave, he did not return to duty and remained absent from duty unauthorized. Such lapses of Shri 'X' amount to gross mis-conduct on his part which attracts disciplinary action against him as per the provisions of the OCS (CC&A) Rules, 1962.*

**Article-III** (Negligence in duty and Gross Financial Irregularity and Misappropriation of Govt. money)

*Shri 'X' while working as Tahasildar, Bhubaneswar from 11.07.2019 to 22.05.2022, he was the Head of Office and also acting as Drawing and Disbursing Officer in respect of Tahasil Office, Bhubaneswar. On verification of accounts and cash book of the office, it has been revealed that there were so many erasing, corrections and over writing without attestation and the same was not made up to date by the cashier in many occasions and also not checked regularly by him. Besides, heavy cash balances were retained in the office in contravention of the provisions laid down in S.R. as follows;*

16.9.2019	- Rs. 10, 63,988/-
06.3. 2020	- Rs. 2, 48,819/-
31.07.2021	- Rs. 13, 86,590/-

*There was also a shortage of Rs. 90,000/ in the iron chest as against the Cash Book on 22.05.2022. Such conduct on his part is highly unbecoming of a Govt. employees, irregular and clear disregard to Treasury and Financial Rules and hence liable for disciplinary action under the OCS (CC&A) Rules, 1962.*

**Annexure-II**

**Statement of imputation of misconduct**

*Statement of imputation of misconduct in support of the articles of charge framed against Shri 'X', OAS, Ex- Tahasildar, BBSR*

**Article - I** (Disobedience of Govt. order)

*Shri 'X', OAS, Ex- Tahasildar, BBSR while working as Tahasildar, Bhubaneswar was transferred and posted as Tahasildar, Malkangiri by Govt. of Odisha vide Revenue & D. M Deptt. Notification No. \_\_\_\_\_ dated 20.05.2022, copy of which was communicated to him on 21.05.2022. Then he was*

relieved from the post of Tahasildar, Bhubaneswar on 22.05.2022(AN) vide Tahasil O.O No. \_\_\_\_\_ dated 22.05.2022. Soon after his relieve, instead of joining in his new assignment, he applied for a leave of 30 days from 23.05.2022 to 21.06.2022 on 23.05.2022 to the Secretary of Rev. & D.M. Deptt on the ground of health with a Medical Certificate from the Medical Officer of Capital Hospital, Bhubaneswar showing that he was suffering from diabetes, high blood pressure and cardiac diseases and undergoing treatment. Further, he was medically advised therein to take rest for one month In the meanwhile, his wife made a representation to the Secretary of Rev. & D.M. Deptt on 01.06.2022 to modify the transfer of his husband on health ground. Again, he submitted another leave application extending his leave for a further period of 30 days on 21.06.2022. As a suspicion arisen that he was avoiding to join in his new assignment with a plea of health problem, he was directed vide Revenue & D.M Deptt. letter dated 25.06.2022 to appear before the CDMO, Khordha on 02.07.2022 for medical examination/treatment by the Medical Board and the likely period needed for his treatment was to be intimated to the Deptt. But, he failed to appear for the medical test, as directed. Again, he was instructed for the second time through a communication issued on 20.07. 2022 in the same line. But since Shri 'X' did not heed those communications and his whereabouts were not intimated even after months of leave expiry, he was sternly directed on 25.08.2022 to have his medical examination done by the CDMO, Khordha within 7 days of receipt of the letter, to establish the genuineness of his sickness plea or else, he would face departmental action for unauthorized leave overstay. On the other hand, the CDMO, Khordha, in his letter dated 28.08.2022, had directed Shri 'X' to appear before the medical Board at 10.00AM on 02.09.2022 for medical examination. The Chief District Medical Officer, Khordha in his letter dated 03.09.2022 informed the Secretary of Rev. & D.M. Deptt about non-compliance of the said directions by Shri 'X'. Such act of Shri 'X' is highly unbecoming on the part of a responsible Govt. servant like him and against the public interest. As such, he had violated the rules of The Odisha Government Servants' Conduct Rules, 1959 and the Odisha Service Code for which disciplinary action is liable to be taken against him as per the OCS (CC&A) Rules, 1962.

**Article -II** (Un-authorized absence from duty)

Shri 'X', OAS, Ex- Tahasildar, BBSR, after his relieve from the post of Tahasildar on 22.05.2022(AN) vide Tahasil O.O No. \_\_\_\_\_ dated 22.05.2022, did not join his new assignment, but went on leave on medical ground. He had submitted 2 nos. of leave applications dated 23.05.2022 and 21.06.2022 for availing leave from 23.05.2000 to 21.06.2000 and from 22.06.06.2022 to 21.07.2022 respectively. After expiry of leave, neither he joined his new assignment nor applied for extension of his leave. Rather, he remained absent unauthorized. After his non-appearance before the Medical Board and non-compliance of Govt. orders, he was directed vide Rev. & D. M Deptt. letter dated 15.10.2022 to join as Tahasildar Malkangiri within 7 days failing which disciplinary action as deemed proper would be taken against him. Despite repeated direction, he did not return to duty and disobeyed the Govt. orders. Now, his whereabouts are not known. Such lapses on the part of Shri 'X' is treated as willful absence from duty and amount to gross mis-conduct as per Rule-144 of Odisha Service Code which attracts disciplinary action against him as per the provisions of the OCS (CC&A) Rules, 1962.

**Article-III** (Negligence in duty and Gross Financial Irregularity and Misappropriation of Govt. money)

During his incumbency as Tahasildar, Bhubaneswar from 11.07.2019 to 22.05.2022, Shri 'X', OAS, Ex- Tahasildar, BBSR was the Head of Office and also acted as Drawing and Disbursing Officer in respect of Tahasil Office, Bhubaneswar. On verification of accounts and Cash Book of the office, it was revealed that moneys received in the Tahasil Office towards Govt. dues were not brought into Govt. account within the prescribed time and heavy cash balances were retained in Tahasil Office in consistence with the provisions laid down in Rule-3 and 4 of OGFR- Vol.-I and Odisha Treasury Rule - 6(1) of Odisha Treasury Code. as follows;

16.9.2019	- Rs. 10, 63,988/-
06.3. 2020	- Rs. 2, 48,819/-
31.07.2021	- Rs. 13, 86,590/-

There was also a shortage of funds to the tune of Rs. 90,000/ in the iron chest as against the cash book on the date of his relieve on 22.05.2022. Moreover, there were so many erasing, corrections and over writing without attestation and the same was not made up to date in many occasions and also not attested regularly by Shri 'X' as a token of check. Such laxity on his part violates Subsidiary Rule-37 to Odisha treasury Rules and it amounts to gross negligence in duty. He showed utter disregard of Treasury and Financial Rules and had allegedly committed gross financial impropriety, irregularity, abuse of public office held by him without any public interest at the cost of Government exchequer. This act of his amount to temporary misappropriation of Government money and is highly unbecoming of Govt. employees and amounts to deliberate attempt to defalcate the amount from Govt. exchequer and hence liable for disciplinary actions under the OCS (CC&A) Rules, 1962.

**Annexure-III****List of documents by which article of charges are proposed to be sustained.**

- (i) Revenue & D. M Deptt. Notification dated 20.05.2022
- (ii) Tahasil Office, BBSR O.O dated 22.05.2022
- (iii) Leave application of Shri 'X' dated 23.05.2022
- (iv) Leave application of Shri 'X' dated 21.06.2022
- (v) Revenue & D.M Deptt. letter dated 25.06.2022
- (vi) Revenue & D.M Deptt. letter dated 20.07.2022
- (vii) Revenue & D.M Deptt. letter dated 25.08.2022
- (viii) CDMO, Khordha, letter dated 28.08.2022
- (ix) CDMO, Khordha, letter dated 03.09.2022
- (x) Revenue & D.M Deptt. letter dated 15.10.2022

(xi) Cash Book of Tahasil Office, BBSR from 11.07.2022 to 22.05.2022

**List of witnesses by whom article of charges are proposed to be sustained.**

- 1) Mr. 'X', Under Secretary, Revenue & D. M Deptt.
- 2) Mr. 'Y' Tahasildar, BBSR
- 3) Mr. 'Z' Cashier, O/o the Tahasildar, BBSR

**Formats of Suspension Order and Memorandum:**

**FORM No. I (Disciplinary Proceeding)**

**Government of Odisha**

\_\_\_\_\_ **Department**

\*\*\*\*\*

No \_\_\_\_\_, Dated \_\_\_\_\_.

**Office Order**

*WHEREAS a disciplinary proceeding against Shri ..... (Name and designation of the Government servant) is contemplated/pending. NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (a) of sub-rule (1) of Rule 12 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, hereby places the said Shri ..... under suspension with immediate effect.*

*It is further ordered that during the period that this order shall remain in force, the Headquarters of Shri..... (name and designation of the Government servant shall be ..... (name of the place) and the said Shri ..... shall not leave the Headquarters without obtaining the previous permission of the undersigned/Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.*

*By order of the Governor*

*Secretary to Government*

**OR**

*Name and designation of*

*The Suspending Authority*

**FORM No. II (Criminal Offence)**

**Government of Odisha**

\_\_\_\_\_ **Department**

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No \_\_\_\_\_, Dated \_\_\_\_\_.

**Office Order**

*WHEREAS a case against Shri ..... (name and designation of the Government servant) in respect of any criminal offence is under investigation/inquiry/trial;*

*NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (b) of sub-rule (1) or Rule 12 of the Orissa Civil Service (Classification, Control and Appeal) Rules, 1962, hereby places the said Shri ..... under suspension with immediate effect.*

*It is further order that during the period that this order shall remain in force the Headquarters of Shri..... (name and designation of the Government servant) shall be ..... (name of the place) and the said Shri ..... shall not leave the headquarters without obtaining the previous permission of the undersigned/ Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.*

*By order of the Governor  
Secretary to Government*

*OR*

*Name and designation of  
the Suspending Authority.*

**FORM No. III (Deemed Suspension)**

**Government of Odisha**

\_\_\_\_\_ **Department**

\*\*\*\*\*

No \_\_\_\_\_, Dated \_\_\_\_\_.

**Office Order**

*WHEREAS a case against Shri ..... (name and designation of the Government servant) in respect of a criminal offence is under investigation, and WHEREAS the said Shri ..... was detained in custody on ..... for a period exceeding forty-eight hours.*

*NOW, THEREFORE, the said Shri ..... is deemed to have been suspended with effect from the date of detention, i.e. the ..... in terms of sub-rule (2) of Rule 12 of the Orissa Civil Services (Classification, control and Appeal) Rules, 1962 and shall remain under suspension until further orders.*

*Designation of the  
Suspending Authority*

**Government of Odisha**\_\_\_\_\_ **Department**

\*\*\*\*

**MEMORANDUM**

No \_\_\_\_\_

Date \_\_\_\_\_

*Shri \_\_\_\_\_ is hereby informed that it is proposed to hold an inquiry against him under Rule 15 of the Orissa Civil Service (Classification, Control and Appeal) Rules, 1962. The substance of the imputation of misconduct in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of the imputation of misconduct to support the article of charges is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the article of charges are proposed to be sustained is also enclosed (Annexure-III).*

2. *Shri \_\_\_\_\_ is directed to submit his written statement of defence within 30 days from the date of receipt of this memorandum and also to state if he desires to be heard in person.*
3. *He may perused the relevant documents in the office of the \_\_\_\_\_ and take relevant extracts thereof to submit his written statement of defence with permission from the competent authority.*
4. *If he fails to submit his written statement of defence within the stipulated period of 30 days from the date of receipt of the memorandum, it will be presumed that he has no explanation to offer and action will be taken as deemed proper ex parte.*
5. *The receipt of the memorandum should be acknowledged by him.*

*By order of the Governor  
Secretary to Government*

**OR**

*Designation of  
the Disciplinary Authority.*

**Annexure-I**

*Shri \_\_\_\_\_ has committed following irregularities.*

*(\_\_\_\_\_ Definite and distinct article of charges drawn from substance of imputation of misconduct or misbehavior\_\_\_\_\_)*

*Thus, the following article of charges are framed against him for violation of Rule \_\_\_\_\_ of the Odisha Govt. Servants' Conduct Rules, 1959.*

- I.
- II.
- III.

**Annexure-II****Statement of imputation of misconduct**

*Statement of imputation of misconduct in support of the articles of charge framed against Shri\_\_\_\_\_ (\_\_\_\_\_Name and designation of the Govt. servant—)*

*Article I*

*Article II*

*Article III*

*(Statement of all relevant facts in support of each article of charge are to be written above)*

**FORMAT FOR APPOINTMENT OF INQUIRING OFFICER:**

**Government of Odisha**

\_\_\_\_\_ **Department**

\*\*\*\*

No \_\_\_\_\_, Dated \_\_\_\_\_.

**ORDER**

*Whereas an inquiry under rule 15 of the OCS (CCA) Rules 1962, is being held against Sri\_\_\_\_\_ (name and designation of the Government servant).*

*And whereas the Governor/the undersigned consider that an Inquiry Officer should be appointed to enquire into the charges framed against the said Sri\_\_\_\_\_.*

*Now, therefore, the Governor/ the undersigned, in exercise of the powers conferred by sub rule 4 of Rule 15 of the OCS (CCA) Rules, 1962 do hereby appoint Sri \_\_\_\_\_ (name and designation) as the Inquiry Officer to enquire into the charges framed against the said Sri\_\_\_\_\_.*

*By order and in the name of the Governor*

*Signature &*

*Designation of*

*the competent authority*

**FREQUENTLY ASKED QUESTIONS:**

**Q: When can a Government be suspended?**

**Ans:** As per rule 12, a government servant may be placed under suspension under the following three situations:



- (i) Where a disciplinary proceeding is contemplated or is pending; or
- (ii) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial;
- (iii) When a Government servant is detained in police custody for a period exceeding forty-eight hours.

**Q: Can an authority lower or other than appointing authority suspend a Government servant?**

**Ans:** Yes. When an authority, lower or other than the appointing authority places a Government servant under suspension, the circumstances leading to suspension must be communicated to the appointing authority forthwith. *For example:* For the post of ASO of Odisha Secretariat Service the Secretary, Home Department is the appointing authority. However, Secretary of the Department where the ASO works is the disciplinary authority for imposition of the minor penalty. If the Secretary of the concerned Department places an ASO under suspension, then the circumstances leading to suspension must be communicated to the appointing authority *i.e* Secretary, Home Department.

**Q: Can a Government servant be guaranteed right to life and liberty?**

**Ans:** Yes. As every citizen has been guaranteed right to life and liberty under Part-III of the Constitution; the same protection is guaranteed to the a Government servant which provides that no person holding a civil post shall be dismissed, removed, compulsorily retired or reduced in rank, unless an inquiry is held and the person concerned is given a reasonable opportunity of being heard in respect of the charges leveled against him.

**Q: Who can modify or revoke the order of suspension and when?**

**Ans:** As per provisions under Rule 12(5) an order of suspension made or deemed to have been made may at any time be modified or revoked by the competent authority.

**Q: Can an officer under suspension write/ review CR of his sub-ordinate?**

**Ans:** An officer under suspension can write/review CRs of his subordinate within two months from the date of his suspension or within one month from the date on which the report was due. But no officer under suspension can write/review ACRs of his subordinates if during major part of writing/ review he is under suspension.

**Q: What will happen if an officer placed under suspension retires attaining the age of superannuation?**

**Ans:** On attaining the age of superannuation, a Government servant will be retired even if he is placed under suspension. He will not get subsistence allowance but will draw provisional pension under Rule 7 of OCS (Pension) Rules 1992.

**Q: What is the difference between State Civil Service and State Civil Post?**

**Ans:** The State Civil Service denotes any particular service created by the State Government for general and specific execution of the policy formulated by the Government. Whereas State Civil Posts are different posts created in an establishment to handle day to day official works of the Government. The posts which are included in a cadre and recruitment rules are framed for them and called State Civil Services. The posts which are not included in any cadre and there are no recruitment rules are called State Civil Posts



## 23

### **RESERVATION IN SERVICE FOR THE ST, SC AND OTHER BACKWARD CLASSES**

- ◆ **CONSTITUTIONAL PROVISIONS**
- ◆ **POST BASED RESERVATION**
- ◆ **VERTICAL & HORIZONTAL RESERVATION**
- ◆ **CATCH UP RULE**
- ◆ **CASTE CERTIFICATE**
- ◆ **ORV ACT**
- ◆ **SALIENT FEATURES**
- ◆ **FILLING UP OF RESERVED VACANCIES**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## **RESERVATION IN SERVICE FOR THE ST, SC AND OTHER BACKWARD CLASSES**

Providing reservations to the Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) in services basically aims at empowering them and ensuring their participation in the decision making process of the State. Our Constitution has, therefore, taken special care to declare equality of opportunity in the matter of public employment. Keeping the concept of equality in view, clauses (4) and (4A) of Article 16 of the Constitution declare that *nothing in the said Article shall prevent the State from making any provision for reservation of appointments or posts in favour of backward class of citizens which in the opinion of the State is not adequately represented in the services under the State*. Similarly, Article 335 envisages that the claims of the member of the SCs and the STs shall be taken into consideration, consistently, with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State. Thus, Article 16 and Article 335 have direct bearing on reservation in services. However, reservation is enabling in nature as per provisions of the Constitution.

### **CONSTITUTIONAL PROVISIONS:**

- ◆ Articles 341 and 342 have empowered the President of India to notify castes and tribes as SCs and STs respectively in relation to State or Union Territory. However, any addition or deletion of castes or tribes from such notification can be done only by the Parliament and not by any subsequent notification.
- ◆ The Constitution does not define Other Backward Classes (OBC). However, in the year 1979, the then Prime Minister Shri Morarji Desai appointed the second Backward Classes Commission headed by B.P. Mandal under Article 340 of the Constitution to investigate the status of socially and educationally backward classes in India. The Commission adopted a multiple approach for preparation of comprehensive lists of OBCs.
- ◆ In pursuance of the judgment of Supreme Court in Indra Sawhney's case, the National Commission for Backward Classes (NCBC) Act was enacted in April, 1993. As per Section 2 of the NCBC Act, "Backward Classes" means such backward classes of citizens, other than the SCs and STs, as may be specified by the Central Government in the lists. The judgment also includes following important points.
  - (i) Total reservation shall not exceed 50 percent, moreover, reservation in promotions shall not be allowed.
  - (ii) The concept of a creamy layer was laid down and it was directed that such a creamy layer be excluded while identifying backward classes. The creamy layer concept, however, has not been applicable to SC, ST members till date.

- ◆ The Government of India in the Ministry of Social Justice and Empowerment has notified the lists of castes / communities which are treated as OBCs. In Odisha, the Other Backward Classes have been categorized as Socially and Economically Backward Classes. (SEBC)
- ◆ The Constitution (Scheduled Castes) Order 1950 states that no person professing a religion different from Hindu or Sikh or Buddhist can be deemed to be member of Scheduled Castes. But, there is no religious bar for being treated as Scheduled Tribes or Socially and Economically Backward Classes.

#### QUANTUM OF RESERVATION:

- ◆ In all India open competition, there is a reservation of 15 per cent for the members of the SCs, 7.5 per cent for the members of the STs and 27 per cent for the members of the OBCs.
- ◆ Except in Delhi, the quantum of reservation for the SCs and STs, in case of direct recruitment to Group C and Group D posts in different States/ UTs has been fixed on the basis of proportion of their population in the respective States/UTs. Reservation for OBCs is to be fixed keeping in view the proportion of their population in the respective States/UTs subject to a maximum limit of 27% and total reservation for SCs, STs and OBCs should not exceed 50% .
- ◆ In Odisha, the quantum of reservation for SCs, STs and SEBCs has been fixed as 16.25 per cent, 22.50 per cent and 11.25 per cent respectively. The above percentage of reservation has been determined on the basis of 1991 census report. However, the percentage of reservation may be revised by the State Government from time to time basing on the percentage of such category of the total population of the State. However, in no case, such percentage of reservation shall be less than percentage of SCs and STs of the total population of the State.

[ST & SC Dev, Min. & B.C. Wel. Dept. SRO No 244/1994, dated 15.03.1994]

#### POST BASED RESERVATION:

- ◆ The entire concept of reservation has all along been “vacancy” based. Therefore, reservation till 01.07.1997 in respect of Central Government was computed on the basis of number of vacancies filled.
- ◆ The Constitution Bench of the Supreme Court in the case of R.K. Sabharwal Vs. State of Punjab as well as J.C. Mallick Vs Ministry of Railways has held in its judgment dated 10.02.1995 that the reservation of jobs for the SC/ST/OBC should **apply to posts not to vacancies**. Accordingly, in a paradigm shift, the concept of reservation was modified from VACANCY BASED to POST BASED with effect from 02.07.1997 in respect of Central Government. The Government of Odisha, however, adopted the concept with effect from **15.03.2007**.
- ◆ The basic principle of post-based reservation is that the number of posts filled by reservation by any category in a cadre should be equal to the quota prescribed for that category. Prior to introduction of post-based reservation, there was a provision of exchange of reservation between SCs and STs. After implementation of the post-based reservation such exchange is no more permissible. In other words, **section 6 of the ORV Act is defunct** under post based reservation.

**VERTICAL & HORIZONTAL RESERVATION:**

- ◆ Reservation for SC, ST and OBC/SEBC is referred to as vertical reservation. It applies separately for each of the groups specified under the law. Article 16(4) of the Constitution contemplates vertical reservation. While, horizontal reservation refers to the equal opportunity provided to other categories of beneficiaries such as women, sports persons, transgender community, and individuals with disabilities, cutting through the vertical categories. Article 15 (3) of the Constitution contemplates horizontal reservation.
- ◆ The horizontal quota is applied separately to each vertical category, and not across the board. For example, women have 33% horizontal quota, then one third of the selected candidates will have to necessarily be women in each vertical quota category *i.e.*, one third of all selected SC candidates will have to be women; one third of the unreserved or general category will have to be women, and so on. If eligible women of any category are not available, such vacancies will be filled by eligible male candidates of the said category.

**Reservation in Direct Recruitment**

- ◆ If direct recruitment is to be made by OPSC/SSC/SSSC for filling up the reserved as well as unreserved posts on any occasion, a single advertisement can be issued clearly specifying the vacancies reserved for SCs/STs/SEBCs. In case only reserved posts are to be filled up, applications from SCs/STs/SEBCs candidates are to be invited. It is otherwise known as **special drive**.
- ◆ If the reserved vacancies remain unfilled for want of suitable reserved category candidates, these should not be filled up by general candidates but should be re-advertised in the same recruitment year or as early as possible before the next recruitment year.
- ◆ If required number of candidates of particular reserved category is not available those vacancies will remain unfilled till the next recruitment year and such vacancies will be carried forward to the next recruitment year as **backlog vacancies**.
- ◆ In the subsequent recruitment year, the backlog/carry forward vacancies of SC/ST will be treated as separate and distinct group from the current year's reserved vacancies for the purpose of 50% rule.
- ◆ The vertical reservation is post based while the horizontal reservation is vacancy based or a running roster.

**CATCH UP RULE:**

- ◆ Reservation in promotion pertains to reservations granted to SCs and STs in public employment. In 1992, the Supreme Court, in *Indra Sawhney* judgment restricted reservation in promotion. Therefore, the Parliament enacted a series of constitutional amendments that legalized reservation in promotion.
- ◆ In 1995, the 77<sup>th</sup> amendment provided reservation in promotion to SCs and STs which became operative from 17.06.1995.
- ◆ The constitutional recognition of reservation in promotion led to a situation where reserved category candidates became senior over general category counterparts.

- ◆ Therefore, the anomaly was addressed by two judgments of Supreme Court in the case of *Virpal Singh Chauhan* (1995) and *Ajit Singh Januja* (1996), which introduced the concept of a **Catch-up Rule**.
- ◆ This Catch up rule held that the senior general candidates who were promoted after SC/ST candidates, would regain their seniority over such reserved candidates, promoted earlier on the basis of 1<sup>st</sup> merit list.
- ◆ In 2000, the Parliament introduced two amendments. The 81<sup>st</sup> amendment allowed to carry forward unfilled vacancies from previous years. This came to be known as the **carry forward rule**.
- ◆ The 82<sup>nd</sup> amendment provided relaxing the qualifying marks or lowering the standard of evaluation for reservation in matters of promotion to SCs/ STs.
- ◆ In 2001, the Parliament negated the Supreme Court's verdict in the matter of Catch-up Rule and introduced the principle of consequential seniority or accelerated seniority to SC/ST candidates in promotion in 85<sup>th</sup> amendment. This amendment also restored the benefit of consequential seniority with retrospective effect *i.e.*, from 17.06.1995.
- ◆ Further, the Supreme Court in *R. K. Sabharwal* case held that the reservation should be determined on the basis of number of posts in the cadre and not on the basis of vacancies. Accordingly, post based reservation was introduced w.e.f. 02.07.1997 by the Central Government and with effect from 15.03.2007 by the Odisha Government.
- ◆ The basic principle of post based reservation is that the number of posts filled by reservation for any category in a cadre should be equal to the quota prescribed for that category. Prior to introduction of post based reservation, there was a provision of exchange of reserved posts between SCs and STs. After implementation of the post based reservation such exchange is no more permissible.
- ◆ The 77<sup>th</sup>, 81<sup>st</sup>, 82<sup>nd</sup> and 85<sup>th</sup> amendments were challenged before the Supreme Court in *M. Nagraj* case, where the Apex Court upheld the amendments as constitutionally valid and simultaneously introduced certain controlling conditions. The Court held that for reservation in promotion to be valid, the State has to meet three compelling requirements:
  - (i) Demonstrate the backwardness of the SCs/STs;
  - (ii) Prove that the SCs/STs are inadequately represented in relevant public employment;
  - (iii) Maintain the overall efficiency of administration;

#### **CASTE CERTIFICATE:**

- ◆ For the purpose of availing the benefit under the reservation, a certificate in the prescribed form issued by a competent authority is essential. The certificate should include :
  - (i) Name of the person;
  - (ii) Father's name;
  - (iii) Permanent place of residence;

- (iv) Caste/Tribe (Community in case of OBC);
- (v) Constitutional order under which the caste/tribe has been notified as such.

**ORV ACT:**

- ◆ In order to provide reservation in civil posts and civil services pertaining to the State of Odisha, the Government have enacted “The Odisha Reservation of Vacancies in Posts and Services (for SC & STs) Act, 1975” popularly known as ORV Act which is a purely vacancy based reservation principle.
- ◆ Besides, the Government of Odisha in ST & SC Development, Minorities & Backward Classes Welfare Department in their letter No 11124, dated 15.03.2007 have intimated all offices in Odisha to adopt reservation policy as per judgment delivered on 19.10.2006 by the Supreme Court in the case of M. Nagraj which is a purely post based reservation principle.

**SALIENT FEATURES:**

- ◆ The salient features of the Act and the Rules made there under are reproduced below for better appreciation.

**Applicability:**

- ◆ The provisions of the ORV Act is applicable to all appointments to the posts and services within the entire State except the following cases:-
  - (i) Class-I posts which are above the lowest rung thereof and meant for conducting or guiding or directing Scientific and Technical research;
  - (ii) Tenure posts/ ex cadre posts/ posts filled on contract basis;
  - (iii) Work charged posts or temporary appointments for less than 45 days;
  - (iv) Appointments under **rehabilitation assistance scheme**. [Section 3]
- ◆ The vacancies reserved for the SCs and the STs shall not be filled up by the candidates not belonging to SC and ST category. [Section 4]

**Model Roster:**

- ◆ After introduction of post based reservation, 80 point vacancy based model roster prescribed under Rule 3 has been redundant. Therefore, percentage based roster is to be followed where number of roster points is equal to the cadre strength. It is not a running roster like 80 point vacancy based rather it is a revolving roster.

**Example:**

Let us consider a cadre of posts having strength is 36 where all the posts are to be filled by direct recruitment. Thus, there are 36 points in the roster. Out of which 1 to 18 (*i.e.*, 50% posts) are meant for UR meritorious candidates; while 19 to 36 points meant for reserved (SCs, STs & SEBCs) candidates are to be filled up on the basis of merit. Thus 1<sup>st</sup> 18 points are meant for reservation for UR, while between 19- 36, 8 points, 6 points and 4 points respectively shall be reserved for STs, SCs and 4 points meant for SEBCs.

**Maintenance of Roster**

Important points relating to maintenance of roster are indicated below.

- ◆ Registers shall be maintained in the forms prescribed in Appendix-I of ORV Rules and the appointing authority shall indicate vacancies as reserved and unreserved as prescribed in **Rule 3**.
- ◆ The number of points in each roster should be equal to the number of posts in a cadre. However, for horizontal reservation, the roster will be maintained in the form of running account year by year.
- ◆ Separate registers shall be maintained for initial recruitment/ promotion as well as for each type of recruitment/ each grade or service or a group of posts.
- ◆ Immediately after an appointment, the particulars of the persons appointed shall be entered in the register accordingly.

### **FILLING UP OF RESERVED VACANCIES:**

#### **Direct Recruitment:**

- ◆ In case of direct recruitment, a single advertisement should be issued specifying clearly therein the unreserved vacancies as well as vacancies reserved for SCs/ STs/ SEBCs.
- ◆ If required number of SCs/STs/SEBCs candidates are not available to fill up the vacancies reserved for them in direct recruitment, the vacancies cannot be filled by candidates not belonging to these communities.
- ◆ The vacancies which could not be filled up due to non availability of required number of SCs/STs/ SEBCs candidates shall remain unfilled until the next recruitment year. These vacancies will be treated as **backlog vacancies**.
- ◆ In the subsequent recruitment year, the current vacancies meant for same recruitment year as well as backlog vacancies of SCs/ STs/SEBCs pertaining to previous year(s) shall be notified. While doing so, the current vacancies will be treated as one group and backlog vacancies of SCs/ STs/SEBCs as a separate distinct group. **Remember** not more than 50% of the current vacancies shall be reserved in the first group, while the backlog vacancies will be filled up by the candidates belonging reserved category concerned without any restriction.

#### **Reservation in Promotion:**

- ◆ Reservation in promotion is applicable only if the element of direct recruitment does not exceed 66.6 per cent. The following procedure will be followed for filling up of reserved posts.

#### **(a) Promotion by Selection**

- ◆ The procedure to be followed in case of promotion by selection from group 'C' to group 'B' within group 'B' and from group 'B' to the lowest rung of Group 'A' is given below:
  - (i) In case of promotion by selection, selection against vacancies reserved for SCs and STs should be made only from among those SC/ST candidates who are within the normal zone of consideration. If adequate number of SC/ST candidates are not available within the normal zone of consideration, it may be extended to 5 times the number of vacancies.
  - (ii) If the number of SC/ST candidates found fit for promotion against reserved vacancies is less than



the number of vacancies reserved for them, the difference should be made up by selecting candidates of these communities who are in the extended zone of consideration irrespective of merit but who are considered fit for promotion.

- (iii) A select list should then be prepared containing all general as well as reserved SC/ ST categories arranged in the order of merit and seniority according to the general principles for promotion. However, the SC/ST candidates who are in the extended field and get selected should en-block be placed in the end of the select list by maintaining their *inter se* position in accordance with their gradation by the DPC.

**(b) Promotion by Non-Selection (Seniority cum fitness)**

- ◆ While referring the proposal to DPC for promotion by non-selection, the following procedure should be followed.
  - (i) In such case number of vacancies for SCs/ STs should be assessed as accurately as possible. The short-term vacancies should not be taken into account; nor should any addition be made to cover unforeseen vacancies.
  - (ii) Clear vacancies arising due to death, retirement, resignation and long-term promotion of incumbents from one post/grade to a higher post/ grade should be taken into account;
  - (iii) If sufficient number of SC/ST candidates fit for promotion against reserved vacancies is not available, such vacancies may be de-reserved and filled by candidates of other communities as per provisions contained under section 7 of the ORV Act read with rule 5 of the ORV Rules.
  - (iv) If de-reservation is not feasible for reasons like non-availability of candidates of other categories to fill up the posts etc., the vacancies shall not be filled and will remain unfilled and will be treated as “backlog vacancies”.
  - (v) Three separate select lists have to be drawn up for SC/ST and for the other community and the senior most in these three separate lists are to be considered subject to fitness;
  - (vi) Thereafter, all the three lists are to be merged to form a combined select list without disturbing their inter-se seniority in the main list.

**(c) Promotion by Selection in Group ‘C’ and ‘D’**

- ◆ Separate select list for SCs/STs should be drawn up to fill up the reserved vacancies. SCs/STs included in the general select list shall also be included in the separate select lists.
- ◆ If required number of SCs/STs are not available against reserved vacancies from the general select list then the difference should be made up by selecting officers of these communities from the separate select lists of SCs and STs.
- ◆ If further, there is a shortfall so far as SCs/STs are concerned then the reserved vacancies shall be de-reserved and be filled by other community candidates and the reservation shall be carried forward.

**De-reservation of Vacancies:**

- ♦ Section 7 of ORV Act and Rule 5(2) of ORV Rules have provisions for de-reservation of reserved vacancies. De-reservation is permissible with prescribed procedure subject to condition that;
  - (i) The appointing authority before initiating process of de-reservation must be satisfied to the extent that adequate number of SC/ST candidates are not available for reserved vacancies required to be filled up either through recruiting agency or employment exchange as the case may be;
  - (ii) It is absolute necessary in the public interest;
  - (iii) The appointing authority shall obtain orders of next higher authority;
  - (iv) Vacancies so de-reserved shall be carried forward to subsequent 3 years of recruitment. **Remember**, in the years following the recruitment year, the normal reserved vacancies together with the vacancies carried forward shall not exceed 50% of the total number of vacancies of the year. If it happens, the excess over 50% of the reserved vacancies shall be carried forward to subsequent years of recruitment.
  - (v) Concurrence of ST & SC Development, Minorities & Backward Classes Welfare Department is not necessary. [ST & SC Dev Dept. L. No 26239, dt 25.07.2002]
- ♦ Provision of de-reservation is not applicable for vacancies reserved in respect of Group C and Group D posts. In case of non availability of such candidates fresh recruitment shall be made.

**FREQUENTLY ASKED QUESTIONS**

**Q** : Who is an own merit candidate?

**Ans** : A candidate belonging to SC/ST/SEBC who is selected on same standard as applicable to general category candidate and appears in the general merit list is treated as own merit candidate. Such candidate is adjusted against unreserved point of the post based roster.

**Q** : What is the difference between post-based reservation and vacancy based reservation?

**Ans** : Reservation to SC/ST/SEBC, in Odisha, prior to 15.03.2007 was implemented through vacancy-based rosters in which reserved vacancy was calculated on the basis of total number of vacancies to be filled. While Supreme Court in the case of R.K.Sabharwal held that reservation in a cadre should be calculated on the basis of total number of posts in the cadre and not the vacancies. For example, if reservation for ST is 22% and the cadre strength in the grade is 100, then 22 posts will be reserved for STs at any point of time.

**Q** : Whether the ceiling limit of 50% reservation would apply to backlog vacancies meant for SCs/STs/SEBCs?

**Ans** : No.

**Q** : Whether the reservation for persons with benchmark disabilities is vacancy based or post based?

**Ans** : Reservation for persons with benchmark disabilities comes under horizontal reservation hence it is vacancy based as per Section 34 of the Rights of Persons with Disabilities Act, 2016.

**Q** : Whether a benchmark Disability candidate can compete for appointment against unreserved vacancies?

**Ans** : Yes, benchmark disability candidates can compete for appointment by direct recruitment against an unreserved vacancy if selected without relaxed standards along with other candidates for those posts/ services which are identified suitable for them.

**Q** : What are backlog vacancies?

**Ans** : Backlog vacancies are reserved vacancies unfilled due to non availability of suitable candidates belonging to the respective category in the recruitment process only to be carried over to next recruitment year.

**Q** : What are the guidelines in case of migration of a reserved category person from one State to another State?

**Ans** : A reserved category can claim as a SC or ST only in relation to the State to which he originally belongs and **not** in respect to the State to which he has migrated.



## 24

### **TRAVELLING ALLOWANCE RULES**

- ◆ **APPLICABILITY**
- ◆ **DAY**
- ◆ **HEADQUARTERS**
- ◆ **FAMILY**
- ◆ **GRADATION OF EMPLOYEES**
- ◆ **ENTITLEMENT:**
- ◆ **PERMANENT TRAVELLING ALLOWANCE**
- ◆ **CONVEYANCE ALLOWANCE**
- ◆ **MILEAGE ALLOWANCE**
- ◆ **DAILY ALLOWANCE**
- ◆ **AIR TRAVEL**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## TRAVELLING ALLOWANCE RULES

Travelling Allowance is an allowance granted to an employee of the Government to cover the expenses incurred by him in travelling, boarding and lodging in the interest of public service. Travelling Allowance (TA) is classified under compensatory allowance. In order to govern the admissibility and sanction of such allowances in favour of Government servants, the Government of Odisha has already formulated a set of rules in the name of “The Odisha Travelling Allowance Rules” which is under implementation now since 01.08.1938. Separate TA Rules are there in operation for Hon’ble Ministers and Hon’ble members of the Odisha Legislative Assembly, the discussion of which is beyond the scope of this handbook. This chapter is confined to the discussion on salient features of “The Odisha Travelling Allowance Rules”.

### APPLICABILITY:

- All the employees of the Odisha Government shall be governed under provisions of these rules and circulars/ notifications issued by the Government in Finance Department from time to time.
- Members of All India Service serving under the State Government shall also be regulated under these rules.

### DAY:

- For the purpose of calculation of TA/DA under these rules, a day is defined as a calendar day beginning and ending at midnight. But an absence from the headquarters which does not exceed 24 hours shall be reckoned for all purposes as one day at whatever hour.

### HEADQUARTERS:

- For the purpose of calculation of TA/DA under these rules, the headquarters of a Government servant means the station where the records of his office are kept, or such other place as a competent authority may prescribe by an order.

### FAMILY:

As per these rules, family of a Government servant means

- (i) Wife or Husband provided that not more than one wife shall be included, and a female Government servant shall not charge TA for her husband unless he is wholly dependent on her;
- (ii) Sons and stepsons if they are legitimate and below 21 years of age;
- (iii) Daughters and stepdaughters if they are legitimate either unmarried or widowed;
- (iv) Parents, minor brothers and sisters. *(FD O.M No 33791, dated 01.08.1992)*

**GRADATION OF EMPLOYEES:**

For the purpose of sanction of TA and DA, all the State Government employees have been categorized in to following four types on the basis of their basic pay/ grade pay as per ORSP Rules 2008 vide Finance Department O.M. No 16638/F, Dated 02.04. 2011.

- 1<sup>st</sup> Grade:** Officers drawing grade pay of <sup>1</sup> 5400 and above and those in pay scale of HAG + and above;
- 2<sup>nd</sup> Grade:** Officers drawing grade pay of <sup>1</sup> 2800 and above but below <sup>1</sup> 5400;
- 3<sup>rd</sup> Grade:** Officers drawing grade pay of <sup>1</sup> 1650 and above but below <sup>1</sup> 2800;
- 4<sup>th</sup> Grade:** Officers drawing grade pay below <sup>1</sup> 1650.

**ENTITLEMENT:**

The entitlement of different category of Government servants for journey on tour by Air/ Train is given below.

<b>Grade Pay</b>	<b>Travel Entitlement</b>
Officers drawing grade pay of <sup>1</sup> 8700 and above and those in pay scale of HAG + and above	Economy Class by Air/ AC First Class by Train
Officers drawing grade pay of <sup>1</sup> 5400 and above but below <sup>1</sup> 8700	AC II Tier Class by Train
Officers drawing grade pay of <sup>1</sup> 2800 and above but below <sup>1</sup> 5400	First Class (Non AC)/ AC III Tier/ AC Chair Car by Train
Officers drawing grade pay below <sup>1</sup> 2800	Second Class Sleeper by Train

**Remember** the officers drawing grade pay of <sup>1</sup> 10000 and above and those in the pay scale of HAG+ and above, while on tour outside the country may travel in Business/ Club Class by air.

- **Reimbursement of Hotel Accommodation Charges:** The reimbursement of hotel accommodation charges in respect of different category of Government employees while on tour outside the State is given below.

<b>Grade</b>	<b>Reimbursement of Hotel Accommodation Charges</b>
<b>1<sup>st</sup> Grade</b> (i) Officers drawing grade pay of Rs 8800 and above and those in pay scale of HAG + and above	Up to Rs 4000 per day
(ii) Officers drawing grade pay of Rs 7600 and above but below Rs 8800	Up to Rs 3000 per day
(iii) Officers drawing grade pay of Rs 5400 and above but below Rs 7600	Up to Rs 1500 per day

<b>2<sup>nd</sup> Grade</b>	Officers drawing grade pay of Rs 2800 and above but below Rs 5400	Up to Rs 750 per day
<b>3<sup>rd</sup> Grade</b>	Officers drawing grade pay of Rs 1650 and above but below Rs 2800	Up to Rs 500 per day
<b>4<sup>th</sup> Grade</b>	Officers drawing grade pay below Rs 1650	Up to Rs 300 per day

**Remember:** The hotel accommodation charges shall not include rate of DA as admissible to different grades of officers. The reimbursement of cost of hotel accommodation shall not be entertained as a matter of course. The Controlling Officer shall satisfy himself about the *bona fides* of the claim with reference the voucher before allowing such reimbursement

- **Conveyance Hiring Charges outside the State:** The maximum limit of conveyance hiring charges at any place of halt outside the State in respect of 1<sup>st</sup> or 2<sup>nd</sup> Grade Government servant while on tour is Rs 400.
- **Transportation of Conveyance by Road on Transfer:** The rates of allowance for transportation of conveyance by road on transfer either under own propulsion or otherwise are indicated below.

<b>Conveyance Transported</b>	<b>Rate of Allowance</b>
Own Motor Car	Rs 7.00 per Kilometer
Own Motor Cycle( Scooter/ Scooty)	Rs 3.60 per Kilometer
Own Moped	Rs 1.80 per Kilometer
Own Bicycle	Rs 1.00 per Kilometer

**Mileage Allowance for Journeys by Road other than by own vehicle or public motor services:** The rates of mileage allowance for journeys by road other than by own vehicle or public motor services under rule 53 of OTA rules is revised to Rs 1.00 per kilometer in respect of all Government servants irrespective of grades.

- **Transportation of Personal Effects on Transfer:** The rate of allowance for transportation of every ten kilograms of personal effects per kilometer on transfer as provided under rule 85(b)(iii) of the OTA Rules shall be revised from two paise to three paise. (FD O.M No 16638, dated 02.04.2011)
- Members of AIS for their journey on transfer or deputation to Government of India or Inter Cadre deputation to other States and their reversion are eligible for TA as per TA Rules prescribed for All India Service Officers on central deputation to Government of India. (FD O.M No 29853, dated 20.06.2005)
- Officers of the State Government and PSUs are not entitled to travel by air in Executive Class. (FD O.M No 10954, dated 14.03.2001 and FD O.M No 20441, dated 25.04.2005)
- Contractual employees shall be entitled to TA/DA in requisite grade and scale as admissible to their regular counterparts on performance of official tour with approval of competent authority. They will

not be entitled for Transfer TA (TTA). However, they shall be entitled for Fixed TA (FTA) on performance of required number of days of official tour.

(FD O.M No 25485, dated 17.05.2008)

- **Types of TA:** Following are different types of Travelling Allowance.

- (i) Permanent Travelling Allowance (PTA);
- (ii) Conveyance Allowance;
- (iii) Mileage Allowance;
- (iv) Daily Allowance (DA);
- (v) Actual Travelling Allowance.

#### **PERMANENT TRAVELLING ALLOWANCE:**

Permanent Travelling Allowance (PTA) is a monthly allowance intended to cover the cost of all journeys performed within the sphere of duty of the Government servant.

- The Government servant receiving such allowance must certify the number of days he was on tour during the period. If he has not toured for the prescribed period of days, TA will be reduced proportionately for each day.
- The allowance shall not be drawn during leave or joining time.
- The rate of PTA in respect of different category of posts pertaining to different Departments are given under Rule 33 of OTA Rules which has further been revised vide FD O.M No 37283, dated 02.09.2006.
  - The maximum limit on Annual Travelling Allowance of Tahsildars and Additional Tahsildars has been fixed at Rs 4300/-. (FD O.M No 32591, dated 24.08.1989)
  - The maximum limit on Annual Travelling Allowance of Sub Collectors has been fixed at Rs 6000/-. (FD O.M No 5959, dated 08.03.1990)

#### **CONVEYANCE ALLOWANCE:**

Rule 34 of OTA Rules prescribes that a monthly conveyance allowance is granted in favour of a Government servant who is required to perform frequently at or within a short distance (*i.e.* 8 kms) from his headquarters for journeys for which daily allowance is not admissible.

- A list of Government servants along with rate of conveyance allowance allowed to them has been given at Appendix 6 of these rules.
- A Government servant in receipt of conveyance allowance shall not be entitled to any other travelling allowance for journeys up to 16 kilometers from the usual place of work at the headquarters.
- If the journey is performed otherwise than in his own conveyance, the travelling allowance *i.e.* DA or mileage allowance as admissible under these rules shall be drawn in full. (FD O.M No 27841, dated 11.08.1967)



- The rate of conveyance allowance for blind and physically handicapped Government employees has been revised to Rs 150/- per month with effect from 01.03.1999. *(FD O.M No 8145, dated 05.03.1999)*
- The Assistant Engineers (erstwhile Junior Engineers) of Works, H & UD and WR Departments are entitled to get Rs 125/- per month towards motor cycle allowance subject to condition that he shall at the beginning of each financial year shall submit that the motor cycle/ scooter is owned by him and is utilized for official purpose. *(FD O.M No 84, dated 02.01.1989)*
- The Assistant Sub Inspectors attached to Police Station or Outpost are entitled to Motorcycle Allowance of Rs 125/- per month. *(FD O.M No 10001, dated 09.03.1992)*
- The Assistant Fire Officers/ Station Officers of Odisha Fire Service performing fire prevention and protection duties are entitled to Motorcycle Allowance of Rs 175/- per month. *(FD O.M No 52547, dated 09.12.1992)*

### MILEAGE ALLOWANCE:

As provided under Rule 37 of OTA Rules, a mileage allowance is an allowance given to meet the cost of a particular journey and is calculated on the distance travelled.

- For the purpose of calculating mileage allowance, a journey between two places should be performed by the shortest of practicable routes.
- For journey by railways, the Government servants are entitled to following class of accommodation and mileage allowance.

Category of Government Servant	Classes of accommodation admissible	Mileage Allowance
1 <sup>st</sup> Grade	1 <sup>st</sup> Class	Single railway fare plus incidental charges at 35 paise per every 10 kms or part if it exceeds 5 kms.
2 <sup>nd</sup> Grade	1 <sup>st</sup> Class	Single 1 <sup>st</sup> class fare plus incidental charges at 24 paise per every 10 kms or part if it exceeds 5 kms.
3 <sup>rd</sup> Grade	2 <sup>nd</sup> Class	Single second class fare plus incidental charges at 13 paise per every 10 kms or part if it exceeds 5 kms.
4 <sup>th</sup> Grade	Lowest Class	Actual fare of the lowest class.

*(FD O.M No 770, dated 07.01.1991)*

- **Road Mileage Allowance:** The rates of Road Mileage Allowance allowed to a Government servant for journeys on tour by own vehicles are indicated below.

Grade	Vehicle	Rate
Officers drawing Grade Pay of Rs 4600 and above and those in pay scale of HAG+ and above	Own Motor Car	Rs 7.00 per Kilometer
Officers of all Grades	Own Motor Cycle (Scooter/ Scooty)	Rs 3.60 per Kilometer
	Own Moped	Rs 1.80 per Kilometer

### DAILY ALLOWANCE:

As provided under Rule 59 of OTA Rules, a daily allowance is a uniform allowance for each day of absence, on duty, from headquarters which is intended to cover the ordinary daily charges incurred by a Government servant in consequence of such absence.

- A period of absence from headquarters begins when a Government servant actually leaves his headquarters and ends when he actually returns to the place in which his headquarters are situated whether he halts there or not.
- Daily Allowance shall not be drawn for any day on which a Government servant does not reach more than 8 kilometers from his headquarters or return to his headquarters from such point.
- An absence from headquarters which does not exceed 24 hours though it may begin and end in different calendar days is reckoned as one day for the purpose of travelling allowance.
- When DA is claimed for journeys by road on tour, the distance travelled on the day of departure from and the day of return to headquarters should be stated in the bill.
- Daily Allowance may not be allowed to officers deputed for training. In such cases, compensatory allowance may be given at a rate to be determined in consultation with Finance Department. (*FD O.M No 6957, dated 11.02.1976*)
- DA is not admissible on casual leave, Sunday, or Holiday availed on tour.
- When on tour, if free boarding or lodging is provided, the entitlement is for 50% of the normal DA admissible. If both free boarding and lodging are provided, the entitlement is for 25% of the DA admissible.
- DA is not admissible for a continuous halt for a period exceeding 10 days at a station except with prior sanction.
- In case of journey on tour outside the State, where there is no accommodation, a Government servant of 1<sup>st</sup> / 2<sup>nd</sup> Grade is entitled to claim reimbursement of cost of single room accommodation in a three-star hotel and in addition 90% of the DA admissible. A 3<sup>rd</sup> Grade Government servant is however, is entitled to the reimbursement of cost of single room accommodation in a lodging suitable to his status/ three star hotel in additional to full DA.

- **Rate of Daily Allowance:** The rate of DA on tour both inside State and outside of the State admissible for different category of employees are given below.

Grade	Rate of DA inside the State in Rupees	Rate of DA outside the State in Rupees
1 <sup>st</sup> Grade (i) Officers drawing grade pay of Rs 8800 and above and those in pay scale of HAG + and above	200	400
(ii) Officers drawing grade pay of Rs 7600 and above but below Rs 8800	180	380
(iii) Officers drawing grade pay of Rs 5400 and above but below Rs 7600	150	360
2 <sup>nd</sup> Grade Officers drawing grade pay of Rs 2800 and above but below Rs 5400	140	330
3 <sup>rd</sup> Grade Officers drawing grade pay of Rs 1650 and above but below Rs 2800	130	320
4 <sup>th</sup> Grade Officers drawing grade pay below Rs 1650	110	300

- Rate of DA for journey (absence from headquarters) for less than 24 hours:-
  - (a) Less than 6 hours- 30%
  - (b) More than 6 hours but less than 12 hours – 60%
  - (c) More than 12 hours – 100% (full)

#### **AIR TRAVEL:**

State Government employees are very often required to travel in air in connection with government work within India. The Finance Department issue guidelines for undergoing such air travel from time to time. The special features of the air travel are indicated below.

- Officers in the rank of Additional Chief Secretary and above can travel by air on tour in business class within India. *(FD OM No 31840/F, dated 18.09.2019)*
- Secretaries of the Administrative Department can allow the non entitled officers to travel by air on urgent official work within India subject to the condition that the overall requirement of funds under the unit “Travel Expenses” shall be kept within the budget provision. *(FD OM No 34881/F, dated 20.12.2014)*
- *Daily Allowance will be admissible to its employees while on duty abroad as prescribed in Government of India, Ministry of External Affairs, New Delhi vide their Order No Q/FD/695/3/2000, dated 21.09.2010 as amended from time to time. (FD OM No 29279/F, dated 13.11.2015)*

**FREQUENTLY ASKED QUESTIONS:**

**Q:** Is a Government servant entitled for TA/DA for return journey when he proceeds on leave while on tour?

**Ans:** Yes. When a Government servant proceeds on leave while on tour, his TA/DA for return journey can be permitted by the Head of the Department.

**Q:** Whether DA is admissible when free boarding and lodging are provided?

**Ans:** Yes. Only 25% of DA is admissible when free boarding and lodging are provided.

**Q:** Is service charge re-imbursible to a travel agent for booking air ticket

**Ans:** Yes. Service charges paid to the recognized travel agent for booking air-ticket is reimbursable.

**Q:** Can a Government servant availing PTA or Conveyance Allowance claim DA when he covers more than 8 kms within his sphere of duty?

**Ans:** No. Since he is availing PTA/ Conveyance Allowance to compensate such journey, he is not entitled to claim DA.

**Q:** What is the rate of DA when a Government employee makes tour outside the country?

**Ans:** When a Government servant makes tour outside the country, he is entitled to avail DA as per rate fixed by Government of India in the Ministry of External Affairs from time to time.



## 25

### **LEAVE TRAVEL CONCESSION**

- ◆ **ELIGIBILITY**
- ◆ **ADMISSIBILITY**
- ◆ **ENTITLEMENTS**
- ◆ **PROCEDURE TO AVAIL THE BENEFIT**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## LEAVE TRAVEL CONCESSION

An ideal employer grants Leave Travel Concession (LTC), a type of incentive, to its employees once in a block period to travel with their family to any place of interest. Accordingly, the Government of Odisha in Finance Department have formulated a set of rules governing the grant of such concession to its employees for journey to any place within the territory of India vide their Office Memorandum No 21730, dated 16.06.1994. Any place in India means any place within the territory of India whether it is mainland India or overseas. The concession is admissible **once in ten years** subject to **maximum of three times** during the **entire service period** of a Government servant. The salient features of LTC rules are given below.

### ELIGIBILITY:

- (i) All Government servants including those appointed on temporary basis are eligible to avail such concession.
- (ii) Employees paid out of "Other Contingencies" or borne on work charged establishment are not be eligible for this concession.
- (iii) All India Services(AIS) Officers.

### ADMISSIBILITY:

- (i) The concession is admissible to the employee and his/ her family members subject to a maximum of four only.
- (ii) The 'family' shall be same meaning as given under Rule 14 of Odisha Travelling Allowance Rules.
- (iii) Where both husband and wife are Government servants, the concession shall be granted to the family on the scale admissible either to the husband or to the wife.
- (iv) The concession is admissible during leave of any kind not exceeding sixty days including vacation.
- (v) The employee and his family members may perform the journey together or separately either to same or different place of their choice subject to condition that commencement of journey of second batch shall be within six months from the date of commencement of journey of first batch.

### ENTITLEMENTS:

- The entitlements for different category of employees in different mode of transportation are given below.

<b>Mode of Transportation</b>	<b>Category of Employee</b>	<b>Entitlement</b>
By Train	Group- A	Second Class A. C. Two tier/ First Class non-A. C.
	Group- B	First Class non-A. C./A. C. Chair Car
	Group -C & D	Second Class Sleeper
By Road	Group – A & B	By any type of bus including Super Deluxe, Express etc., excluding AC bus.
	Group -C & D	By Ordinary bus only. The claim for travel by the express bus may also be admitted if, the journey is actually performed by such bus on account of non-availability of seats in ordinary bus.
By Sea or Steamer	Group – A & B	By any type of accommodation
	Group -C & D	By Lower Classes

However, a Government servant may undertake air journey for the purpose of LTC but reimbursement of cost of journey thereof shall be limited to the fare to which the employee would have been entitled had he travelled by rail/ road/ steamer or ship subject to production of air ticket and boarding pass in original. *(FD OM No 31397, dated 16.07.2011)*

- Where a public transport system with vehicles by road running between fixed points at regular intervals and charging fixed rates exists, only the fare actually paid will be allowed.
- Where a public transport system does not exist, the assistance will be limited to the actual fare paid or double the mileage allowance as fixed under Rule-53 of OTA Rules whichever is less.
- The cost of fare of seat(s) in a bus, vehicle of Tourism or Transport Corporation or Transport Services run by other Governments or Local bodies shall also be allowed.
- Where the place of interest and the headquarter of the employee is partly connected by rail, the rail route shall be the admissible route and the Government servant can avail other admissible mode of travel for the portion of the distance which is not connected by rail.
- For travel between places not connected by any other means of transport, a government servant can avail animal transport. In such cases, double mileage allowance will be admissible at the rates specified under Rule-53 of OTA Rules.

#### **PROCEDURE TO AVAIL THE BENEFIT:**

- In order to avail the LTC benefit, an employee has to make an application to the Head of the Office/ Controlling Officer prescribed in the Annexure of aforesaid Office Memorandum.
- The Government servant shall have to declare the intended place of visit in advance to his Controlling Officer and once it is declared it cannot change under any circumstances.

- An advance of maximum 90% of the estimated cost of both ways journey can be sanctioned in favour of the Government servant only by the Controlling Officer.
- If the outward journey is not performed due to any reasons, the advance amount should be refunded to the office within 15 days from drawal of the advance otherwise, penal interest @ 12% per annum may be charged.
- Reimbursement of expenses of journey shall be allowed only on the basis of a point-to-point journey on a through ticket over the shortest direct route between the headquarters and the place of interest. Incidental expenses and expenditure incurred on local journeys shall not be reimbursed.
- The account of LTC advance should be rendered soon after completion of the journey in a similar manner as provided in TA Rules.
- The LTC reimbursement claims shall be made within one month of completion of the return journey for adjustment of the advance.
- The claim for reimbursement is to be submitted in the form prescribed in Appendix -14 of Odisha Travelling Allowance Rules within one month after completion of the journey along with original (rail/ ship/ bus/ steamer) tickets.
- In case of death or retirement of a Government servant, the amount of advance, if any, outstanding for recovery shall be set off by adjustment from gratuity/ death-cum-retirement gratuity/ arrear pay/ leave salary payable after death/ retirement of the concerned Government servant.
- Availing of LTC must be recorded in the service book of the employee.

#### **FREQUENTLY ASKED QUESTIONS:**

**Q:** Can LTC be availed during a period of suspension or deputation?

**Ans:** No. LTC cannot be availed by a government employee during his period of suspension or deputation.

**Q:** Whether journey on LTC can be made during the period of leave?

**Ans:** Yes. LTC shall be admissible during leave of any kind not exceeding sixty days including vacation.

**Q:** Can any number of employees of an office be allowed to go on LTC at a time?

**Ans:** No. The Controlling Officer/ Head of the office should see that not more than 10% of the total staff strength is allowed to go on LTC at a time.

**Q:** Whether photo copies of the journey ticket by plane/ train/ bus can be entertained for settlement of LTC advance/ reimbursement?

**Ans:** No. Only original plane/ train/ bus tickets will have to be produced for settlement of LTC claims.





## 26

### **GPF RULES**

- ◆ **ELIGIBILITY**
- ◆ **SUBSCRIPTION**
- ◆ **NOMINATION**
- ◆ **INTEREST**
- ◆ **ADVANCES FROM THE FUND**
- ◆ **WITHDRAWAL**
- ◆ **FINAL PAYMENT**
- ◆ **ACCOUNT STATEMENT**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## GPF RULES

The General Provident Fund (GPF) is one of the social security measures of both the Union and the State Governments. This fund is meant for the protection of subscriber's family against his sudden death or if he survives until retirement, to provide him and his family with additional financial support at the time of need. In India, we have 3 types of PF; (i) General Provident Fund (GPF), (ii) Employees' Provident Fund (EPF) and (iii) Public Provident Fund (PPF). Description on later two funds is beyond the scope of this handbook.

GPF is available only for Government employees. The Government in Finance Department have formulated a set of rules known as "**The General Provident Fund (Odisha) Rules, 1938**" to govern different aspects of the fund. The key aspects of the fund are indicated below.

### ELIGIBILITY:

- All **temporary Government servants** after a **continuous service of one year** and **all permanent Government servants** are eligible to open GPF Account for subscribing to the Fund.
- An eligible Government servant covered under GPF has to submit an application in form "**Schedule-LIII-Form No.201-A**" through the DDO and with the concurrence of the Finance Department for allotment of new GPF Account No. **(Rule -4)**
- The Government of Odisha have introduced the *New Restructured Defined Contributory Pension Scheme* for the new recruits to the State Government Services in pensionable establishments *w.e.f.* 01.01.2005. According to the provisions of this scheme, all persons appointed under the Government of Odisha with effect from the **1st day of January 2005** shall not be eligible for pension and deposits towards GPF.
- Accordingly, opening of new GPF Account has been **dispensed with**. New GPF Account numbers are opened only in cases of persons who are appointed under job contract and work charged establishment prior to 01.01.2005 and brought over to regular establishment on or after 01.01.2005 with due concurrence of Finance Department.

### SUBSCRIPTION:

- The employee shall subscribe monthly to the fund, except during: -
  - the period of suspension; and
  - last four months of service before retirement;
  - The minimum subscription to the fund by an employee shall be 6 percent of his emoluments, while the maximum upper limit is upto the total emoluments admissible to the subscriber.

- ❑ The sum of monthly subscription in a financial year should not exceed the threshold limit of Rupees Five lakhs. If the subscription of the employee during a financial year has already exceeded the said limit, no further deduction shall be made from the salaries during that year.
- ❑ In case the total contribution is likely to exceed Rupees five lakhs even with minimum monthly subscription of 6% of the emoluments, the deduction may be stopped as soon as the total subscription touches Rupees five lakhs in the financial year. **(FD Notification No 8493/F, dated 17.03.2023)**
- ❑ The subscription amount can either be reduced (**once**) or enhanced (**twice**) during a year. **(Rule 10)**

### NOMINATION:

- Nomination facility is available for the subscriber.
- A subscriber may nominate **one or more than one** member of his family at the time of joining the fund in the prescribed form to receive the accumulated credit in the fund in the event of his demise. In case of multiple nominations, the subscriber shall specify the amount or share payable to each of the nominees.
- A subscriber may, at any time, cancel his nomination and submit a fresh nomination by sending a notice in writing to the Accounts Officer, office of the A.G(A&E), Odisha.

**(Rule 8)**

### INTEREST:

- Rule 14 provides that the Government shall pay interest on deposits at such rate as may be determined and credit each year the interest due to the account of the subscriber.
- The Finance Department, in its Resolution No 22166, dated 09.08.2016 have resolved to pay interest to the State Government GPF subscribers at the rate similar to the rate of interest notified by the Government of India, Department of Economic Affairs for GPF of employees belonging to Central Services.
- Interest is credited on the last day of each financial year *i.e.*: 31<sup>st</sup> March. **No interest accrues on the balances at the credit of the subscriber after his retirement.**
- Interest is calculated by the following formula.

$$\text{Interest} = \text{Total of } IBB \times \frac{1}{12} \times \frac{r}{100}$$

Where, *IBB* : Interest bearing balance, *r* : Rate of Interest

For better understanding, an illustration is given below.

### Illustration:

Calculation of interest on GPF Account and closing balance of the account for the year 2019-20 from the following particulars.

- (i) Opening balance as on 01.04.2019 : Rs. 5,10,000

(ii)	Monthly subscription	:	Rs. 25,000
(iii)	Withdrawal	:	Rs 1,00,000
(iv)	Refund from August, 2019	:	Rs 5,000
(iii)	Rate of interest	:	8% p.a.

**Solution:**

Interest Calculation Statement on GPF for the year 2019-20

Opening Balance as on 01-04-2019- Rs. 5,10,000

Rate of Interest - 8% p.a.

Month	Subscription	Refund/ Recovery	Withdrawal	IBB
4/2019	25000			535000
5/2019	25000			560000
6/2019	25000			585000
7/2019	25000		100000	510000
8/2019	25000	5000		540000
9/2019	25000	5000		570000
10/2019	25000	5000		600000
11/2019	25000	5000		630000
12/2019	25000	5000		660000
1/2020	25000	5000		690000
2/2020	25000	5000		720000
3/2020	25000	5000		750000
<b>Total</b>	<b>300000</b>	<b>40000</b>	<b>100000</b>	<b>7350000</b>

By formula, we have **Interest** =  $7350000 \times \frac{1}{12} \times \frac{8}{100} = 49000$

**ADVANCES FROM THE FUND:**

- A temporary advance may be sanctioned to a subscriber from the amount at his credit in the fund at the discretion of the authority. The subscriber must satisfy the sanctioning authority of the necessity for advance and the authority will record in writing the reason for granting the advance. (**Rule 15**)
- The advance shall be recovered from the subscriber in equal monthly installments. The minimum number of installments to repay the advance is twelve; but fixation of maximum number of installments rests with the sanctioning authority.

- No temporary advance shall be granted to a subscriber during last four months of service before retirement on superannuation.

**Conversion of advance in to withdrawal:**

A subscriber may convert the balances outstanding against him out of the previous advances drawn in to (part) final withdrawal on a written request to the Accounts Officer, o/o the Accountant General, A&E through the sanctioning authority subject to fulfillment of conditions laid down in Appendix – F of GPF (Odisha) Rules, 1938.

**WITHDRAWAL:**

- Provisions laid down under Rule 29 and 30 prescribe conditions for withdrawal from the fund by the subscriber before retirement.
- The subscriber can avail such benefit only after completion of 10 years of Government service.
- Such withdrawal benefit may be permitted once every six month.
- The purpose and maximum limit of withdrawal by a subscriber is indicated below in a tabular form.

Purpose of withdrawal	Maximum limit of withdrawal
Education: Primary, Secondary, Higher covering all streams and Institutions	12 months' pay or 3/4 <sup>th</sup> of the outstanding balance whichever is less
Obligatory Expenses: Betrothal, Marriage, Other Ceremonies of self or family and dependents	-do- Funerals, members
Illness of self, family members and dependents	90% of the outstanding balance
Purchase of Consumer durables	12 months' pay or 3/4 <sup>th</sup> of the outstanding balance whichever is less
Purchase of house site or construction of house in existing site	90% of the outstanding balance
Acquiring a ready built house/ flat	-do-
Renovation or reconstruction of house	-do-
Repayment of outstanding loan	-do-
Purchase of Motor Car/ Motor Cycle or repayment of outstanding loan	3/4 <sup>th</sup> of the outstanding balance or cost of the vehicle whichever is less

- However, a subscriber who shall retire on superannuation within two years can withdraw 90% of the balance without assigning any reason.
- The Head of the Department is competent to sanction the withdrawal. The Head of the Department can delegate the authority to sanction withdrawal to any sub- ordinate officer under his control including the Head of the office.
- No documentary proof of the reason is necessary. Only the declaration by the subscriber is sufficient.
- Maximum time limit for sanction and payment of the withdrawal is thirty days. However, in case of illness, this time limit is restricted to ten days only.

(FD O.M. No 17673, dated 05.06.2017)

**FINAL PAYMENT:**

- Application for final withdrawal/ payment shall be sent to the Accountant General (A&E), Odisha in the prescribed format through the Head of the Department in case of Gazetted officers and Head of the Office in case of Non Gazetted officers immediately after last deduction to the fund is made before retirement.

Prescribed Form	Category of Officer
OTC – 80 A	Gazetted Officer
OTC – 80 B	Non Gazetted Officer
OTC – 80 C	Death Cases of both category of officers

**Persons to whom payable:**

- When a subscriber quits the service, or retires or proceeds on leave preparatory to retirement, or, if he is employed in a vacation department, on leave preparatory to retirement combined with vacation; or while on leave, has been permitted to retire or been declared by a competent medical authority to be unfit for further service, the amount standing at his credit in the fund shall be made to the subscriber.
- **On the death of a subscriber**
  - (i) if a nomination was made by the subscriber in favour of member(s), the amount standing at his credit in the fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportion specified in the nomination;
  - (ii) if no such nomination subsists, or nomination relates only to a part of the amount standing at his credit in the fund, the whole amount or the part thereof to which the nomination does not relate, shall become payable to the members of his family in equal shares. But, no share shall be payable to sons who have attained legal majority, sons of a deceased son who have attained legal majority, married daughters whose husbands are alive, married daughters of a deceased son whose husbands are alive.
  - (iii) In case of Hindu, minor(s) (children) share shall be paid to the wife of the subscriber; while in other cases, the amount shall be paid to the guardian of the minor(s) on submission of guardianship certificate from appropriate court of law.

**ACCOUNT STATEMENT:**

- Office of the Accountant General (A&E), Odisha, Bhubaneswar has already automated the GPF accounting system. A subscriber can access to <https://www.agodi.cag.gov.in> for details of his GPF account.
- After completion of a financial year, interest is calculated and the final figure with interest for the year is uploaded in the above website.
- The AG(A&E), Odisha sends SMS regarding their up-to-date balance in the fund to the registered subscribers regularly.

**FREQUENTLY ASKED QUESTIONS:**

- Q** : Is the balance shown in the GPF account slip and that of final payment authority same?
- Ans** : No, the balance shown in the GPF account slip is subject to adjustment of missing credits/debits and excess / less allowed in the accounts.
- Q** : Up to which date the interest is allowed in final payment cases?
- Ans** : If the subscriber applies for final payment within the prescribed time limit, the interest is allowed till the month preceding the date of signing the authority by the Accounts Officer of the Principal Accountant General(A&E) office, if it is signed before 15th of the month and if it is signed later, the interest is allowed till the end of the month.
- Q** : Will Principal Accountant General sanction my Part-Final Withdrawal or Non Refundable Advance from the General Provident Fund Account?
- Ans** : No, except for accounting and authorization of final payment after retirement, other cases are dealt with by the Drawing and Disbursing Officer.
- Q** : What is to be done if I notice some missing credits in my GPF account?
- Ans** : You may represent your case through the Drawing & Disbursing Officer giving full information about the missing credit such as month of credit, name of the Treasury, TV number, and duplicate copy of the bill along with schedule to enable the office to locate and adjust your missing credit.
- Q** : How can a Government servant change his mobile number, which is already registered for getting GPF e-statement?
- Ans** : A Govt. servant can change his mobile number in Profile section, after login to the office website. However, if both the password is forgotten and mobile number is to be changed, the subscriber has to approach the office of the Pr. Accountant General(A&E), Odisha through their DDO.
- Q** : What is the arrangement to know about authorization of GPF?
- Ans** : Intimation to the retired Government employee about the authorization of retirement benefits is sent directly to him. The disposal is also hosted in the website, which can be viewed by the retired Government officials/officers.
- Q** : What will happen if GPF authority is lost at any stage or at any level after despatch from O/o the Principal Accountant General (A&E), Odisha?
- Ans** : The Govt. servant may take up the matter with his Drawing and Disbursing Officer.
- Q** : What should the subscriber do if any excess/shortfall in the accounts maintained by the Principal Accountant General is found?
- Ans** : In the maintenance of accounts incidence of error is a common occurrence. No system developed so far has been able to put a full stop to such errors. The subscriber has the duty under Rule 36(2) of Orissa General Provident Fund Rules to bring to the notice of the authority any excess/short credit found in his/her account slip within three months of receipt of the same. This will prefix the error and avoid discontentment at the time of Final Payment stage.



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### **GROUP INSURANCE SCHEME**

- ◆ **SCOPE:**
- ◆ **SALIENT FEATURES:**
- ◆ **FREQUENTLY ASKED QUESTIONS:**



## GROUP INSURANCE SCHEME

With a view to giving some financial assistance to the family of a Government servant who dies prematurely while in service, the Group Insurance Scheme (GIS) was introduced with effect from 01.03.1974 vide F.D. Resolution No.2594/F dt.25.1.1974. Earlier, the scheme was managed by LIC of India which was discontinued since 01.04.1994. Presently, the scheme is being managed by the Government in Finance Department. In order to simplify the procedure for settlement of death claims, the earlier system of the scheme has been revised time and again in Finance Department Resolutions No 19307/F, dated 26.04.2011, No 1575/F, dated 13.01.2012, No 30669/F, dated 01.12.2015, No 24658/F, dated 22.08.2017, No 28557/F, dated 08.10.2021 and No 1387/F, dated 12.01.2023. Initially, this scheme was applicable to Government servants only, the Government, however, as a social security measure, have extended the benefit to employees of other semi Government Organizations as indicated below.

### SCOPE:

This scheme is applicable to

- (i) All regular employees of the State Government;
- (ii) All Judicial Officers of the State who are drawing salaries as per the recommendations of the Judicial Pay Commission/ directions of the Ho'ble Supreme Court of India;
- (iii) All contractual Group 'B', Group 'C', and Group 'D' employees appointed under Odisha Group 'B', Group 'C', and Group 'D' (Contractual Appointment) Rules, 2013;
- (iv) Employees of the Aided Non-Government Educational Institutions, Utkal University, Berhampur University, Sambalpur University, Odisha University of Agriculture & Technology, Board of Secondary Education, Council of Higher Secondary Education;
- (v) Employees working under NAC, Municipalities and Municipal Corporations;
- (vi) Regular teachers appointed under Zilla Parishad;
- (vii) Central Government Employees who are promoted from the cadre of State Government employees especially the State Civil Service (SCS) and Non- State Civil Service (NSCS) who are promoted to the All India Services after the age of 50 years and not covered under the Central Government Employees GIS.

**SALIENT FEATURES:**

- (i) According to the provisions of the scheme, when a Government employee joins on his/ her first appointment, the concerned Head of the Office/ DDO, immediately, sanction the premium amount, as admissible to the category of the employee (indicated below) as an interest free advance (loan) from the head of account of the Consolidated Fund "***Demand No 5- 7610- Loans to Government Servants etc.- Administrative Expenditure-800- Other Advances-0825- Loans and Advances-48015-Advances under GIS***" within a stipulated period of 30 days from the joining of the employee.
- (ii) **For other category of employees**, the Head of the Office/ DDO of respective organization shall draw the premium amount from their own resources within a stipulated period of 30 days from the joining of the employee.
- (iii) For such drawal, no allotment is necessary. The Head of the Office/ DDO shall draw the amount and transfer credit the amount through a treasury challan to the head of account of Public Account "***8011- Insurance and Pension Funds-00-107-State Government Employees Group Insurance Scheme-1677- Other Deposits-91057 Group Insurance Scheme-xxx(6<sup>th</sup> level code)***". This sixth level code shall be "***820-Government employees***" for Government employees, "***822-Teachers of Non Govt. Secondary Schools and Colleges***" for employees of aided Non-Government Educational Institutions and "***926- Employees of Urban Local Bodies***" for employees of ULBs.
- (iv) **Once the advance is sanctioned and deposited by way of transfer credit of deposits during the life time of the employee, he/ she shall come under the fold of the Group Insurance Scheme as revised from time to time.**
- (v) **Remember:** It is the exclusive duty and responsibility of the concerned Head of the Office/ DDO that, up-to-date and timely deposit of premium should be made in respect of each employee; otherwise the concerned Head of the Office/ DDO shall be squarely responsible for such non sanction/ non deposit of GIS premium. The premium amount shall be recovered from the concerned Head of the Office/ DDO.
- (vi) The Head of the Office / DDO shall record the details of the deposit made in favour of the employee in the prescribed format laid down at **Annexure 'A'** of Finance Department Resolution No 19307/F, dated 26.04.2011 and attach it to the service book of the concerned employee. Earlier, a printed GIS Pass Book was issued by Finance Department. However, presently Annexure 'A' has replaced the Pass Book.
- (vii) The total advance paid towards premium in respect of the employee is recovered from the monthly salaries of the employee in ten equal installments from the following month. The recovered amount shall be credited to "***Demand No 5- 7610- Loans to Government Servants etc.- Administrative Expenditure-800- Other Advances-0825- Loans and Advances-48015-Advances under GIS***".
- (viii) After revision of Pay/ Grade Pay as per ORSP Rules, 2017, the Finance Department have revised the quantum of premium in respect of different category of employees. The category wise amount of

premium to be deposited, sum assured under the scheme and amount of financial assistance for performance of obsequies has been revised as indicated below:-

Previous GIS				Revised GIS			
Scale	Quantum of one time refundable deposit (To be realised from the employee)	Sum assured under GIS in case of death while in service	Amount of financial assistance for performance of obsequies	Scale	Quantum of one time refundable deposit (To be realised from the employee)	Sum assured under GIS in case of death while in service	Amount of financial assistance for performance of obsequies
Grade Pay up to ₹4800 under ORSP Rules, 2008	₹ 7,500	₹ 1,50,000	₹ 5,000	Up to Level 11 of Pay Matrix under ORSP Rules 2017	₹ 20,000	₹ 4,00,000	₹ 10,000
Grade Pay ₹ 5400 and above under ORSP Rules, 2008	₹ 12,000	₹ 2,50,000	₹ 5,000	Level – 12 and above of Pay Matrix under ORSP Rules 2017	₹ 30,000	₹ 6,00,000	₹ 10,000

- (ix) If the employee retires or relinquish from service, he/ she is entitled to get back only the premium amount deposited (**without interest**). In such case the head of the office/ DDO sanction/ draw and disburse the premium amount to the employee.
- (x) In case of death (including civil death) while in service, the Head of Office/ DDO at their level shall make payment of death claims which include:
- amount of financial assistance for performance of obsequies;
  - premium deposits (without interest); and
  - sum assured

to the nominee/ family members, as the case may be, through A/c payee cheque /Bank Drafts as per the applicable rate by that time. In case of no nomination, the amount due shall be paid to any of the family members in order of preference as per paragraph 5, 9 of the Finance Department Resolution No 19043/F, dated 15.04.1976.

- (xi) Sanction of sum assured under the scheme is interlinked with the premium deposited during the life time of the deceased employee. Therefore due care and caution is to be exercised while sanctioning the assured sum.
- (xii) The Head of Account for refund/ payment of GIS claims are indicated below:
- (a) *“8011-Insurance and Pension Funds – 00- 107 – State Government Employees Group Insurance Scheme – 1677- Other Deposits – 91057- Group Insurance Scheme – 820- Government Employees”* in case of Government employees.
- (b) *“8011-Insurance and Pension Funds – 00- 107 – State Government Employees Group Insurance Scheme – 1677- Other Deposits – 91057- Group Insurance Scheme – 822- Teachers of Non Government Secondary Schools and Colleges”* in case of employees of aided Non Government Educational Institutions.
- (c) *“8011-Insurance and Pension Funds – 00- 107 – State Government Employees Group Insurance Scheme – 1677- Other Deposits – 91057- Group Insurance Scheme – 926- Employees of Urban Local Bodies”* in case of employees of the ULBs.

#### FREQUENTLY ASKED QUESTIONS:

**Q:** Is Group Insurance Scheme is applicable to contractual appointees?

**Ans:** Yes. All contractual Group ‘B’, Group ‘C’, and Group ‘D’ employees appointed under Odisha Group ‘B’, Group ‘C’, and Group ‘D’ (Contractual Appointment) Rules, 2013 are eligible to be covered under Group Insurance Scheme.

**Q:** How many types of schemes are available to an employee under the scheme?

**Ans:** Under the scheme, only two categories of schemes are available to an employee. Employees receiving salaries up to Grade Pay Rs 4600 in the pre-revised scale shall deposit Rs 7500, while employees receiving salaries with Grade Pay Rs 5400 and above shall deposit Rs 12000. In case of death, legal heir of first category employee shall receive one time lump sum assured amount of Rs 1,50,000 while those of second category shall receive Rs 2,50,000. Besides, in both cases Rs 5000 shall be paid for performance of obsequies

**Q:** What will happen to the premium if an employee dies before receiving his first month’s salary?

**Ans:** In order to overcome such difficulties, both the DDO and the employee must ensure that one time premium as per scale is sanctioned and deposited in the proper account within a stipulated period of 30 days from the joining of the employee otherwise the Head of the Office/DDO shall held responsible.

**Q:** Whether all the employees covered under the scheme shall be provided with a printed GIS Pass Book?

**Ans:** No. The Head of the Office / DDO shall record the details of the deposit made in favour of the employee in the prescribed format laid down at Annexure ‘A’ of F.D Resolution No 19307/F, dated 26.04.2011 and attach it to the service book of the concerned employee. Prior to issue of the above resolution, printed GIS Pass Book was issued.



## 28

### **ADVANCES TO GOVERNMENT SERVANT**

- ♦ **GENERAL CONDITIONS**
- ♦ **GIS ADVANCE**
- ♦ **ADVANCES FOR MEDICAL TREATMENT**
- ♦ **TA ADVANCE**
- ♦ **LTC ADVANCE**
- ♦ **MOTOR CAR/MOTOR CYCLE/SCOOTER/MOPED ADVANCE**
- ♦ **PERSONAL COMPUTER ADVANCE**
- ♦ **FREQUENTLY ASKED QUESTIONS**

## ADVANCES TO GOVERNMENT SERVANTS

The Government being an ideal employer provides advance to its employees for certain specified purposes. Generally, advances are loans disbursed by the Government to its employees. The competent authority grants the advances out of the public fund in accordance with the rules framed by the Government for the purpose. Rules governing loans and advances to Government servants are contained under Chapter 14 of OGFR (Rule 215 to Rule 267), Volume I. The advances can broadly be classified into two categories:-

- (i) **Interest Free Advances:** These include Festival Advance, GIS Advance, Advance for Medical Treatment, TA Advance, Advance for transfer, LTC Advance and Electric Motor Vehicle Advance etc.
- (ii) **Interest Bearing Advances:** These include House Building Advance, Motor Car/ Motor Cycle/ Moped Advance, Personal Computer Advance etc.

### GENERAL CONDITIONS:

- ♦ The Head of the Office can sanction interest free advances whereas the Head of the Department is competent to sanction interest bearing Advances. While sanctioning an advance, the authority must maintain high standard of financial propriety enunciated in Rule 9 of OGFR, Volume I.
- ♦ Sanction of advance is subject to availability of funds in the Budget. Budget provision for sanction of Festival Advance, Advances for Medical Treatment, TA and LTC Advance to Government servants of any Department, is secured in the Demand for Grants of respective Departments, while for sanction of other advances to Government servants of all Departments, budget provision is being secured under Major Head “7610- Loans to Government Servants etc” under Demand for Grants (No 5) of Finance Department.
- ♦ The competent authority cannot sanction advance in his own favour. Approval of next higher authority will have to be sought for.
- ♦ Simple interest as fixed by the Government is charged on interest bearing advances. Interest is calculated on balances outstanding on the last day of the month.
- ♦ No interest shall be charged on the advance outstanding against a Government servant beyond the date of his retirement/ death before retirement. If a Government servant dies before retirement, the amount of advance outstanding for recovery shall be adjusted from the Death-cum-Retirement Gratuity/ Arrear Pay/ Leave Salary etc.

- ♦ No interest on the advance outstanding for recovery from the deceased Government servant shall be recovered and it will be deemed to have been waived.
- ♦ Advances are subject to adjustment by Government servant according to rules applicable in each case. But where an advance is adjustable by recovery from monthly salaries, the amount to be recovered monthly should not be effected when the Government servant is on leave or under suspension.
- ♦ While issuing the sanction order for disbursement of advance, the issuing authority should stipulate that no penal interest shall be chargeable if the conditions attached to the sanction, including those relating to the recovery of amount are complied with fully to the satisfaction of the competent authority. **However in cases of default, penal interest shall be charged @ 2.5% over and above the prescribed rate of interest in the following cases.**
  - ♦ In cases where the advance is not utilized fully but the adjustment bill is submitted in time, interest may be charged at the rate prescribed for advances plus 2.5% on the unutilized portion of the advance from the date of drawl of advance to the date of refund of advance.
  - ♦ In cases where the adjustment bill is not submitted within the prescribed time, the entire amount of advance may be recovered in one lump sum immediately on expiry of such time limit. In such cases interest may be charged at the rate of interest prescribed plus 2.5% penal interest on the entire amount of advance from the date of drawl to the date recovery of amount.

**Interest Free Advance:****FESTIVAL ADVANCE:**

- ♦ An employee including Group 'B', 'C' and 'D' appointed under Odisha Group 'B', Group 'C', and Group 'D' (Contractual Appointment) Rules, 2013, who are in Pay Level of 9 and below in the State Pay matrix as per Odisha Revised Scales of Pay Rules, 2017 is eligible for interest free "Festival Advance" of ₹ 20,000/- with effect from 06.10.2018 vide Finance Department Office Memorandum No 32216/F, dated 06.10.2018.
- ♦ The Head of the Office is competent to sanction Festival Advance on the eve of specified festivals as declared by Finance Department from time to time.
- ♦ This advance is drawn from the allotment made by the Administrative Department.
- ♦ The advance is to be recovered in 10 equal monthly installments from the monthly salaries of the employee. Unless the full amount is recovered, the employee cannot be sanctioned Festival Advance further.

**GIS ADVANCE:**

- ♦ Under the scheme, an interest free advance equal to the prescribed premium, as admissible for the category of the employee is provided by the Government in favour of the employee at the time of his first appointment or revision of pay.
- ♦ The premium advance is recovered from the monthly salaries of the employee in 10 equal installments from the following month.
- ♦ This advance is drawn from the head of account "Demand No 5- 7610- Loans to Government

**Servants etc.- Administrative Expenditure-800- Other Advances-0825- Loans and Advances-48015-Advances under GIS”**

- ♦ The details of the scheme have been given in a separate chapter.

**ADVANCES FOR MEDICAL TREATMENT:**

- ♦ As per provisions of Odisha Medical Attendance Rule, an interest free advance as advised by the Medical Officer/ Specialist/ DMET for the specified disease is given to an employee prior to his treatment.
- ♦ This advance is drawn from provision under the unit “Re-imburement of cost of Medicine” of the scheme from which the salaries of the employee is being drawn.

**TA ADVANCE:**

- ♦ As per provisions of Odisha Travelling Allowance Rules, an interest free advance amounting to 90% of the estimated cost for the proposed tour is sanctioned in favour of a Government employee.
- ♦ This advance is drawn from provision under the unit “Travelling Allowance” of the scheme from which the salaries of the employee is being drawn.

**LTC ADVANCE:**

- ♦ As per provisions of Leave Travel Concession Rules, an interest free advance amounting to 90% of the estimated cost for the proposed tour is sanctioned in favour of a Government employee.
- ♦ The details of the provision have been given in a separate chapter.
- ♦ This advance is drawn from provision under the unit “Travelling Allowance” of the scheme from which the salaries of the employee is being drawn.

**ELECTRIC MOTOR VEHICLE ADVANCE:**

- ♦ The interest free advances for purchase of Electric Motor Vehicle (Motor Car/ Motor Cycle/ Scooter/ Scooty) shall be available to a Government servant upto 31.12.2025.
- ♦ Group-A & B employees are eligible to avail the advance to purchase Electric Motor Vehicle. The maximum ceiling of advance is 75% of the cost (ex-show room price) or Rupees 15 lakhs whichever is less.
- ♦ While Group-C & D and above ranking employees are eligible to avail the advance to purchase Electric Motor Cycle/ Scooter/ Scooty. The maximum ceiling of advance is 75% of the cost (ex-show room price) or Rupees 2 lakhs whichever is less.
- ♦ The advance will be recovered in maximum 100 consecutive monthly instalments from subsequent months. The recovery shall be completed before one year of the date of superannuation.
- ♦ Copies of Registration, Insurance and Retail Invoice of the vehicle shall be furnished to the Sanctioning Authority within three months of availing the advance.
- ♦ Utilisation of advance otherwise shall attract action under OCS(CC&A) Rules, 1962.

**(FD O.M No 8481/F, dated 17.03.2023)**



**Interest Bearing Advance:****HOUSE BUILDING ADVANCE:**

Finance Department have issued a number of Resolutions, Office Memoranda available in their official site with regard to eligibility, purpose, amount and procedure for sanction of house building advance. However, Resolution No 21246/F, dated 22.06.1959, Office Memorandum No 4470/F, dated 02.02.2010 are important and are available at Finance Department website.

**Eligibility :**

- (a) All permanent State Government Employees;
- (b) Permanent AIS officers allotted to the State;
- (c) Permanent AIS officers allotted to the State but on a Central deputation for not more than six years;
- (d) Permanent Judges of Odisha High Court;
- (e) All regular State Government employees who have rendered at least five years of service. In case both the husband and wife are State Government servants and eligible for grant of advance, it shall be admissible to only one of them. The above officers are eligible subject to the condition that:-
  - ❑ the applicant must not avail any loan from any Government source;
  - ❑ Neither the applicant nor his wife/ husband/ minor child is an owner of a house. However, house in a village will not be counted.

**Purpose :**

The advance is admissible in following cases:

- (a) Purchase of land and construction of house;
- (b) Construction of house on existing land;
- (c) Purchase a ready built house, if
  - ❑ the house is a newly built one;
  - ❑ the house has not been lived in;
  - ❑ the agency offering it for sale is a Government/ Semi Government or autonomous institution.
- (d) Additional enlarging the existing accommodation and for completion of the incomplete building owned by the employee.

**Amount of Advance:**

The maximum limit of HB advance and mode of the release amount in different cases has been laid down in Finance Department Office Memorandum No 17502/F, dated 13.07.2022.

- (a) 50 months' basic pay subject to maximum of ₹40.00 lakhs or cost of land and construction of house or repaying capacity whichever is the least is admissible in the following manner;
  - ❑ Purchase of land and construction of building, in two installments, 60% for purchase of land, 40% after submission of sale deed, plan & estimate, counter signed by the Executive Engineer concerned;

- Construction of building on the existing land (in two installments and mortgage of 60% on submission of sale deed, plan & estimate counter signed by the Executive Engineer concerned, 40% after submission of utilization certificate);
  - Purchase of ready built house (in two installments), 60% on submission of allotment/ consent letter and registration of the draft agreement deed, 40% after submission of payment receipt from the seller.
- (b) 50 month's pay or ₹ 10.00 lakhs or cost of enlargement or repaying capacity for
- enlarging the living accommodation of existing house (one installment);
  - Completion of incomplete building (one installment).

**Rate of Interest:**

The advances carry simple interest from the date of advance at the prescribed rates issued by Finance Department from time to time. The current rate of interest for the advance is fixed at 8% per annum.

The amount of interest shall be calculated on the balances outstanding on the last day of each month. However, before completion of recovery of principal installments, the Accountant General shall be moved to intimate the amount of interest. They use the following formula for calculation of interest.

- (i) For regular payment,  $Interest = n(n + 1) \times \frac{A}{12} \times \frac{r}{100}$
- (ii) For part in EMI and part in lump sum,  $Interest = \frac{n(P+L)}{2} \times \frac{1}{12} \times \frac{r}{100}$
- (iii) For irregular payment,  $Interest = Total\ interest\ bearing\ balance \times \frac{1}{100} \times \frac{r}{100}$

Where, n = number of installments

A = Amount of each installment

R = Rate of Interest

P = Principal amount of advance

L = Last balance on which interest is due (i.e lump sum amount)

**Repayment of Advance:**

The advance together with the interest thereon shall be repaid in full by monthly installments within a period not exceeding 25 years. The maximum number of installments for repayment of Principal and payment of Interest is 225 and 75 respectively. There shall be a moratorium period of 18 months for repayment of advance.

- (a) Unless the moratorium period is availed, the recovery of advance shall commence from month following the drawal of the advance. Where moratorium period is is availed, the repayment will begin after its expiry.
- (b) For a Government servant, who, is due to retire within 20 years and willing to repay from DCRG may be permitted to repay the advance with interest in suitable installments;

- (c) In case the Government servant does not repay the balance of the advance due to Government on or before the date of his retirement, it shall be open to the Government to enforce the security of the mortgage at any time thereafter, and recover the balance of the advance due together with the interest and cost of recovery, by sale of the house or in such other manner as may be permissible under the Law.

**Procedure for processing of applications:**

- Each eligible employee shall submit application in the prescribed form along with Annexure I and II (in duplicate) available in Finance Department website. Following documents are to be enclosed along with the application:
  - (a) Negotiation letter from the owner of the land for purchase of the land;
  - (b) Declaration relating to ownership of property, if any, in the name of wife/ husband/ minor child;
  - (c) For enlargement of living accommodation, an attested copy of sale deed, site plan in support of title of the property;
  - (d) Having a land, attested copy of sale deed/ site plan in support of the title of land.
- After receipt of the application and related information in prescribed format from the employee, the concerned authority/ officer shall:-
  - (a) Scrutinize it and be satisfied about the correctness of the facts including authenticity of the sale deed/ site plan;
  - (b) Consult with the Law Officer/ Revenue/ Registration authorities, if necessary;
  - (c) Forward the application to the Public Works Executive Engineer of the locality so as to seek his views/ recommendations in terms of plan and estimate, quantum of advance;
  - (d) Obtain approval of the competent authority, issue sanction order for grant of advance to applicants incorporating provisions like:-
    - Execution of an agreement, Mortgage deed, Surety Bond, Undertaking in the prescribed forms as the case may be;
    - On the basis of availability of funds allotted by Finance Department, appropriate amount shall be disbursed to the applicant.
    - For purchase of land or a ready-build house seeking an undertaking to the effect that negotiation is at concluding stage along with price;
  - (e) Before the advance is disbursed, submission of surety from a permanent State Government servant from a Govt. Employee of equivalent or higher rank in prescribed form(OGFR Form no 18) may be ensured in following cases :-
    - Applicants who are not permanent Government servants;
    - Applicants who are due to retire from service within a period of eighteen months;
  - (f) On receipt of the recommendations of the Public Works Executive Engineer of the locality, the formal sanction to the grant of the advance may be accorded, or if necessary, the original sanction order

issued (in cases where the advance is required partly for purchasing a plot of land) may be amended suitably.

- ❑ At the time of release of first installment, an agreement shall be executed by the applicant to repay the advance;
  - ❑ Before, subsequent release, the applicant should mortgage the land, building in favour of the Government till completion of repayment of advance along with accrued interest;
  - ❑ The prescribed format of application, annexure, agreement, mortgage are available in Finance Department official website.
  - ❑ The safe custody of such agreement, mortgage etc should be ensured.
- Utilization of the advance for a purpose other than that for which it is sanctioned shall render the employee liable to disciplinary action under the OCS(CCA) Rule.

#### **MOTOR CAR/ MOTOR CYCLE/ SCOOTER/ MOPED ADVANCE:**

- The Finance Department has, time and again, issued a number of Resolutions, Office Memorandum regarding admissibility, quantum, and mode of repayment etc for sanction of advance for purchase of conveyances like Motor Car / Motor Cycle / Scooter / Moped Advance. However, Office Memorandum No 4482/F, dated 02.02.2010 in this connection is relevant. The gist is given in the following table :

#### **Repayment of Advance:**

- (i) The principal amount of advance in respect of Motor Car will be recovered in maximum of 100

<b>Name of the conveyance</b>	<b>Maximum monetary limit of advance</b>	<b>Minimum Pay limit for availing the advance</b>	<b>Rate of Interest</b>
Moped	₹ 25,000 or anticipated cost whichever is less	Class III and Class IV employees irrespective of pay range	10%
Motor Cycle/ Scooter	₹ 50,000 or anticipated cost whichever is less	Irrespective of Grade Pay whose monthly basic pay is not less than ₹9300	10%
Motor Car	For 1 <sup>st</sup> occasion ₹ 4,00,000 or 15 months' basic pay or anticipated cost whichever is less.  For 2 <sup>nd</sup> subsequent occasion ₹ 3,00,000 or 12 months' basic pay or anticipated cost whichever is less	Irrespective of Grade Pay whose monthly basic pay is not less than ₹ 17,000.	12.5%

consecutive monthly installments and in respect of Motor Cycle /Scooter the recovery will be maximum of 60 consecutive monthly installments.

- (ii) Recovery towards interest shall immediately follow the last installment of recovery of the principal amount of advance.
- (iii) In case of Motor Car advance, the interest shall be recovered in 25 maximum installments and in case of Motor Cycle and Moped advance; the interest shall be recovered in 10 maximum installments. Recovery of both principal & interest should be programmed in such a manner that the same can be effected before one year of the date of superannuation.
- (iv) Sanction of advance from time to time will be regulated as per provision contained in rule 238 of OGFR Vol.I.
- (v) A temporary Government servant, at the time of availing the advance, shall furnish a surety from a permanent Government servant in OGFR 18.
- (vi) The employee in receipt of the Motor Cycle/ Moped/ Motor Car advance shall execute an agreement in OGFR 19 to repay the advance.
- (vii) A mortgage deed in OGFR 20 mortgaging the car in favour of the Government shall be ensured from the Government servant.
- (viii) The time limit for sanction of 2nd and subsequent advance for the purpose is 4 years subject to condition that NDC in respect of previous advance is issued by the AG(O).

#### **PERSONAL COMPUTER ADVANCE:**

The details of admissibility, quantum and procedure for sanction of Personal Computer Advance have been issued by Finance Department in several Office Memorandum. However, relevant Office Memorandum, in the matter, are O.M. No.25997/F., dated 05.06.1993, O.M. No. 42918/F., dt. 30.09.1993 and O.M No 22542/F, dated 03.07.2013.

- (i) For sanction of advance to purchase a Personal Computer, a Government servant whose basic pay is ₹ 9300/- and above excluding Grade Pay is eligible.
- (ii) The present amount of the Computer Advance is ₹ 40,000 or the cost of the computer whichever is less.
- (iii) The Computer Advance will be admissible to an eligible Government servant once in 4 (four) years. The period of 4 (four) years shall count from the date of drawal of last advance.
- (iv) The Government servant who has already drawn such advance and the period of 4 years has not elapsed from the date of drawal of advance and who fails to furnish the “NO DEMAND CERTIFICATE” from the Account General Odisha shall not be eligible for grant of subsequent advance of purchase of personal computer.
- (v) The Computer Advance facility shall also be applicable to AIS Officers working in the affairs of State and also on deputation to Central Government for not more than 6 years.

- (vi) A temporary Government servant, at the time of availing the advance, shall furnish a surety from a permanent Government servant in OGFR 18.
- (vii) The employee in receipt of the Personal Computer advance shall execute and agreement in OGFR 19 to repay the advance.
- (viii) A mortgage deed in OGFR 20 mortgaging the Personal Computer in favour of the Government shall be ensured from the Government servant.
- (ix) The advance will be recovered in maximum 50 (fifty) consecutive monthly installments and interest in subsequent 10 (Ten) consecutive monthly installments. The recovery of interest shall be immediately follow the last installment of recovery of the principal.
- (x) The recovery of both principal & interest be regulated in such a manner that, the same can be effected before 1 year of the date of superannuation of the Government Servant.
- (xi) The Administrative Department/Heads of Department are empowered to sanction personal computer advance in respect of individual Government employees observing the norms/conditions stipulated in the above Office Memorandum.
- (xii) Sanction of advance from time to time will be regulated as per provision contained in rule 238 of OGFR Vol.I.

**FREQUENTLY ASKED QUESTIONS:**

**Q** : What is the role of the AG's office when a Government servant is sanctioned a house building advance, motor car/motor cycle advance or computer advance by government?

**Ans** : Whenever a Government servant is sanctioned house building advance, motor car/motor cycle advance or computer advance, the AG's office watches the recovery of the advance and interest thereon from the monthly salary of the Government servant. When the Government servant fully clears the advance (principal + interest), the AG's office then issues a 'Clearance Certificate' to the Government servant as acknowledgement that he has fully cleared the advance.

**Q** : When is the interest on a loan due for calculation?

**Ans** : The interest on a loan is calculated by the AG's office after the loanee has fully repaid the principal. The interest amount to be paid is formally communicated to the loanee and his office by the AG's office.

**Q** : In the case of a Gazetted/Non Gazetted government servant who is on deputation to a Central/State organization, how are his loan recoveries to be made?

**Ans** : The organization to which the Government servant is on deputation should make out a cheque/ draft payable to AG(A&E), Odisha for the amount of the loan recoveries and send the same with a forwarding letter to the Accounts Officer O/o the AG(A&E), Odisha, clearly indicating the name of the loanee, his GPF number etc.

**Q** : Whether a Government servant can remit loan amount directly?

**Ans** : Yes. The Government servant can remit the principal and interest amount directly through treasury chalan. But, the Government servant must ensure correct head of account, GPF number and loan schedule etc.

**Q** : Whether any penal interest will be charged, if a Government servant taking the LTC advance did not perform the tour.

**Ans** : Yes. The Government servant after receipt of the LTC advance should proceed on tour. If the tour is not performed due to any unavoidable circumstances, the advance should be deposited in the proper head of account otherwise interest prescribed in the sanction letter plus penal interest @ 2.5% shall be charged.



## 29

### MEDICAL ATTENDANCE RULE

- ♦ MEDICAL ATTENDANCE
- ♦ TREATMENT
- ♦ APPLICABILITY
- ♦ SCOPE
- ♦ PROCEDURE OF TREATMENT
- ♦ MEDICAL CONCESSION
- ♦ SETTLEMENT OF CLAIMS
- ♦ CONCESSIONS FOR SOME CRITICAL DISEASES
- ♦ MEDICAL TREATMENT OUTSIDE INDIA
- ♦ EXAMINATION OF MEDICAL CLAIMS
- ♦ TRAVELLING ALLOWANCE
- ♦ ARTIFICIAL LIMBS & APPLIANCES
- ♦ AYURVEDIC/ HOMOEOPATHIC MEDICINES
- ♦ MEDICAL ADVANCE
- ♦ FREQUENTLY ASKED QUESTIONS



## MEDICAL ATTENDANCE RULE

With a view to providing medical care and advice to a Government servant during his sickness or to any of his family members by an authorized Medical Practitioner, “**The Odisha Services (Medical Attendance) Rules, 1947**” was formulated vide Health & Family Welfare Department Resolution No 1879-LSG, dated 15.04.1947, *i.e.*, before independence. This rule was formulated under Section 241(2)(b) of the Government of India Act, 1935. Since the standard of medical facilities available inside and outside Odisha has increased manifold during these years, the H & F W Department and Finance Department, with a view to address the requirements of the Government servants, have issued a lot of guidelines time and again. These guidelines issued vide H & FW Department **Resolution No 17961/H, dated 17.05.2002** include benefits extended to a Government servant for treatment of self or any of his family members inside and outside Odisha. Before going into details, let us be acquainted with some important terms very often used.

### **MEDICAL ATTENDANCE:**

Medical Attendance means professional advice and care during sickness convalescence or injury afforded by an authorized Medical Officer either in a Hospital or in the residence of the Government servant as the case may be. It also includes different types of examination like pathological, bacteriological, radiological, or any other method required for the diagnosis.

### **AUTHORISED MEDICAL ATTENDANT (AMA):**

In fact, Authorized Medical Attendant has different meaning for different cases. It includes a Medical Officer, Assistant Surgeon, Chief District Medical Officer, Medical Practitioner, Dental Surgeon, Specialist, Assistant Professor, Associate Professor of a Medical College and Director of Medical Education & Training(DMET), Odisha.

### **TREATMENT:**

It means use of all medical and surgical facilities available in a dispensary or hospital. It also includes different types of examination required for diagnosis of the disease, supply of medicines, vaccines etc., and provision of accommodation like cabin, nursing home, specialist consultation, eyesight or dental testing available in the dispensary or hospital.

### **APPLICABILITY:**

This rule is applicable to a regular Government Servant and his family members. The family includes:-

- (i) Wife (including judiciary separated wife) or Husband,
- (ii) Parents (not step parents) having annual income not exceeding Rs.74,000, Female Government servant may opt either to include her own parents or parent-in-law.

- (iii) Children including legally adopted children.

**Remember**, when both husband and wife are State Government servants or either of them is employed under Government of India/ any Public Enterprise/ Other State Government/ Private body having medical facilities, they have to submit a joint declaration before their authorities to avail benefit by either of them.

### **MEDICAL CONCESSIONS TO OTHER THAN STATE GOVERNMENT SERVANTS:**

Besides above, rule 4 of Odisha Services (Medical Attendance) Rules, 1947 provides some medical facilities in respect of the followings:-

- (i) **Freedom fighters:** The medical facilities extended to freedom fighters only (not to their family members) and political sufferers include free pathological, bacteriological, radiological, cardio graphic and ECG examination and concessional rates for accommodation in nursing homes/ cabins etc. subject to maximum of 60 days (*H & FW Department GO No 28412, dated 01.09.1977*).
- (ii) **Accredited Press Correspondent:** The medical facilities include free pathological, bacteriological, radiological, cardio graphic and ECG examination, hospital accommodation subject to maximum of 60 days. (*H & FW Department GO No 16919, dated 20.05.1978*)
- (iii) **Work charged employees:** The H & FW Department have extended same medical facilities to the work charged employees and to their family members as applicable to regular State Government employees. (*H & FW Department GO No 15860, dated 18.06.1973*).
- (iv) **Retired State Government employees & AIS Officer of State cadre:** The benefit of medical facilities has been extended to retired State Government servants and officers of All India services of Odisha cadre. The benefits include free pathological, bacteriological, radiological, cardio graphic and ECG examination and concessional rates for accommodation in nursing homes/ cabins etc. (*H & FW Department GO No 16503, dated 27.06.1973, No 14828, 03.05.1976*)

### **SCOPE:**

The treatment of a Government servant or any of his family members was regulated as per provisions of Odisha Services (Medical Attendance) Rule, 1947. Besides, a number of circulars and instructions have been issued time and again by the H & FW and Finance Department. However, in order to avail facility of treatment by Government employees and their family members inside as well as outside the State was regulated as per provisions of H & F W Department Resolution No 17961/H, dated 17.05.2002. Further, due to increase in the cost of treatment and availability of advanced medical facilities in other medical institutions inside and outside the State, the H & FW Department have revised the guidelines to regulate reimbursement of medical claims of the Government employees time and again. In this context, H & FW Department **Resolution No 6246**, dated **04.03.2014** is relevant. The salient features the new revised guidelines are indicated below.

### **PROCEDURE OF TREATMENT:**

- (i) At the first instance, a Government servant including his eligible family member(s) can be treated in any Public Health Centre (PHC)/ Community Health Centre (CHC)/ District Headquarters Hospital (DHH)/ Medical College & Hospital (MCH) and all other Government health institutions;

- (ii) In case of necessity, he can be referred to any referral hospital inside/ outside the State declared by H & FW Department only on the following grounds :-
- (a) That the required treatment is not available in the concerned Medical College & Hospital / District Headquarters Hospital.
- (b) There will be an in ordinate delay in availing the treatment.
- (iii) For treatment in a referral hospital, a Government employee has to be referred by Government Medical College & Hospital or District Headquarters Hospital;
- (iv) The details of authority competent to refer and the referral hospital along with district allotted to such referral hospital are indicated in the following table.

**Table**

Sl. No	Name of the referral hospital	District allotted	Competent Authority to refer
1	Kalinga Hospital, Bhubaneswar	All the 30 districts	Superintendent MKCG MCH, SCB MCH, VSS MCH
2	Care Hospital, Bhubaneswar		
3	LVP Eye Institute, Bhubaneswar		
4	Aswini Hospital, Cuttack		
5	AYUSH Hospital, Bhubaneswar		
6	Apollo Hospital, Bhubaneswar		
7	Kanungo Institute of Diabetes Specialist(KIDS), Bhubaneswar		
8	Kalings Institute of Medical Science (KIMS), Bhubaneswar		
9	Hi-Tech Medical College Hospital, Bhubaneswar		
10	Institute of Medical Science & SUM Hospital, Bhubaneswar		
11	Shanti Memorial Hospital, Cuttack		
12	Chittaranjan Sevasadan, Niali, Cuttack		
13	Escort Heart Centre, Raipur, Chhatisgarh	Nuapada, Kalahandi & Bolangir districts	CDMO of Nuapada/ Bolangir/Kalahandi & Superintendent of MKCG MCH, SCB MCH, VSS MCH
14	Narayan Hrudayalaya (MMI) Hospital, Raipur, Chhatisgarh		
15	Ramakrishna care Hospital, Bisamkatak, Chhatisgarh		

16	Christian Hospital, Bisamkatak, Rayagada	Rayagada, Koraput, Malkangiri,	CDMO of Rayagada/ Koraput/Malkangiri/
17	Christian Hospital, Nawarangpur	Nawarangpur, & Kalahandi districts	Nawarangpur/Kalahandi & Superintendent of MKCG MCH, SCB MCH, VSS MCH
18	Ispat Genral Hospital, Rourkela	Sundargarh, Deogarh & Keonjhar districts	CDMO of Sundargarh/ Deogarh/Keonjhar & Superintendent of MKCG MCH, SCB MCH, VSS MCH
19	Care Hospital, Vishakhapatnam	Rayagada, Koraput, Malkangiri & Nawrangpur districts	CDMO of Rayagada/ Koraput/Malkangiri/ Nawrangpur & Superintendent of MKCG MCH, SCB MCH, VSS MCH
20	Apollo Hill Hospital, Vishakhapatnam		
21	Seven Hill Hospital, Vishakhapatnam		

- (v) The Medical College or DHH will refer the patients on recommendation of a team of faculty members/ Specialist (not less than three) headed by the Superintendent /CDMOs with concerned Head of the Department as member;
- (vi) **REMEMBER:** In case of emergency, the Government employee or his family members can get admitted into any of the referral hospitals without being referred. However, the authority of those hospitals/ Government employee themselves will immediately intimate about such admission to the Director, Medical Education and Training (DMET), Odisha who after proper assessment of the circumstances leading to such admission will pass appropriate order.

#### MEDICAL CONCESSION:

The following concessions are admissible to a Government employee:-

- (i) Entire treatment admissible cost in a State Government health institution;
- (ii) Admissible reimbursement cost includes:-
- All medicines except preparations classified as food, tonics, vitamins, disinfectants and toilet preparation, surgical sundries, disposables like cotton, syringes, needles, catheters, tubes, etc.,
  - Blood transfusion charges as per the approved rates of Red Cross, State/Central Government Hospitals.
- (iii) For outdoor treatment, medicines prescribed subject to admissibility;
- (iv) Medical claims of Government employees during the period of leave and suspension;
- (v) Medical claim of a retired Government servant if he was under treatment in a hospital prior to his retirement;

- (vi) For other hospitals (**inside or outside Odisha**), the admissible cost includes prescribed cost [*i.e.*, *schedule charges* or *package rate* fixed for Central Government Health Scheme (CGHS), Bhubaneswar]. The details of such *schedule charges* or *package rate* can be referred to given at **Annexure-B** of the aforesaid Resolution.

**Note:** The “*Schedule Charges*” or “*Package Rate*” means lump sum cost of inpatient treatment/ day care/ diagnostic procedure for which a beneficiary has been permitted by the competent authority or for treatment under emergency from the time of admission to the time of discharge including charges towards registration, admission, accommodation, operation, injection, dressing, consultant visit, anesthesia etc and all sundries used during hospitalization, cost of medicine, investigations.

### **SETTLEMENT OF CLAIMS:**

The employee, after treatment of self or any of his family members, shall apply to his administrative authority for reimbursement of medical expenses or for settlement of medical advance, if any. For indoor admission, the claim is to be preferred within 3 months from the date of discharge from the hospital. The application shall accompany following documents.

- (i) Essentiality certificate;
- (ii) All original bills verified by the treating physician with seal and signature on the bills;
- (iii) Discharge report from the hospital duly signed by the doctor;
- (iv) The detailed list of medicines, laboratory test, investigation;

#### **Remember that**

- (i) If the original documents are lost, photo copies duly signed by medical authority would be entertained subject to submission of affidavit to that effect; and
- (ii) In case of death of the employee, the claim of the legal heir can be entertained, subject to submission of the affidavit, death certificate, legal heir certificate.

### **CONCESSIONS FOR SOME CRITICAL DISEASES:**

Besides above, the H & FW Department have also allowed some concessions for the Government employees and their family members suffering from some critical diseases indicated below.

**CANCER:** The Government servants and members of their families who are suspected to be or are suffering from cancer are entitled for treatment inside or outside Odisha but within India with following concessions: (**Resolution No 41897/H, dated 11.12.1990**)

- (i) Hospital charges including accommodation, ordinary diet, medicine etc. subject to production of bills/ receipts;
- (ii) Special dietary expenditure subject to production of certificate of the concerned physician of the said cancer institute;
- (iii) Patients treated in a recognized private institution outside the state are also eligible to get diet allowance subject to countersignature on the certificate by the Director, Acharya Harihar Regional Centre for Cancer Research and Training Society, Cuttack;

(iv) Any special medicines prescribed by the cancer specialist irrespective of its enlistment in the list of admissible medicines.

**TUBER CULOSIS (TB):** The Government servants and members of their families who are suspected to be or are suffering from TB are entitled for treatment inside or outside Odisha but within India with following concessions: (**Resolution No 27424/H, dated 07.11.1970**)

- (i) Sanatorium/ Hospital charges including accommodation, ordinary diet, medicines etc;
- (ii) Special diet and special medicines prescribed by the treating physician subject to production of a certificate of the said health institute;
- (iii) Reimbursement of medicines purchased from outside, cost of transportation, TA/DA of Attendant/ escort subject to prior approval of Director of Health and Family Planning Services.
- (iv) Consultation fee by production of receipt;
- (v) Diet Allowance @ Rs 60/- per month maximum up to 2 years for special diet.

#### **OTHER DISEASES:**

Patients suffering from Diabetes, TB, Mental Diseases, Leprosy, Filariasis who can conveniently continue their domiciliary treatment in their residence are not bound to attend OPD of the hospitals/ Specialists after 10 days of treatment. (**H & FW Department order No 16968, dated 05.07.1973**)

#### **MEDICAL TREATMENT OUTSIDE INDIA:**

Medical treatment outside India is permissible for treatment for certain ailments for which facilities are not available in India. The Standing Committee constituted for this purpose by the Ministry of Health and Family Welfare will give approval for treatment and reimbursement. Prior approval of the Committee is essential. However, if approval could not be obtained due to circumstances beyond the control of the employee, reimbursement may be allowed subject to fulfillment of other conditions.

#### **EXAMINATION OF MEDICAL CLAIMS:**

While examining the propriety of the medical claims of a Government servant, the authority should ensure the following requirements.

- (i) Name, age and disease of the patient are mentioned in the prescription;
- (ii) Daily dose/ quantity of medicine and its duration for consumption is mentioned;
- (iii) Costly medicines is not prescribed when cheaper medicine with equal therapeutic value is available;
- (iv) Medicine for a long period is not prescribed;
- (v) Name of the Medical Officer as per prescription, outdoor ticket/ indoor ticket are mentioned in the medicine bills. (**H & FW Department G.O No 37835, dated 24.11.1978**)

#### **TRAVELLING ALLOWANCE:**

A Government servant can claim TA for outward and return journey outside Odisha and DA for treatment of self or family member. TA means actual conveyance charges (point to point) as admissible

to the grade of the employee. Cost of any costlier transport (like air conditioned, air etc) for the patient and TA for the attendant(s) is also admissible as per recommendations of the Authorized Medical Attendant.

If a Government servant undergoes journey in connection with his (or any of his family members) medical attendance or treatment outside the headquarters, he can be sanctioned advance TA as admissible under TA rules subject to production of a certificate from the medical authorities. (*H & FW Department G.O No 42767, dated 30.12.1978*)

#### **ARTIFICIAL LIMBS & APPLIANCES:**

A Government servant is entitled for reimbursement of cost of artificial limbs and appliances. (*H & FW Department G.O No 16763, dated 28.05.1984*) The list of 36 (thirty six) artificial appliances whose cost would be reimbursable has been indicated in H & FW Department *Resolution No 18013, dated 21.05.1990*.

#### **AYURVEDIC/ HOMOEOPATHIC MEDICINES:**

The H & FW Department have issued guidelines in different phases extending a number of medical concessions to the Government servants along with their family members who will undergo treatment and medical attendance under Indian system of medicines like ayurvedic & homoeopathic medicines vide their *Order/ Resolution No 26888, dated 23.11.1973, No 28876, dated 30.09.1974, No 20473, dated 23.07.1975, No 38871, dated 15.11.1979, No 35870, dated 03.11.1981, No 8779, dated 11.03.1981, No 20458, dated 30.06.1982, No 13849, dated 31.03.1987*

#### **MEDICAL ADVANCE:**

In order to provide some financial assistance to a Government servant to meet emergent expenditure for undergoing treatment, provision to sanction interest free medical advance has been introduced vide Finance Department *Office Memorandum No. 2680/F, dated 21.01.1987, O.M No 17950, dated 14.04.1993 and O.M No 24724/F, dated 17.06.1995*.

#### **Features of Medical Advance:**

- (i) Admissible to a Government servant whose basic pay and grade pay taken together do not exceed <sup>1</sup> 23,000 per month under ORSP Rules, 2008; (*FD O.M. No 4478/F, dated 02.02.2010*)
- (ii) Application should be accompanied by a certificate from the concerned Medical Officer/ Specialist/ Assistant Professor/ Professor indicating the duration of treatment and anticipated cost thereof and permission of the DMET;
- (iii) While processing the proposal for sanction of medical advance, following information should be ensured, whether:-
  - (a) The applicant has withdrawn money from GPF, the quantum of advance may be reduced by the sum withdrawn from GPF for same purpose;

- (b) The spouse is an employee under State/Central Government/Public Sector undertaking. If yes, a joint declaration;
- (c) Declaration with regard to dependency and monthly income in case of claims for parents;
- (d) Declaration with regard to dependency of son/ daughter along with age, marital status etc; and
- (e) Any other information required by the sanctioning authority.
- (iv) The Drawing and Disbursing Officer is responsible for recovery of the advance;
- (v) Sanction of Medical Advance and its recovery particulars should be recorded in the Service Book of the concerned employee;
- (vi) In case of transfer of an employee from one establishment to another, the outstanding amount of advance should be recorded in his LPC;
- (vii) NDC should be insisted upon at the time of pension sanction;
- (viii) Subsequent reimbursement claims should not be allowed unless the advance is full adjusted recovered;
- (ix) Interest @ 12% shall be charged for default in repaying or mis-utilization of the advance. Non adjustment of advance beyond six months is considered to be default in repayment.
- (x) The sanction of Medical Advance is to be addressed to AG, Odisha and as per sample format given below.

**GOVERNMENT OF ODISHA**

\_\_\_\_\_ **DEPARTMENT**

\*\*\*\*\*

To

*The Accountant General, A& E,  
Odisha, Bhubaneswar.*

*Sub: Sanction of Medical Advance in favour of \_\_\_\_\_*

*Sir,*

*In pursuance of F.D.O.M. No. 2680/E, dated 21.01.1987 read with O.M. No. 17950, dated the 14.04.1993, I am directed to convey the sanction of the Governor to the payment of medical advance amounting to Rs. 1,00,000/- (Rupees One lakh Only) in favour of ..... (Name of employee with designation) for treatment of self/ his .....(name of the family member) at .....(Name of the hospital) for .....(about the disease) subject to the following conditions:*



1. *The advance shall be adjusted soon after the treatment is over or within 6 months from the date of drawal or before superannuation whichever is earlier. In case of default the advance along with interest @ 12% shall be recovered in accordance with Rule 267 of O.G.F.R. Vol. 1.*
2. *The advance should not be drawn unless journey plan for treatment is firmed up and permission of competent authority is accorded.*
3. *The D.D.O shall be personally held responsible for adjustment/recovery of the advance in time.*
4. *Medical advance when sanctioned shall be recorded in the Service Book of the concerned employee along with TV No. etc. The amount so recorded in the Service Book shall be verified at the time of Annual verification.*
5. *In case of transfer of Sri..... to another Department, the outstanding amount of advance should be recorded in his L.P.C. for recovery in the new station.*
6. *For the purpose of preparation of the pension papers, No dues certificate in respect of Medical advance should also be insisted upon.*
7. *No subsequent reimbursement claims in respect of treatment of self or family members, shall be allowed unless the advance is fully adjusted, recovered.*
8. *The charge is debitable to head of account .....*
9. *This has been concerned in by Finance Department vide their UOR No. .... dated.....*

*Yours faithfully,*

#### **FREQUENTLY ASKED QUESTIONS:**

**Q:** Who is entitled for medical advance?

**Ans:** A Government servant whose basic pay and grade pay taken together is less than equal to <sup>1</sup> 23,000 is entitled for medical advance.

**Q:** What is package rate?

**Ans:** Package Rate means lump sum cost of inpatient treatment/ day care/ diagnostic procedure for which a beneficiary has been permitted by the competent authority or for treatment under emergency from the time of admission to the time of discharge. It includes Registration charges, Admission charges, Accommodation charges, Operation charges, Injection charges, Dressing charges, Doctor/Consultant fees, Anesthesia charges, Operation Theatre charges, Cost of Surgical disposable and all sundries used during hospitalization, Cost of medicines, Related routine and essential investigations, Physiotherapy charges and Nursing care and charges for its services.

**Q:** What is the quantum of accommodation charges admissible to a Government servant in a private, semi private hospital?

**Ans:** A Government servant is entitled for accommodation charges in a private, semi-private hospital depending on his basic pay as per the following entitlements.

<b>Basic Pay</b>	<b>Entitlement</b>	<b>Maximum room rent charges</b>
Up to Rs.13,950.00	General Ward	Rs. 500.00 per day
Rs. 13,960.00 to 19,530.00	Semi-Private Ward	Rs. 1,000.00 per day
Rs. 19,540.00 and above	Private Ward	Rs. 1,500.00 per day

**Q:** Who can recommend a referral hospital?

**Ans:** The authority competent to recommend a referral hospital has been given at Annexure A of the Resolution No 6246, dated 04.03.2014 of the H & FW Department.

**Q:** What will be the admissible amount for reimbursement when a Government servant undergoes treatment outside the State?

**Ans:** The H & FW Department have notified schedule rate of treatment for more than 1300 diseases along with diagnostic procedure as per rate adopted by Central Government Health Scheme, Bhubaneswar which may please be referred to in the Resolution No 6246, dated 04.03.2014.



## 30

### **PENSION BENEFITS**

- ◆ **RETIREMENT BENEFITS**
- ◆ **ELIGIBILITY**
- ◆ **CLASSES OF PENSION**
- ◆ **FACTORS GOVERNING PENSION BENEFITS**
- ◆ **DETERMINATION OF PENSION**
- ◆ **GRATUITY**
- ◆ **FAMILY PENSION**
- ◆ **COMMUTATION OF PENSION**
- ◆ **PROVISIONAL PENSION**
- ◆ **PROCESSING OF PENSION PAPERS**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## PENSION BENEFITS

As an ideal employer, the Government looks after its employees and makes arrangement to provide its people with an income during retirement when they are no longer earning a steady income from employment. The service conditions for Government employees have accordingly been formulated to provide for grant of pension after their retirement/death.

Accordingly, the Government of Odisha in Finance Department have formulated a set of rules in a single volume “**The Orissa Pension Rules, 1977**” which became operative with effect from 28.04.1977. Subsequently, a number of Notifications, Resolutions, and Office Memoranda have been issued simplifying the processes of pension administration. As such, “**The Orissa Civil Services (Pension) Rules, 1992**” was brought out incorporating all the modifications and amendments made during the period from 1977-1992 and later up to 31.12.2015. It can be accessed in Finance Department official website. The salient features of the rules are indicated below.

### RETIREMENT BENEFITS:

When a Government servant either retires attaining the age of superannuation or dies while in service, he/ she shall be entitled for following pension benefits.

#### Normal Retirement

- ♦ **Pension:** A recurring monthly payment for life determined with reference to the last pay drawn at the time of retirement/discharge from service subject to a minimum qualifying service (QS) of ten years.
- ♦ **Retirement Gratuity:** A lump sum amount payable under sub-rule (1) of rule 49 determined on the basis of length of service and last pay drawn plus Dearness Allowance (DA) admissible at the time of retirement subject to the ceiling as prescribed. (*i.e* limited to ₹15 lakh)
- ♦ **Service Gratuity:** A lump sum amount payable under clause (i) of sub-rule (5) of rule 47 in lieu of pension if the total qualifying service is less than ten years; this is in addition to other gratuity admissible.
- ♦ **Commutation of Pension:** A lump sum payment in lieu of a portion of pension not exceeding 40% of basic pension, surrendered by the pensioner. (Optional)
- ♦ **Encashment of Earned Leave:** A lump sum amount payable under clause (iv) of rule 20 determined on the basis of earned leave at the credit of the employee up to the date of retirement subject to a maximum of 300 days.
- ♦ **Group Insurance Scheme:** The amount paid only towards premium of GIS.
- ♦ **General Provident Fund:** The amount accumulated in the GPF of the employee along with interest accrued there upon till the date of retirement.

**Benefits admissible on death**

- ♦ **Death Gratuity:** The amount payable under sub-rule(2) of rule 49 in cases where total qualifying service is less than 10 years
- ♦ **Residuary Gratuity:** This amount is payable under sub-rule (3) of rule 49. It is granted when a retired employee eligible for service gratuity dies within five years of his retirement/compulsory retirement. The amount shall be equal to the difference between the sum received by the Government servant towards pension, retirement gratuity and commuted value of pension and 12 times of his last emolument.
- ♦ **Family Pension/Enhanced Family Pension:** A recurring monthly payment for life to the widow / widower/ an eligible family member/ a physically crippled or disabled or suffering from any disorder son or daughter/ or widowed/ divorced/ disabled widowed/ disabled divorced daughter even after attaining the age of twenty five years, until she gets married/ re-married or starts earning her livelihood as prescribed in Rule-56 or till her death whichever is earlier.
- ♦ **Amount of Insurance:** A fixed sum assured under Group Insurance scheme. For Government servant with Grade Pay ₹ 4600, the sum assured is ₹ 4,00,000 while Government servant with Grade Pay ₹ 5400 and above the sum assured is ₹ 6,00,000. In both the case ₹ 10,000 is payable for obsequies.

**ELIGIBILITY:**

- ♦ A Government servant is entitled to get pension benefits under following conditions:- He/ She
  - (i) must borne on pensionable establishment;
  - (ii) must have entered service before 01.01.2005;
  - (iii) is permanently absorbed in a foreign body subject to exercise of option;

**CLASSES OF PENSION:**

- (i) **Superannuation Pension:** This is granted to a Government servant who is retired on attaining the age of superannuation/compulsory retirement. A Government servant usually retires on the afternoon of the last day of the month on which he attains the age of 60. If date of birth falls on the 1<sup>st</sup> of the month, he will retire on the last day of the previous month. **(Rule 40)**
- (ii) **Retiring Pension:** It is granted to a Government servant if he/she opts to retire or is made to retire by the appointing authority in public interest before the age of superannuation but after completion of 50 years or after 30 years of qualifying service. In either case serving notice before three months is necessary.
  - ♦ Three months' notice period may be relaxed if the Government servant agrees not to apply for commutation;
  - ♦ If the total qualifying service does not exceed thirty three years, the qualifying service may be increased up to five years except in case of retirement in public interest. **(Rule 41)**

- (iii) **Compensation Pension:** It is granted to a Government servant who is selected for discharge owing to abolition of his post and alternative appointment to another post of equal status is not possible and he refuses to accept another appointment on such pay as may be offered. In such case,
- ♦ Three months' notice is mandatory;
- (**Rule-38; FD Clarification No.47505/F dt. 20.10.1976**)
- (iv) **Invalid Pension:** This is granted to a Government servant who is permanently incapacitated either physically or mentally rendering him unfit for further service. Submission of medical certificate in Form B from appropriate authority is mandatory. (**Rule 39; Notification No 24142/F., dated 04.09.2015**)
- (v) **Compassionate Allowance:** Such allowance is granted as a special consideration, when a Government servant is dismissed/ removed from service. The amount of compassionate allowance shall not be more than 2/3<sup>rd</sup> of pension or gratuity or both (*which would have been admissible to him if he had retired on compensation pension*) or less than minimum pension. Grant of such allowance shall require approval of FD. (**Rule 46**)
- (vi) **Voluntary Retirement Pension:** A Government servant may seek VR after 20 years of qualifying service giving a notice of minimum three months' time. A notice given in less than three months may be accepted by the appointing authority on the condition that the Government servant shall not apply for commutation before the expiry of three months' notice period. However, the other conditions are
- ♦ In cases where DP is pending/ contemplated for imposition of major penalty or prosecution is contemplated or launched in a Court of Law and it is proposed to accept the VR notice, approval of the Government should be obtained;
  - ♦ VR is not applicable to cases where retirement is taken for permanent absorption in an autonomous body. (**Rule 42**)
- (vii) **Pension on Absorption in Corporation/Public Undertaking:** This is granted to a Government servant who is allowed to be permanently absorbed in PSU. (**Finance Department Notification No.45865/F., dtd.01.09.2001**)
- ♦ In such cases, option should be exercised within six months from the date of absorption. (**FD Resolution No. 25926/F dated 04.06.1996**) (**Rule 43**)
- (viii) **Pension on Absorption in Autonomous Bodies:** A Government servant may be absorbed in an autonomous body which may or may not have its own pension system. Likewise, an employee from an autonomous body can move to Government establishment. In either case pensionary liability shall be discharged by the parent body with a lump sum payment of **pro rata pension**/gratuity for the service rendered up to the date of absorption determined with reference to the commutation table. The following principles shall govern such cases:
- ♦ When a Government servant with CPF benefits moves to an autonomous body with pension scheme, he can retain his CPF and start service afresh under the new body or get his past service under Government counted as qualifying service for pension in the autonomous body

by forgoing the Government contribution of CPF with interest subject to exercise of an option within one year from the date of absorption. If no option is exercised, the employee shall be deemed to have opted to receive CPF benefit;

- ♦ If the autonomous body has no pension scheme in operation, the Government servant borne under a pensionable establishment shall be deemed to have retired from Government service. If such absorption is in public interest, Government has to credit to his new CPF account an amount which Government would have contributed excluding interest had he been on CPF terms under Government with two percent interest per annum thereon for the period of his pensionable service. After such payment, Government's liability to pay pension/family pension for the pensionable service shall stand extinguished.
- ♦ When a Government servant with CPF moves to an autonomous body with CPF, the employee and employer's contribution together with interest thereon shall be transferred to his new Provident Fund Account with the consent of the new body.
- ♦ When an employee of an autonomous body is absorbed under the State Government, the employee shall choose either to continue receiving CPF benefits and start his service afresh under Government or get his past service rendered under the autonomous organization counted as qualifying service for pension by forgoing the Government contribution to CPF with interest which shall then be paid to the autonomous body subject to exercise of option within one year from the date of absorption.
- ♦ Pre 01.01.2005 appointees, who were governed under the old non-contributory pension rules, shall continue to be covered under the said rules (subject to fulfillment of other terms and conditions) w.e.f 01.01.2005, on their permanent absorption or further appointment under State/Central autonomous bodies or State Government.
- ♦ If service rendered in a parent body (whether government or autonomous) is less than five years, the pro rata shall be proportionate to the length of service irrespective of whether or not the employee is actually entitled to receive such benefits at the time of his or her absorption w.e.f. 18.04.1996.

**(Rule 44 read with *FD Notification No.24142 dated 04.09.2015*)**

(ix) **Pension in case of compulsory retirement-**

- ♦ If compulsory retirement is given as a measure of penalty, the rate of pension or gratuity or both shall not be less than two third and not more than full compensation pension or gratuity or both admissible to him on the date of compulsory retirement.
- Consultation with OPSC is mandatory in case where pension (including gratuity) proposed to be granted is less than full compensation pension.
- In either case pension granted shall not be less than minimum pension admissible.

**(Rule 45)**

## FACTORS GOVERNING PENSION BENEFITS

Pension benefits are calculated on the basis of the following:-

- (i) Qualifying Service;
- (ii) Emoluments.

### Qualifying Service:

The meaning of the qualifying service has been discussed in **Rule 10** which means service rendered by a Government servant that qualifies for grant of pension in accordance with the provisions of the OCS (Pension) Rules, 1992. The general conditions of such provision are discussed below.

### General Conditions:

- ♦ Qualifying service commences from the date a Government servant takes charge of the post and ends on the date of death or of retirement.
- ♦ The service must be in a pensionable establishment; (**Rule 11**)
- ♦ Government may declare any such service as qualifying service; (**Rule 12**)
- ♦ Must be appointed and duties regulated by orders of the Government. (**Rule-13**)
- ♦ The period of duty to be counted towards qualifying service also includes
  - ♦ Duty and period treated as duty;
  - ♦ Probation period or Apprenticeship period if followed by regular appointment;
  - ♦ Deputation and foreign service;
  - ♦ All leave during service of the Government servant for which leave salary is payable;
  - ♦ EOL with medical certificate;
  - ♦ Contractual appointment or Service rendered in work-charged establishment if followed by appointment in pensionable establishment without interruption of duty;
- ♦ Past Service rendered under Central or other State Government if permanently transferred to the State Government
- ♦ Service rendered in a job contract establishment if subsequently brought over to regular/pensionable establishment (*FD Notification No.45865 dated 01.09.2001*)
- ♦ Service in Survey & Settlement organization if followed by qualifying service without interruption. (**Rule-21**)
- ♦ Period of suspension if fully exonerated or found wholly unjustified; In other cases competent authority shall decide whether or to what extent suspension period will count towards qualifying service;
- ♦ Past Service on reinstatement shall count as qualifying service, if reinstated after dismissal/removal/ compulsory retirement;
- ♦ Past Service on resignation will count as qualifying service if resignation is permitted to take up another appointment under the State Government;



- ♦ The interruptions in service can be condoned. (**Rule 14 to Rule 36**)
- ♦ In calculating the length of qualifying service, a fraction of a year equal to three months and above but less than six months shall be treated as a completed one-half year and the period of nine months and above shall be reckoned as two-half years. (**Rule 47**)

**Emolument:**

- ♦ For the purpose of calculation of pension, the emoluments means the basic pay as defined in Rule 33(a) (i) of the Odisha Service Code and under the Odisha Revised Scales of Pay Rules issued from time to time. The emoluments also include :-
  - (i) Stagnation increment, if any, granted;
  - (ii) Personal pay and additional pay granted u/r 37 and 96 of OSC;
  - (iii) Any other recurring emolument classed as pay u/r 33(a)(ii) of OSC

**Remember:** the pay of an employee notionally fixed after his retirement shall also be taken into consideration.

(**Rule 2(e)** read with *Finance Department Notification No. 24142, dated 04.09.2015*)

**Emolument during the period of absence from duty:**

- ♦ If an employee is on leave (with leave salary) during the last month of his retirement, his emolument shall be what he would have drawn but for his leave. Increment falling due during such leave shall be taken into account subject to certification of continuity by competent authority.
- ♦ If on leave with allowance, emolument would be what he would have drawn immediately before proceeding on leave.
- ♦ If on leave without allowance, emolument would be what he had drawn immediately before proceeding on leave w.e.f. dtd.25.11.1994. (inserted vide Finance Department Notification No.24142/F., dtd.04.09.2015).
- ♦ If he is under suspension and subsequently reinstated in service without forfeiture of service, the emolument will be what he would have drawn had he not been suspended.
- ♦ Emoluments drawn while on foreign service shall not be reckoned for pension purposes; in such cases emoluments shall be what he would have drawn under the Government had he not been on foreign service.

**DETERMINATION OF PENSION:**

The amount of pension of a retired Government servant is determined by:-

- ♦ The length of completed six monthly periods of service. That means pension is payable to a Government employee for a minimum period of service of 10 years or 20 numbers of six monthly period of service;
- ♦ Maximum pension *i.e.*, 50% of the last emoluments is payable to a Government employee for a period of service of 25 years (or 50 six monthly period of service) or more. This minimum length qualifying service for full pension is applicable to employees retiring on or after **01.12.2008**. However,

for Judicial Officers, this qualifying service is 20 years or more which is applicable to Judicial Officers retiring on or after **01.01.2006**.

- ♦ If the qualifying service is less than 25 years, but more than 10 years, then proportionate amount of pension is payable as per the formula given below. **(Rule 47)**

### Proportionate Pension

$$\frac{1}{2} \text{ (Last emolument) } \times \frac{\text{Number of six monthly period of service}}{50}$$

**If the reminder months is three, it shall** be treated as one six monthly period of service.

### Illustration:

Calculate the proportionate pension of an employee drawing last emoluments of ₹ 44,680 with a period of service of 18 years and 3 months and 14 days.

### Solution:

$$\text{Proportionate Pension} = \frac{1}{2} (\text{Rs. } 44680) \times \frac{37}{50} = \text{Rs. } 16531.60 \text{ or say Rs. } 16532$$

- ♦ In no case, the pension shall be less than ₹ 8,300 which is treated as the minimum pension. **This amount is subject to revision** by the Government from time to time.
- ♦ Besides, the quantum of pension of old pensioners i.e on completion of 80 years of age or above shall be increased in the following manner with effect from 01.12.2008 in respect of other employees while for Judicial officers this cutoff date is 01.01.2006.

### Age of pensioner

From 80 years to less than 85 years  
 From 85 years to less than 90 years  
 From 90 years to less than 95 years  
 From 95 years to less than 100 years  
 100 years or more

### Additional Pension

20% of basic pension  
 30% of basic pension  
 40% of basic pension  
 50% of basic pension  
 100% of basic pension

### GRATUITY:

Gratuity is lump sum money paid to a Government servant on his retirement or death. It is, therefore, known as death-cum-retirement gratuity (DCRG). **(Rule 49)**

### Types of Gratuity:

- ♦ Retirement Gratuity is payable to a Government employee if he has completed minimum **five years** of qualifying service.
- ♦ The gratuity amount shall be equal to 1/4th of the last emolument for each completed six monthly period subject to a maximum of 16½ times of the emoluments.
- ♦ The amount of **retirement gratuity** so payable shall not exceed:-

- ₹ 2,50,000 for the employees retiring on or before dated 31.12.2005;
- ₹ 7,50,000 for employees retiring on or after dated 01.01.2006.
- ₹ 15,00,000 for employees retiring on or after dated 01.01.2016.
- ₹ 10,00,000 for Judicial Officers retiring on or after 01.01.2006.

(F.D. Notification No 24142/F., dated 04.09.2015)

**Death gratuity** is admissible to a Government servant in the event of his death which is calculated as per following formula given in a tabular form.

<b>Length of Service</b>	<b>Rate of Gratuity</b>
Less than 1(one) year	2 times of monthly emoluments
1 year or more but less than 5 years	6 times of monthly emoluments
5 years or more but less than 11 years	12 times of monthly emoluments
11 years or more but less than 20 years	20 times of monthly emoluments
20 years or more	Half month's emoluments for every completed six-monthly period of qualifying service subject to a maximum of 33 times emoluments

- ♦ The amount of Death Gratuity as finally calculated shall be rounded off to the next higher rupee. (FD Notification No 28300 dated 23.09.2017)
- ♦ **Service Gratuity** is payable to a Government Servant if retiring before completion of ten years of qualifying service. It is paid at a uniform rate of half month's emoluments for every completed six monthly period of service.  
(FD Notification No.24142/F., dtd.04.09.2015) (Rule 47(5)(i))
- ♦ **Residual Gratuity** is payable to the family of a Government servant under following conditions;
  - He should be eligible for service Gratuity or pension;
  - He should have died within 5 years from the date of retirement;
- ♦ The Residual Gratuity is calculated as the difference between 12 times the emoluments at the time of retirement and the amount actually received at the time of death of the Government servant.
- ♦ For the purpose of payment of Gratuity to the family member(s) in the event of death of the Government servant shall mean:-
  - wife or wives (including judicially separated wife or wives) in the case of a male Government servant,
  - husband (including judicially separated husband), in the case of a female Government servant,
  - sons including step sons and adopted sons,
  - unmarried daughters including step daughters and adopted daughters,
    - ✓ widowed / divorced / disabled widowed / disabled divorced daughters including step daughters and adopted daughters (Added vide FD Notification No.32745/F., dtd.23.07.2011)

- father;
  - mother;
  - brothers below the age of eighteen years including step brothers,
  - unmarried sisters and widowed sisters including step sisters,
  - married daughters,
  - children of a pre-deceased son, and
  - children born out of void wed lock.
- ♦ **Interest @ 7% P.A.** is payable for delay of over one year in payment of gratuity attributable to administrative lapses. In case there is a departmental or Judicial proceedings in respect of pensioner the period of one year shall be reckoned from the date of finalization of such proceedings. Such interest shall be sanctioned by the Secretary of the A/D with the approval of FD and the approval of Government. Further such interest shall be recovered from the Pension Sanctioning Authority or the authority who is responsible for such delay.
- ♦ **Persons to whom gratuity is payable:-**
- In the event of death of a Government servant, gratuity is payable to the nominee u/r 53. If there is no nomination or nomination made is lost/not traceable then equal shares will be paid to all surviving members of the family as per provisions under rule 49.
  - If the grantee is a minor, gratuity shall be payable to the guardian on behalf of the minor (Rule 50)
  - In case of absence of family members or nomination, gratuity is payable to the person in whose favour a succession certificate has been granted by a competent Court of Law.

#### **FAMILY PENSION:**

- ♦ Family Pension is payable to the family of a deceased Government servant if he dies after completion of one year's continuous service; or before completion of one year's service provided the deceased government servant was found medically fit for Government service; or after retirement and was in receipt of pension/ compensation allowance on the date of death. **[Rule 56(2)]**
- ♦ "Family" in relation to a Government servant means:-
- (i) Wife in the case of a male Government servant or husband in the case of a female Government servant;
  - (ii) Son/unmarried daughter including those legally adopted up to 25 years;
  - (iii) Unmarried / widowed / divorced / disabled widowed / disabled divorced daughters including daughters adopted legally even after twenty-five years;
  - (iv) Father/Mother;
  - (v) Child includes a posthumous child;

(vi) Father-in-law / mother-in-law in case of married female Government servant / pensioner who has no eligible family members.

- ◆ Family Pension is payable @ 30% of the emolument in all cases subject to the minimum as notified. Additional Family Pension to old family pensioners (*i.e.*, after completion of the age of 80 and above) is payable with effect from 01.01.2006 as per the following rates:

Age of pensioner	Additional Pension
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

- If a Government servant dies while in service after rendering at least seven years in service higher rate of Family Pension is payable *i.e.*, @ 50% of the last pay or twice the Family Pension whichever is less.
- This Family Pension is payable from the date following the date of death of the Government servant for a period of 10 years with effect from 01.01.2008. For Judicial Officers this cutoff date is 01.01.2006.

(i)	Widow / Widower	Family Pension is payable up to death or remarriage whichever is earlier. <b>Rule 56(5)(a)</b>
(ii)	Sons	Family Pension is payable up to 25 years or till he starts earning livelihood whichever is earlier. <b>Rule 56(5)(b)</b>
(iii)	Unmarried daughters	(a) Family Pension is payable up to 25 years or till she gets married or starts earning livelihood whichever is earlier; <b>Rule 56(5)(c)</b> (b) Payable beyond 25 till marriage or death if monthly income does not exceed (₹ 10000) Rupees Ten Thousand only <b>Rule 56(5)(d)</b>
(iv)	If more than one child	Family Pension is payable to children in order of their birth until the last child becomes 25 years ; the younger of them will not be eligible unless the next above him/her becomes ineligible
(v)	If Mentally/physically disabled/crippled children	Family Pension shall be payable for life in the order of their birth and the younger of them will get the family pension only after the elder next above him/her ceases to be eligible (disability certificate from CDMO is mandatory)

(vi)	If children are twins	Family Pension is payable in equal shares; when one such child ceases to be eligible, his/her share shall be payable to the other child when both of them cease to be eligible, the family pension shall be payable to the next eligible single child /twin children. <b>Rule 56(6)(d)</b>
(vii)	widowed / divorced / disabled widowed / disabled daughters above 25 years	Till remarries or death; In case of divorced/ disabled divorced daughters the divorce must be valid as per law. In case of widowed/disabled widowed daughter Family Pension is payable for life if there is no other eligible unmarried daughter above 25 years and disabled son/ disabled unmarried daughter to receive the family pension.
(viii)	son or unmarried daughter including widowed / divorced daughter if suffering from physical/mental disorder	Family Pension is payable for life.
(ix)	Transgender child	In case of a transgender child, if lives single of a Govt./Retd. Govt. Servant who died on or after 10.01.2020 shall be treated as an unmarried daughter in case there is no other elder unmarried daughter/ disabled unmarried daughter subject to conditions as mentioned in Rule 2(b) Sub clause –III provided that a child above 25 years in age must be wholly dependent on Govt. Servant for consideration of grant of family pension

- If the Government servant dies after retirement, Family Pension is payable @ 50% of the last pay or twice the Family Pension whichever is less for a period of seven years or up to the date the Government Servant would have attained 65 years had he survived whichever is less); **(Rule 56(4))**
- ♦ FP is payable to one member of the family at a time in the order indicated in the table below. However, if there are more than one claimant, FP will be payable to each in equal shares inshorteen specific cases.
- ♦ When both husband and wife are Government servants, If one of them dies after retirement Family Pension is payable to the surviving spouse.
  - Children would get two pensions if both the husband and the wife die;

- In no case the sum of both the pensions shall be less than the minimum prescribed. If, however, the sum of both the pensions exceeds the minimum, none of the pension shall be stepped up to the minimum pension. (FD OM No. 3667 dated 19.01.2009)

### COMMUTATION OF PENSION:

- ♦ The O.C.S (Commutation of Pension) Rules, 1992 provides that a Government Servant, on retirement from service, can commute a portion of his basic pension into a lump sum amount.
- ♦ The Government Servant retired on or after 01.12.2008 is entitled to commute a maximum amount of 40% of his basic pension. On such commutation, the pensioner will receive the pension reduced by 40% up to a period of 15 years.
- ♦ On expiry of 15 years, the pension will be restored again. If the pensioner would have lived by that time he would enjoy that reducible amount of pension again along with his pension.
- ♦ The lump sum amount is calculated in accordance with a table of values given at Annexure-I of the rule. As per the formula given in the table, the commuted value of pension of a Government servant at the time of his retirement on superannuation would be:

$$\text{Commutated Value} = \text{Pension} \times 40\% \times 8.194 \times 12$$

### Illustration:

**Calculate the commuted value of pension of an employee retired attaining the age of superannuation and drawing last emoluments of ₹ 44,680 with a period of service of 28 years.**

### Solution:

$$\text{Commutated value} = ₹ 22,340 \times 40\% \times 8.194 \times 12 = ₹ 8,78,659$$

- ♦ Commutation is not allowed when judicial/departmental proceedings are instituted against a Government servant.
- ♦ However, a Government Servant who is authorized for superannuation pension/retiring pension/compensation pension is eligible to commute a fraction of his pension subject to prescribed limit. In such cases no medical certificate is necessary.
- ♦ Medical examination is necessary if the Government servant:
  - (i) Retires in invalid pension u/r 39 of the OCS(Pension) Rules, 1992;
  - (ii) Absorbed in a foreign body and elects to receive retirement gratuity and lump sum in lieu of pension u/r 43 of the OCS(Pension) Rules, 1992;
  - (iii) Compulsorily retired as penalty and granted pension u/r 45 of the OCS(Pension) Rules, 1992;
  - (iv) Is in receipt of compassionate allowance u/r 46 of the OCS(Pension) Rules, 1992;
  - (v) Application for commutation is not received in the Head of Office within one year of retirement.

**PROVISIONAL PENSION:**

- Provisional pension and gratuity can be granted to a retiring employee under the following circumstances:-
  - (i) If it is not possible in part of the Appointing Authority to forward the pension papers to the Accountant General (A&E), Odisha within the prescribed period;
  - (ii) The pension papers have been forwarded but the Accountant General (A&E), has either not issued the PPO or has returned the pension papers to the Pension Sanctioning Authority soliciting further information;
  - (iii) In the opinion of the Pension Sanctioning Authority, the Government Servant is likely to retire before sanction of his pension and gratuity. In such case, the Pension Sanctioning Authority shall determine the qualifying service and emoluments on the basis of official records or ask the retiring Government Servant to furnish a written statement on plain paper stating the total length of qualifying service including details of emoluments last drawn but excluding the breaks/ other non-qualifying periods of service.
- Provisional Pension/ Provisional Gratuity to be granted in Form N should be 100% of pension/ Gratuity.
- 100% of Gratuity or ₹ 1000/- whichever is less shall be withheld for adjustment of un-assessed Government dues.
- If provisional pension paid is more than final pension, excess can be recovered either out of withheld gratuity or from future pension in instalments.
- If provisional gratuity paid is more than the finally assessed gratuity, excess amount should be adjusted against commuted value of pension. **(Rule 65)**
- When Departmental/ Judicial proceeding is pending against the Government servant at the time of retirement, Provisional Pension equal to maximum pension based on calculation of qualifying service up to the date of suspension is payable;
- No gratuity shall be paid until conclusion of the Departmental/ Judicial proceedings; However minor penalty proceedings shall not vitiate grant of Gratuity;
- Provisional pension will be adjusted against final retirement benefits sanctioned upon conclusion of proceedings, but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or pension is finally reduced or withheld permanently or for a specified period. **(Rule 66)**

**PROCESSING OF PENSION PAPERS:**

- The pension is sanctioned by the designated officer (Pension Sanctioning Authority) of a Department after receipt of the application by the retiring Government servant well in advance and checking of entitlements. Such sanction along with a copy of the pension application submitted by the retiring Government servant is communicated to the Accountant General (A&E) for further checking of entitlements as per the Orissa Civil service (Pension) Rules 1992.



- The Accountant General (A&E), Odisha authorizes the Pension, Gratuity and Commuted value of the pension to the Treasury Officer where the retired Government servant had desired to take payment. The Pension Sanctioning Authority is also intimated of the fact of authorization of pension.
  - In to ensure transparency and hassle-free processing of pension applications, the Finance Department have amended the pension forms as prescribed in the Executive instruction **No-11931, dated 21.03.1983** in line with the pension forms prescribed under **Odisha Civil Services (Pension) Rules, 1992** with some additional information to cater to the need of online processing of pension application. The list of newly prescribed pension forms vis-à-vis the existing pension forms may be seen **FD OM No 32321/F, dated 22.11.2021**.
  - From 01.08.2018, it is mandatory to apply for fresh pension online through iFMS, as per the procedure mentioned in **FD O.M No. 32888/F, dated 13.11.2017** and **No 34081, dated 22.11.2017**.
  - The beneficiaries can submit Online Pension application using the Pensioners Portal. (<https://www.odishatreasury.gov.in/PensionPortal/>).
  - The various stages for processing of pension application at Pension Sanctioning Authority level is in accordance with Rule-59 of OCS (Pension) Rules-1992 read with the amendment from time to time.
  - The AG office, downloading the pension applications online, processes them through SAI pension system for finalization of the cases. In order to apprise the pensioners about the status of their pension applications, AG office official website may be accessed.
  - After finalization of the pension cases by AG office, e-Authorities for pensionary benefits are generated and uploaded in the iFMS under digital signature for taking further necessary action at Treasury level. Personal copies of e-Authorities are uploaded in the AG website for preview and user may download their Authority copies using their login ID and Password for information.
  - Since the pensioners are facing difficulties in personal appearance before the Treasury Officer for life certificate, the State Government have introduced Artificial Intelligence (AI) based online verification of identity, liveness and submission of Life Certificate. The identity of the pensioners/ family pensioners in the aforesaid online facility can be made in the following manners:
    - (a) Selfie Based;
    - (b) Self-Assisted Video KYC;
    - (c) Officer Assisted Video KYC
- (FD OM No 36289/F, dated 29.12.2021)**

## FREQUENTLY ASKED QUESTIONS

- Q.** What is premature retirement? How is it different from compulsory retirement or voluntary retirement?
- Ans:** Rule 71 (a) of OSC provides for premature retirement. It is distinct from compulsory retirement ordered as penalty or voluntary retirement. Appropriate authority may require any officer to retire from service in public interest by giving a notice in writing at least three months before the date on

which he is required to retire, or by giving three months' pay and allowance in lieu of such notice in the following circumstances:-

- (i) After attaining the age of 50 years
- (ii) On completion of 30 years of qualifying service

The power should not be exercised to retire an employee on grounds of misconduct or as a short-cut to avoid formal disciplinary proceedings. (GA Department letter No.30495 dated 24.11.1987)

**Q:** Who is Pension Sanctioning Authority?

**Ans:** Normally the appointing authority competent to make appointment is the Pension Sanctioning Authority. In case of Secretariat Departments and Heads of the Department, power to sanction pension may be delegated to any officer sub-ordinate to him not below the rank of Group-A.

*(FD Notification No.46557/F., dtd.09.11.2010)*

**Q:** Who can sanction Provisional Pension?

**Ans:** The provisional pension of a retired Government servant can be sanctioned by the Head of the Office. **Remember** that the Head of the Office need not be the appointing authority. *(FD Notification No.30293/F., dtd.08.07.2010)*

**Q:** What are various categories of pensions admissible to the State Government Employees and under what situation?

**Ans:** Various categories of pensions admissible to Odisha Government employee are: (i) Compensation pension, on account of abolition of post;

- (ii) Invalid pension on account of bodily or mental infirmity which permanently incapacitates him for the service;
- (iii) Superannuation pension on attaining the age of retirement;
- (iv) Retiring pension after attaining the age of fifty years or completion of twenty five years of qualifying service.

**Q:** Whether departmental proceedings or Judicial proceeding can be instituted after retirement?

**Ans:** As per Rule 7(2)(b)(ii) of O.C.S (Pension) Rules, 1992, a person may be in service or retired from service, departmental proceedings shall be initiated within four years from the date of occurrence of the event. But judicial proceedings can be initiated at any time.

**Q:** What benefit a retired Government servant will get when Departmental Proceedings/ Vigilance case is pending against him?

**Ans:** As per Rule-66 (1) of O.C.S (Pension) Rules, 1992 where Departmental or judicial proceedings are pending in respect of a Government servant on the date of his retirement, referred to in, he shall be paid a provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant; or if he was

under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

**Q:** When the pension papers will be submitted by a Retiring Officer?

**Ans:** As per Rule 58 (2) of O.C.S (Pension) Rules, 1992, the Head of Office shall be responsible for obtaining the particulars from the Government servant at least one year before retirement in **Form-6** and complete the processing of pension papers as early as possible and in no case not later than eight months of retirement.

**Q:** What is the function of PG & PA Department with regard to redressal of grievances on pension matter?

**Ans:** The PG & PA Department administers timely disposal of pension cases through monthly review of pending pension cases of all Departments, Heads of Department and Collectors. Any grievance in regard to pension or otherwise received in the Department is examined and necessary instructions issued to the concerned Pension Sanctioning Authorities for expeditious disposal of the case. That apart, pending pension cases are finalized through Pension Adalats organized in different District Headquarters from time to time.

**Q:** Who is responsible for delay in finalizing pension/ pensionary benefits?

**Ans:** The Head of Office or the Pension Sanctioning Authority is responsible for delay in finalizing pension/ pensionary benefits because such delay is occasioned due to non-adhering to the time stipulation prescribed in the pension rules by the Head of Office or Pension Sanctioning Authority.

**Q:** Whether pension/ family pension is admissible to a Government employee or his family member(s) who is dismissed or removed from service?

**Ans:** As per Rule- 46, a Government servant who is dismissed or removed from service shall forfeit his pension and gratuity. But on special consideration, a compassionate allowance not exceeding 2/3 of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension shall be granted by the competent authority as per same rule. Further, it should not be less than the amount of minimum pension admissible. So also family pension admissible accordingly.

**Q:** Whether pensionary benefits is admissible to a Government servant in case of disappearance/ absconding while in service?

**Ans:** In case of disappearance/ absconding of a Government servant and after elapse of one year from the date of lodging of FIR, pensionary benefits on indemnity bond at normal rates shall be authorized. The difference between retirement gratuity and death gratuity shall be paid after the death is established or on the expiry of 7 years from the date of lodging of the FIR.



## 31

### NATIONAL PENSION SYSTEM

- ◆ ADOPTION BY THE STATE GOVERNMENT
- ◆ APPLICABILITY
- ◆ NPS ARCHITECTURE
- ◆ INTERMEDIARIES
- ◆ REGISTRATION OF NODAL OFFICES
- ◆ REGISTRATION OF SUBSCRIBERS
- ◆ CONTRIBUTORY ACCOUNTS
- ◆ PROCEDURE FOR SETTLEMENT OF MISSING CREDITS
- ◆ SELECTION OF FUND MANAGERS
- ◆ NOMINATION
- ◆ DUPLICATE PRAN CARD
- ◆ PARTIAL WITHDRAWALS
- ◆ EXIT FROM NPS
- ◆ DEATH-CUM-RETIREMENT GRATUITY
- ◆ TAX BENEFITS
- ◆ FREQUENTLY ASKED QUESTIONS

## NATIONAL PENSION SYSTEM

The pension systems for Government servants, as evolved over the years, had begun to show signs of financial stress in India as early as late 90's. Since the pension benefits of Government employees are usually paid from the general revenue of the State, the increasing pension liabilities adversely affected the fiscal health of the Government entities. Apprehensions about the fiscal sustainability of the prevailing pension systems emerged as a major area of concern and prompted many Governments to restructure their retirement programmes. In 1999, the Government of India commissioned a national project, OASIS (an acronym for "old age social and income security"), to examine policies related to old age income security in India. Based on the recommendations of the OASIS report, the Government of India introduced a new Defined Contribution Pension System for the new entrants to Central/State Government service, except the Defence forces *i.e.* Army, Navy and Air Force, replacing the existing system of the Defined Benefit Pension System. This new system is called the **National Pension System (NPS)**. The NPS is a voluntary defined contribution pension system administered and regulated by the Pension Fund Regulatory and Development Authority (PFRDA), created by an Act of the Parliament of India.

Pending legislation to this effect, the PFRDA was established on 23.08.2003 through a resolution by the Government of India to "promote old age income security by establishing, developing and regulating pension funds, to protect the interests of subscribers to schemes of pension funds and for matters connected therewith or incidental thereto". The PFRDA Act was, however, passed subsequently on 19.09.2013 and notified on 01.02.2014, thus, setting up PFRDA as the regulator for pension sector in India. However, there remains a considerable amount of confusion with other entities like the Employee provident fund, pension funds run by life insurers, and mutual fund companies being outside the purview of PFRDA.

The National Pension System, as we see it today, was notified by the Government of India on 22.12.2003 and given effect to from 01.01.2004.

In NPS, each employee shall contribute a part of his/her monthly salary and matching contribution shall be provided by the employer to be deposited in the pension account of the employee followed by long term investment by empanelled Fund Managers in secured manner. At the time of exit, employee shall utilize a specified part of his accrued pension wealth for purchase of annuity from any IRDA regulated empanelled Life Insurance Company (Annuity Service Provider) providing for monthly or any other periodical pension to him/her with return of balance as lump sum.

In terms of simplicity in opening account, flexibility in choosing investment options, portability across jobs and locations, low account maintenance cost, transparent regulations, regular monitoring of the performance

of Fund Managers, easy accessibility and regulation of the activities of all entities by a regulating Body (Pension Fund Regulatory and Development Authority), NPS stands out as a unique investment destination.

#### **ADOPTION BY THE STATE GOVERNMENT:**

Government of Odisha have migrated to the “**Restructured Defined Contribution Pension System**” (NPS) for the new entrants to the State Government service w.e.f. 01.01.2005 vide Finance Department Notification No.44451 dated 17.09.2005. During its initial phase of implementation in the state, Accountant General (A&E), Odisha and Controller of Accounts were appointed as Fund Managers in respect of Government employees and employees of the aided educational institutions respectively as an interim arrangement till constitution of PFRDA/ empanelment of Fund Managers by PFRDA as well as transfer of accumulated balance under each individual account to PFRDA. After the State Government signed an agreement with the PFRDA, the implementation of NPS in our state is now guided by regulations issued by PFRDA from time to time.

#### **APPLICABILITY:**

- Regular employees of Government of Odisha joining a pensionable establishment on or after 01.01.2005 shall be covered under National Pension System (NPS). (*F.D. Notification No: 44451/F, dtd. 17.09.2005*)
- The persons appointed on contractual basis to Group ‘B’ posts in accordance with the provisions contained in the Odisha Group ‘B’ posts (Contractual Appointment) Rules, 2013 and to Group ‘C’ and ‘D’ posts in accordance with the provisions contained in the Odisha Group ‘C’ and ‘D’ posts (contractual appointment) Rules, 2013 shall be covered under National Pension System contribution pension scheme from the date of contractual appointment. (*F.D. Notification No: 29416/F, dtd. 16.11.2015*)
- This scheme shall not, however, be applicable to:
  - (i) Job contract/ work charged employees appointed prior to 01.01.2005 and brought over to the regular establishment on or after 01.01.2005 (*F.D. Notification No: 17114(255)/F, dtd. 04.04.2007*)
  - (ii) Teaching and non-teaching staff of Aided Educational Institutions who are working in pensionable establishment in the event of taking over of such institutions on or after 01.01.2005

#### **NPS ARCHITECTURE:**

- NPS is an open architecture completely regulated by PFRDA. Unlike traditional financial products where all the functions (sales, operations, service, fund management, depository) are done by one company, NPS follows an unbundled architecture where each step of the value chain has been disjointed from the other. This unbundling not only allows the customer to mix and match his providers of service through the value chain, picking the best-suited option, but it also curbs the incidence of mis-selling.
- NPS architecture consists of the NPS Trust, which is entrusted with safeguarding subscribers’ interests, Central Recordkeeping Agencies (CRAs) which maintain the data and records, Point of Presence

(POP) as collection, distribution and servicing arms, Pension Fund Managers (PFM) for managing the investments of subscribers, a custodian to take care of the assets purchased by the fund managers, and a trustee bank to manage the banking operations. At the age of 60, the customer can choose to purchase pension Annuity Service Providers (ASP). The PFRDA guided NPS Architecture is as follow:

#### **INTERMEDIARIES:**

- **PFRDA:** The main functions of PFRDA include regulating charges, entry and exit, quality and provision of services of NPSCAN, CRA, PFs, Trustee Bank, Conducting Systems Audit and other routine audits.
- **NPS Trust:** NPS Trust is established by PFRDA for taking care of the assets and funds under the NPS in the best interest of the subscribers. NPS Trust is the registered owner of all assets under the NPS architecture. The securities are purchased by PFM on behalf of, and in the name of the Trustees, however individual NPS subscriber remain beneficial owner of the securities, assets and funds. NPS Trust is also responsible to issue of instructions to the custodian, PFMs and Trustee Bank, issuing investment guidelines, providing directions to PFM(s) for protecting the interest of subscribers, ensuring compliance through audit by independent auditors, and performance review of PFMs, etc.
- **Central Record Keeping Agency (CRA):** CRA maintains the database of all the entities and provides the platform to various entities in CRA to discharge their functions. It does not handle any funds but provides instructions to various parties such as PFMs, Trustee Banks etc to remit/receive funds. The CRA has the responsibility to
  - (i) Register Nodal Offices;
  - (ii) Issue PRAN to subscribers;
  - (iii) Contribution Accounting;
  - (iv) Issue of Annual PRAN Transaction Statement; and
  - (v) Resolution of grievances.
- **Subscribers:** Subscriber is the employee of Central/ State Government (excluding Armed Forces) and registered under NPS.
- **Nodal Office:** Directorate of Treasury and Accounts (oversight mechanism), Treasury office (District & Special Treasury). Each DDO is mapped to a Treasury and each subscriber is mapped to a DDO.
- **NPSCAN:** (NPS Contributions Accounting Network) - The NPS administrative functions for government subscribers will be centralized through a dedicated, web-based NPS Contributions Accounting Network (NPSCAN). NPSCAN will be used by the GOI and the States to access reports on compliance by DDOs and TOs regarding mandatory contributions by government subscribers under their jurisdiction. The NPSCAN will be electronically connected to the CRA for issuance of PRANs and reconciliation of mandatory contributions and statements for eligible government subscribers.

- **Trustee Bank:** The Trustee would be responsible for taking care of the funds under the NPS. The Trust would hold an account with a bank and this bank would be designated as Trustee Bank. The Trustee Bank upon receiving credits from Government Departments would transmit the information to CRA for reconciliation. The Trustee Bank shall remit fund to the entities viz. PFs, ASPs and subscribers on receipt of instructions from CRA.
- **Pension Fund Manager:** PFM is Pension Fund Manager of the Pension Funds appointed by PFRDA to invest the Pension Fund contribution of all the subscribers in various schemes. The panel of PFMs appointed by PFRDA are as follows:
  - ◆ ICICI Prudential Life Insurance Company Limited;
  - ◆ IDFC Asset Management Asset Management Company Limited;
  - ◆ Kotak Mahindra Asset Management Company Limited;
  - ◆ Reliance Capital Asset Management Company Limited;
  - ◆ SBI Pension Funds Limited;
  - ◆ UTI Retirement Solutions Limited.
- **Annuity Service Providers (ASPs):** –Annuity Service Providers are the entities appointed by PFRDA for **investing** Subscriber’s retirement savings in annuity scheme and delivering regular monthly pension to the subscriber. The different ASPs approved by PFRDA are as follows:
  - ◆ Life Insurance Corp. of India, SBI Life Insurance Co. Ltd;
  - ◆ ICICI Prudential Life Insurance Co. Ltd, Bajaj Allianz Life Insurance Co. Ltd;
  - ◆ Star Union Dai-ichi Life Insurance Co. Ltd;
  - ◆ Reliance Life Insurance Co. Ltd;
  - ◆ Bajaj-Allianz Life Insurance Co. Ltd;
  - ◆ HDFC Life Insurance Co. Ltd;
  - ◆ SBI Life Insurance Co. Ltd..
- **Custodian:** Where all the underlying investments of the PFMs would be maintained.
- **Point of Presence (PoP):** Panelized by PFRDA as FC for unorganized sector as well as for opening of Tire- II Accounts and management of the fund there in. The followings are the list of PoPs empanelled by PFRDA.
  - ◆ Allahabad Bank
  - ◆ Axis Bank Ltd.
  - ◆ Bajaj Allianz General Insurance Co Ltd.
  - ◆ Central Bank of India Citibank N.A.



- ♦ ICICI Bank Ltd.
- ♦ IDBI Bank Ltd.
- ♦ IL&FS Securities Services Ltd.
- ♦ Computer Age Management Services Private Ltd.
- ♦ Kotak Mahindra Bank Ltd.
- ♦ LIC of India
- ♦ Oriental Bank of Commerce
- ♦ Reliance Capital Ltd.
- ♦ State Bank of Bikaner & Jaipur
- ♦ State Bank of Hyderabad
- ♦ State Bank of India
- ♦ State Bank of Indore
- ♦ State Bank of Mysore
- ♦ State Bank of Patiala
- ♦ State Bank of Travancore
- ♦ The South Indian Bank Ltd.
- ♦ Union Bank of India
- ♦ UTI Asset Management Co. Ltd. **Signing of Agreement by State Government with PFRDA & CRA**

- The State Government have adopted the PFRDA guided NPS architecture by signing agreements with PFRDA/NPS Trust and will act as per their instructions from time to time for implementation of the scheme in the state. (*Vide agreement between DTI & NPS Trust, New Delhi, dtd. 02.08.2010*)
- The State Government have also signed agreement with National Securities Depository Limited (NSDL), Mumbai, appointed as the Central Record Keeping Agency (CRA) by the PFRDA to perform record keeping, administration, and customer service functions for subscribers of the NPS. (*Vide agreement between DTI & CRA-NSDL, Mumbai, dtd. 29.05.2010*)
- Accordingly, contribution to the NPS, premature withdrawal from NPS, lump sum payment after retirement from NPS and annuity payment to subscribers from NPS shall be as per the regulations etc., prescribed by the PFRDA from time to time. The procedure and forms for NPS etc. shall also be as prescribed by the CRA from time to time.

#### **REGISTRATION OF NODAL OFFICES:**

- **Directorate of Treasuries:** The DTI has been nominated by the Government in Finance Department to act as nodal agency for implementation of NPS in the State. Accordingly, DTI has been registered

under PFRDA. As nodal agency, DTI is responsible for registration of autonomous bodies including PSUs under Odisha, who are willing to join the NPS framework.

- **Registration of Treasury:** All District/ Special Treasuries functioning under Odisha are acting as Nodal Offices by way of registration under PFRDA & CRA- NSDL with submission of their application in the prescribed form through the DTI (O).
- **Registration of DDO:** All the DDOs under the Government of Odisha shall be registered by submission of their application in the form prescribed by the CRA (Form -N<sub>3</sub>) through the Sub-Treasury, District Treasury/Special Treasury to the DTI (O), who in turn shall obtain registration number for the DDO from the CRA. This number shall always be mentioned while dealing with matters connected with NPS.

### REGISTRATION OF SUBSCRIBERS:

- All State Government employees eligible to be covered under NPS shall be registered under CRA prior to initiation of their monthly contributions.
- The regular Government employees working under pensionable establishment and covered under NPS including those who are on deputation to other organizations shall submit their application for joining NPS and allotment of PRAN in “Common Subscriber Registration Form” online along with the supporting documents prescribed to the concerned DDO of the Establishment after their joining and drawal of their salary for the 1<sup>st</sup> month. The supporting documents shall be self-attested by the subscriber.
- Online facility has been provided in IFMS for submission of application by the newly joined employees to be enrolled under NPS. In this regard, the user Id/ login Id will be created in IFMS by the DDO. The mandatory pre-requisite is allotment of HRMS Id in respect of the employee.
- Facility has also been provided in IFMS for processing of online applications (CSRFs) at the level of DDO, Treasury & NPS Cell of DTI.
- The DDO shall verify “Common Subscriber Registration Form” along with the supporting documents in respect of the eligibility of the employee to be covered under NPS and submit to respective District/ Special Treasury with due authorization in prescribed forwarding letter (Annexure-S5). In case, the DDO of the establishment is under a Sub-Treasury, the duly signed application along with documents shall be submitted to Sub-Treasury, who shall forward the same to the District Treasury concerned.
- The District/ Special Treasury shall authorize the application and forward the same to DTI for onward transmission to CRA for allotment of PRAN.
- After generation of “Permanent Retirement Account Number” (PRAN), that will be intimated to employee by SMS alert & mail. Employee can also verify the same in IFMS.
- The application for registration of the employee under NPS shall be submitted to concerned Treasury by the DDO of the establishment prior to drawal of 1<sup>st</sup> month’s salary of the employee and DDO of

the establishment shall submit a certificate in this regard at the time of submission of 1<sup>st</sup> month's salary bill of the employee at Treasury.

*(Vide F.D. O.M. No: 32720/F, dtd. 24.09.2019)*

- **Shifting of PRAN from other sector to Government of Odisha:** The regular Government employees shall use their previously generated PRAN by CRA to continue in their present job due to portable nature of the PRAN. In this regard, just after joining in pensionable establishment of Government of Odisha, the employee shall apply for inter sector shifting of that PRAN by submitting the application as prescribed by CRA (Form ISS-1) to his/her DDO who shall verify, authorize and submit to concerned District or Special Treasury for necessary shifting of the PRAN from previous sector to Government of Odisha.

### CONTRIBUTORY ACCOUNTS:

- NPS offers two types of accounts to its subscribers:
  - (i) **Tier I:** The primary account, which is a pension account which has restrictions on withdrawals and utilization of accumulated corpus. All the tax breaks that NPS offers are applicable only to Tier I accounts.
  - (ii) **Tier II:** In order to introduce some liquidity to the scheme, the PFRDA allows for a Tier II account of voluntary in nature. The subscriber would be free to withdraw all or part of his money at any time from that account. Such subscription would not constitute pension investment. Employer shall not make any contribution into that account.
- The subscribers with pre-existing Tier I accounts can only open his/her Tier-II account for savings and withdrawn money as and when they want. NPS Tier II is an investment account, similar to a mutual fund in characteristics, but offers no Exit load, no commissions, and good returns. Tier-II account can be opened/ activated at any Point of Presence empanelled by PFRDA.
- **Maintenance of Accounts Record:** The account records of both Tier-I & II shall be maintained by CRA from time to time which shall also be made available to subscriber online. The Annual Financial Transaction Statement shall be intimated to each subscriber by CRA. The subscriber can also download the same online from CRA.

### Contributions to Tier-I and Tier-II Accounts:

- **Commencements and Termination of Contribution by Employee:** The monthly contribution from the salary of the employee to Tier-I of the NPS shall commence from the salary of the month, following the month in which the Government servant has joined the service and there shall not be any contribution from the salary of the superannuation month.
- **Monthly Contributions by Employee and Employer:** The monthly contribution from the salary of the employee to Tier-I of the NPS shall be 10% of his or her Basic Pay + GP and DA and an equal matching contribution shall be made by the employer. The amount of employer share may be revised by the Government in Finance Department by issue of notification from time to time. The monthly

contribution from the salary of the employee shall be rounded off to nearest rupee if derived as a fraction.

- **Recovery of Monthly Contribution:** The DDO shall recover the employee contribution under Tier-I Scheme from the salary bill of each month and credit the same to the head of account “**8342-other Deposits-117-Defined Contribution Pension Scheme for Government Employees**” [00-8342-00-117-1766-91323-820-0-0-0]. He will attach a separate schedule with details of PRAN and name of the employee to the Pay bill. In case of part drawal of monthly salary, proportionate employee contribution shall be recovered from the salary of the employee. Separate salary bills shall be prepared by the DDO in respect of the employees covered under NPS to be presented before Treasury. DDO of the establishment shall be responsible for deduction of NPS contribution from the monthly salary of the employee soon after receipt of PRAN from CRA. Non deduction of NPS contribution after receipt of PRAN in respect of the employee shall be treated as illegal.
- **Monthly Contribution during the period of suspension:** During the period of suspension the recovery of employee’s contribution shall not be made from his/her subsistence allowance and the reason of non contribution to the scheme shall be indicated in the recovery schedule by the DDO concerned. Soon after reinstatement of the concerned employee in service, the employee contribution shall be recovered from his/her arrear pay bills subject to adjustment of salaries for the period during suspension along with matching employer contribution. (*Vide Finance Department Notification No: 45846(418)/F, dtd. 16.10.2008*)
- **Drawal of matching Employer Contribution:** Under Centralized process, DTI(O) shall debit an amount equal to the total contribution recovered from the employee’s salary bills to “**Demand No.5-2071-Pension and other Retirement Benefits-01-Civil-117-Government Contribution for Defined contribution Pension Scheme-42007-Government Contribution**” by way of transfer credit to “**8342-other Deposit-117-Defined Contribution Pension Scheme for Government Employees**” [00-8342-00-117-1766-91083-820-0-0-0] under specific By Transfer Head (Treasury BT). Separate bills shall be placed before Treasury for drawal of Employee’s and Employer’s contributions.
- **Transfer of Contribution to Pension Account:** The total amount covering employees and employer share shall be transferred online to the NPS Trust through the Trustee Bank along with details of the contribution of individual employees with PRAN to the CRA by the DTI at least twice a month.
- **Monthly Contribution by Employees deputed to Foreign Body:** In respect of employees who are on deputation to a foreign body, corporate owned or controlled by Government, the respective DDO shall recover the employee’s contribution and together with the employer share, to be paid by the borrowing organization and remit the amount to the specified Government head of accounts by online Challan deposit in cyber Treasury. **Employee’s Contribution:** “8342-other Deposit-117-Defined Contribution Pension Scheme for Government Employees”( 00-8342-00-117-1766-91323-820-0-0-0 ). **Employer’s Contribution:** “8342-other Deposit-117-Defined Contribution Pension Scheme for Government Employees”( 00-8342-00-117-1766-91083-820-0-0-0 ). Further indicating

the Challan Number, the foreign body shall submit the schedule online to DTI(O) for onward transmission to NPS. (*Vide Finance Department Notification No: 22298/F, dtd. 14.08.2015*)

- **Deduction of Employee contribution from arrear D.A. payable to the employee:** As arrear enhanced Dearness Allowance (D.A.) of the employees of the previous months/years are the receivables/ claims of the employee and payable by Government, deduction of 10% of the arrear NPS due from the arrear enhanced D.A. of the employee along with matching Government contribution shall be deducted and credited to the pension Account of the employees covered under NPS. (*Vide Finance Department Letter No: 2691/F, dtd. 04.02.2015*)
- **Action on transfer of the subscriber:** Whenever any Govt. servant is transferred from one Office/ Establishment to another, the D.D.O. shall clearly mention in the L.P.C. of the individual subscriber, the Permanent Retirement Account Number, detailed data relating to the month up to which contributions are deposited, amount of deduction towards employee's contribution and Government contribution transferred to the Pension Fund.
- **Approval for deduction of employee contribution for arrear period:** The state Government employees covered under NPS shall contribute for the period between the month following the date of their joining in Government establishment and commencement of actual contribution if any, by way of recovery from their monthly salary. In such cases, the DDO of the establishment shall prepare a calculation sheet to derive the arrear NPS amount to be recovered from the salary of the employee and submit to District/ Special Treasury Officer for necessary approval for recovery in installments. The DDO shall start recovery of arrear NPS contribution in installments from the monthly salary of the employee after due approval from District/ Special Treasury Officer. The recovered amount along with matching Government contribution shall be transferred to the pension Account of the employee by the DTI. (*Vide Finance Department Letter No: 3689/F, dtd. 07.02.2013*)
- **Contributions to Tier-II Account:** In respect of employees interested to contribute under Tier-II of NPS, they shall credit the amount to the account of the Trustee bank into their PRAN Account online or through any Point of Presence. There shall not be any matching Employer Contribution to Tier-II Account.

#### **PROCEDURE FOR SETTLEMENT OF MISSING CREDITS: -**

- Each Subscriber shall verify his transaction statement available in the CRA portal by using his/her user ID and password provided to him/her from time to time.
- The DDO concerned shall also verify the timely credit of the NPS contributions recovered from the monthly salary of the employees in to their Transaction Statements available in CRA Portal. If any missing credit is noticed by the DDO or intimated by the employee, he/she shall apply with details of missing contributions along with deduction particulars to District Treasury/ Special Treasury as applicable for clearance. The DDOs under Sub Treasuries shall apply to concerned District Treasury through their Sub Treasuries.

- The District Treasury/ Special Treasury shall forward the Application relating to missing credits to the DTI with their preliminary enquiry report on missing credit based on which the DTI shall clear the missing credits reported.
- The verification shall be compulsorily done in case of a retiring employee at least six months before his retirement. If any missing credit is noticed, he shall apply to the DDO for clearance of missing credit giving details of missing and deduction particulars.
- The DDO after verification of the correctness of the claim, shall forward the application to the DTI through the Sub-Treasury, District Treasury/Special Treasury as applicable.
- The DTI after proper verification shall credit the missing credit along with the employer contribution to the employee's PRAN account.

### **SELECTION OF FUND MANAGERS:**

The Fund Manager is an institutional Finance Agency which invests the deposits in different categories of investment schemes. It is noteworthy to indicate that, during pre-PFRDA period from Jan'2005 to Feb'2011, the Accountant General (A&E), Odisha and Controller of Accounts, Odisha were appointed as Fund Managers by the state Government. After migration to PFRDA Architecture, there are three empanelled Fund Managers declared by PFRDA, New Delhi. They are: 1. **UTI Retirement Solutions Ltd.**, 2. **SBI Pension Funds Pvt. Ltd.** 3. **L.I.C. Pension Fund Ltd.** The employee shall choose default scheme for investment of his/her pension wealth at the time of submission of Application in CSRF for Registration which may change as per the guidelines issued by PFRDA from time to time. In the default scheme, the contribution will be allocated among three PFM's in a predefined proportion.

### **Updating Employees' detail in CRA System:**

- Employee registered with CRA shall have an option to update the subscriber details such as contact details, Signature, Photograph, Identification details, Bank details in the CRA system for which concerned District/ Special Treasury shall be responsible for updating such request in CRA system (except change in signature and photograph).
- For the purpose of carrying out these changes, the employee shall submit a Subscriber Detail Change Request Form (Form-S2) to the concerned District/ Special Treasury through his/her DDO for correction/ updation. However, in case the employee requires change of the photograph & Signature he/she shall to fill photo/signature change request form (Form S7) which shall be submitted to CRA-FC by District/ Special Treasury for necessary correction at the level of CRA.
- For correction of date of birth, date of joining to Government service and date of superannuation, the employee shall apply to concerned District/ Special Treasury in the prescribed Form-S2 duly authorized by DDO along with copy of the front page of Service Book.

### **NOMINATION:**

Nomination shall be filed by the employees concerned at the time of admission to the scheme where the employee shall nominate the person(s) who is/are member(s)/ of his/her family to receive the amount in his/

her pension account (PRAN account) under National Pension System in the event of his/her death. The employee can nominate up to a maximum of 3 nominees. In case of more than one nominee, percentage share value for all the nominees must be integer and sum of percentage share across all the nominees must be equal to 100. Necessary entry to the effect of filing nomination along with name of the nominee(s) shall be noted in the service Book of the concerned employee.

- Nominations could be in favour of one or more members of the family. Nominations outside family are invalid;

Family in relation to NPS includes:-

- (i) In relation to a male subscriber include legally wedded wife, her children (both married and unmarried), dependent parents, his deceased son's widow and children;
  - (ii) In relation to a female subscriber include legally wedded husband, his children(both married and unmarried), her/husband's dependent parents, her deceased son's widow and children;
  - (iii) If a child of the subscriber or of his deceased son is legally adopted by another person, such child shall not be a member of the subscriber's family.
- If the subscriber has no family, any nomination is valid; Fresh nomination is required in case the subscriber marries or acquires a family; in such case the previous nomination would be invalid;
  - If the nominee predeceases the subscriber, the unpaid money shall pass to other nominees;
  - If the nominee is a minor, the subscriber may appoint a major person of his family or any other person, if no major in the family is available, to be the guardian in the event of the subscriber dies before the nominee and the guardian;
  - A written notice in prescribed form is required to be given for any modification in nomination under NPS
  - If personal law or community law of a spouse forbids his or her entitlement to maintenance, the spouse would not be treated as a member of the subscriber's family unless the subscriber personally intimates by express notice in writing to the designated intermediary that his/her spouse shall continue to be a family member.
  - **Revision of Nomination by the Employee:** Nomination filed by the employees concerned at the time of admission to the scheme shall be revised consequent upon marriage of the subscriber and thereafter once in every five years if necessary. Requisite entry to this effect along with name(s) of nominee(s) should be noted in the Service Book of the concerned employee. For such revision, the employee shall submit application in Form-S2 duly authorized by DDO to concerned District/ Special Treasury.

#### **DUPLICATE PRAN CARD:**

In case of damage or stolen of PRAN Card, the employee shall apply for issue of Duplicate PRAN card to concerned District/ Special Treasury through his/her DDO in Form S2 prescribed by CRA. After receipt of

the request, the District/ Special Treasury shall send request online to CRA. Once approved by District/ Special Treasury, CRA shall reissue duplicate PRAN kit in favour of employee. In absence of PRAN Card, employee can use e-PRAN Card downloading from CRA Portal.

### **PARTIAL WITHDRAWALS**

#### **From NPS Tier-I Account: -**

- A partial withdrawal of accumulated pension wealth (Tier-I) of the subscriber is permissible which shall not exceed twenty five percent of the contributions made by the subscriber and excludes contribution made by employer, at any time before exit from National Pension System subject to the terms and conditions, purpose, frequency and limits prescribed by the PFRDA (Exit and withdrawal from NPS) Regulations, 2015 as amended from time to time.
- The NPS subscriber shall apply online in the CRA portal for part withdrawal in the prescribed form (Form-No-601PW). He shall generate a hard copy and submit it along with the prescribed documents and the auto generated acknowledgement number of the application to the DDO.
- The DDO after detailed verification of the eligibility, genuineness and completeness of the claim with reference to the terms and conditions for part withdrawal prescribed by PFRDA shall forward the application to the Treasury Officer of District Treasury/Special Treasury or through Sub-Treasury as the case may be.
- The Treasury Officer after verifying the credentials of DDO and satisfying himself regarding genuineness of the claim shall authorise the claim online in the CRA portal.
- After authorization the claim shall be settled by the CRA by direct payment to the subscriber's bank account.
- The hard copy of the application along with the enclosed documents shall be forwarded to the CRA by the Treasury Officer for record keeping purpose, after settlement of the claim. (*Vide Finance Department Letter No: 8108/F, dtd. 25.03.2017*)

#### **From NPS Tier-II Account: -**

A subscriber having a valid and active Tier-II account of the PRAN can withdraw the accumulated wealth either in full or part, at any time by applying for such withdrawal, on such application form and in such mode and manner, as may be specified by the PFRDA in his behalf. There shall be no limit on such withdrawals till the account has sufficient amount of accumulated pension wealth to take care of the applicable charges and the withdrawal amount: The withdrawal shall be processed by Nodal Office or any Point of Presence (PoP) appointed by CRA.

#### **EXIT FROM NPS:**

A government employee covered under NPS shall have the option to exit from the National Pension System in the manners specified under the PFRDA (Exit and withdrawals under the NPS) Regulation 2015, as amended from time to time.



- (i) **Exit upon Superannuation:** Where the subscriber who, upon attaining the age of superannuation as prescribed by the service rules applicable to him or her, retires, then at least forty per cent out of the accumulated pension wealth of such subscriber shall be mandatorily utilized for purchase of annuity from any IRDA regulated empanelled Life Insurance Company (Annuity Service Provider) providing for a monthly pension and the balances of the accumulated pension wealth, after such utilization, shall be paid to the subscriber in lump sum:
- (a) The default annuity contract shall provide for annuity for life of the subscriber and his or her spouse (if any) with provision for return of purchase price of the annuity upon the demise of such subscriber, the annuity be re-issued to the family members in the order specified hereunder at a premium rate prevalent at the time of purchase of such annuity by utilizing the purchase price required to be returned under the annuity contract (until all the family members in the order specified below are covered):
- ♦ Living dependent mother of the deceased subscriber;
  - ♦ Living dependent father of the deceased subscriber.
- After the coverage of all the family members specified above, the purchase price shall be returned to the surviving children of the subscriber and in the absence of children, the legal heirs of the subscriber, as may be applicable.
- (b) The subscriber who wishes to opt out of the default option mentioned above and wishes to choose the annuity contract of his choice from the available annuity types or contracts with the annuity service providers shall be required to specifically opt for such an option at least fifteen days before his date of superannuation.
- (c) where the accumulated pension wealth in the Permanent Retirement Account of the subscriber is equal to or less than a sum of two lakh rupees, the subscriber shall have the option to withdraw the entire accumulated pension wealth without purchasing annuity and upon such exercise of this option, the right of such subscriber to receive any pension or other amount under the National Pension System or from the government shall extinguish;
- (d) If applicable service rule allows, the Governor may withhold the employer's part of the pension wealth for recovery of pecuniary loss caused to Government provided such loss is established as per law. For exercise of such right, notice for withholding pension to the NPS Trust or any authorized entity prior to the superannuation of the subscriber has to be given. In such eventuality, withheld amount shall be paid within ninety days of receipt of the final order passed on the departmental or judicial proceedings.
- (ii) **Exit prior to superannuation:** where the subscriber who, before attaining the age of superannuation prescribed by the service rules applicable to him or her, voluntarily retires or exit, then at least eighty per cent, out of the accumulated pension wealth of the subscriber shall mandatorily be utilized for purchase of annuity and the balance of the accumulated pension wealth, after such utilization, shall be paid to the subscriber in lump sum;

Provided that:

- (a) If the accumulated pension wealth of the subscriber is more than one lakh rupees but the age of the subscriber is less than the minimum age required for purchasing any annuity from any of the empanelled annuity service providers as chosen by such subscriber, such subscriber shall continue to subscribe to the National Pension System, until he or she attains the age of eligibility for purchase of any annuity;
  - (b) If the accumulated pension wealth of the subscriber is equal to or less than one lakh rupee, such subscriber shall have the option to withdraw the entire accumulated pension wealth without purchasing any annuity and upon such exercise of this option the right of the subscriber to receive any pension or other amounts under the National Pension System shall extinguish.
- (iii) **Exit upon Death prior to superannuation:** where the subscriber who, before attaining the age of superannuation, dies, then at least eighty percent out of the accumulated pension wealth of the subscriber shall be mandatorily utilized for purchase of annuity and balance pension wealth shall be paid as lump sum to the nominee or nominees or legal heirs, as the case may be, of such subscriber;

Provided that if the accumulated pension wealth in the permanent retirement account of the subscriber at the time of his death is equal to or less than two lakh rupees, the nominee or legal heirs as the case may be, shall have the option to withdraw the entire accumulated pension wealth without requiring to purchase any annuity and upon such exercise of this option the right of the family members to receive any pension or other amounts under the National Pension System shall extinguish;

#### **Re-employed/ self employed after Exit from Government Service upon Resignation:**

In case of re-employment with no provision for continuation of his PRAN account with employer's contribution / self employment after giving resignation from Government Service, the employee may continue his/her pension account only by his/her contribution till the age of superannuation in place of final exit from the scheme.

#### **Procedure for withdrawal of pension wealth on exit from NPS**

- The subscriber has to apply for withdrawal of pension wealth either online through the CRA portal or by submitting hard copy of the application to the DDO. In case of applying online, he should submit the printed copy of the online application duly signed, accompanied by the self-attested required documents to the DDO. The subscriber/claimant shall choose the proper form Form-101GS (Superannuation)/ 102GP (pre-matured) / 103GD (death) as applicable in the case of superannuation/premature retirement/death as the case may be.
- After verification of the documents and being satisfied with the information and the genuineness of the documents submitted by the retiring employee, the DDO shall submit the documents to the District/ Special Treasury Officer (through Sub-Treasury Officer wherever applicable) along with original service book of the employee, No Dues Certificate and information on Judicial/Departmental proceedings, if any.

- There shall not be any missing credit while processing withdrawal request. In case of any missing credits noticed by employee/ DDO, then steps for settlement of those missing credits shall be done prior to initiation of withdrawal request.
- The District/Special Treasury Officer on receipt of the application from the DDO/Sub-Treasury shall verify all information in the application form as well as documents enclosed. The following documents shall be verified by the Treasury Officer:
  - (a) Application for withdrawal of pension wealth along with undertaking in the prescribed format.
  - (b) Original PRAN Card (Notarized Affidavit in case the original PRAN Card is not submitted);
  - (c) Proof of identity as prescribed in the application form.
  - (d) Proof of residence as prescribed in the application form.
  - (e) Cancelled cheque/bank certificate/copy of bank passbook with photograph and all other details i.e. IFS Code, Bank account number, address of the branch of the Bank etc.
  - (f) If the claim is submitted by the legal heirs/ nominee in case of death of the subscriber, then the original death certificate and legal heir certificate (not applicable for nominees) shall accompany the claim for pension wealth. Where original death certificate is not submitted, a photocopy of the certificate duly attested by the Nodal Officer shall to be submitted.
  - (g) For documents submitted in a language other than English, a translated copy of it in English shall be submitted, duly attested by the DDO/Head of Office/Treasury Officer.
  - (h) Any other documents as shall be prescribed by the PFRDA/CRA from time to time.
- On satisfactory verification of the documents the District/Special Treasury shall initiate a withdrawal request in the CRA portal in case such request has not been generated online previously by the subscriber.
- The physical form along with all documents except the service book shall be submitted to the CRA by the District Treasury Officer/Special Treasury Officer for processing withdrawal of pension wealth.
- CRA after processing the claim shall credit the amount of pension wealth to the Bank account of the subscriber/claimant with intimation to the Dist. Treasury Officer/Special Treasury Officer and the Directorate of Treasuries and Inspection, Odisha.
- After endorsement of the payment certificate in the service book the DTO/Spl.TO shall return the service book to the DDO for record.
- DDO/Special TO shall monitor the status of withdrawal claims generated in the CRA portal, (both paid and pending claims) and submit a report of the same in the prescribed format to the DTI in each month along with the monthly accounts.

*(Vide Finance Department Letter No: 13477/F, dtd. 03.05.2016)*

**Deferment of the drawal of lump sum and purchase of Annuity:-**

- Subscribers intending not to withdraw the lump sum amount shall do so until he attains the age of 70 years by intimating his/her intentions in writing in specified Format to the NPS Trust or an intermediary / entity authorised by PFRDA for the purpose at least 15 days before retirement.

- Subscribers intending to defer the purchase of annuity shall do so for a maximum of three years from the date of superannuation. In that case he shall intimate in writing to the NPS Trust or an intermediary authorised by PFRDA for the purpose at least 15 days before retirement. If the subscriber dies before the due date of purchase, the annuity shall mandatorily be purchased by the surviving spouse (if any).
- If a subscriber defer withdrawal of the lump sum amount or purchase of annuity, he/she has to bear the maintenance charges of the Permanent Retirement Account(PRA) including charges payable to record keeping agency, pension fund, Trustee Bank etc. as may be applicable from time to time.

These deferments shall be granted subject to terms and conditions prescribed by PFRDA (Exit and withdrawal from NPS) Regulations, 2015 as amended from time to time.

#### **DEATH-CUM-RETIREMENT GRATUITY:-**

- Employees of Government of Odisha covered under NPS shall be paid Death-Cum-Retirement Gratuity on Retirement/Superannuation/Death on the same terms and conditions as applicable to the employees covered by Odisha Civil Services (Pension) Rules, 1992. (**Vide Finance Department Office Memorandum No: 36913/F, dtd. 14.12.2017**)
- Unrecovered Government dues, other recoveries due to defalcation, misappropriation or loss to Government property, ordered to be recovered by the Competent Authority after proper enquiry, shall be recoverable from the gratuity payable to the Government Servant.
- The application shall be submitted by the retiring employee/ legal heir of the deceased employee in Form-XX as prescribed in O.C.S. (Pension) Rule-1992 along with the requisite self attested documents, photograph etc to the Head of Office. The Head of Office shall calculate the DCRG amount based on the qualifying year of services and forward to respective Pension Sanctioning Authority for sanction and onward submission to Pension Issuing Authority.
- Based on the sanction amount of DCRG and verification of supporting documents, Pension Issuing Authority shall issue letter of Authorisation to disbursing Treasury for drawal of DCRG and disbursement to the Bank account of the retiring employee / Legal heir(s).

#### **FINAL EXIT FROM NPS UPON MIGRATION TO DEFINED BENEFIT SYSTEM OF O.C.S. (PENSION) RULE-1992:**

- Upon Administrative decisions, if the pension of an employee shall be shifted from defined contribution to defined benefit system, the deposit of contributions to PRAN account of that employee shall be treated as an erroneous deposit. In such cases, the employee shall apply for refund of his/her own pension wealth accumulated in Tier-I account in the Form prescribed to his/her DDO. After due verification the DDO shall submit the same with relevant documents in support of the migration to defined benefit system to concerned District/ Special Treasury who in turns forward to DTI(O) for final settlement.
- On receipt of the Application, DTI (O) will withdraw the entire amount accumulated in the pension Account of the employee and credit the proportionate employee's wealth to the bank account of the

employee. The proportionate employer's wealth shall be deposited in the Government revenue receipt head of the State Government. For the employer contributions relating to current financial year, the deposit shall be under Head of Account **2071-01-117-1766-42007-820** and for previous financial years the deposit shall be under Head of Account **2071-01-911-1766-42007-820**.

*(Vide Finance Department Office Memorandum No: 8115/F, dtd. 25.03.2017)*

**FINAL EXIT UNDER NPS TO BE SETTLED AT THE LEVEL OF INTERIM FUND MANAGERS:**

- The employees covered under NPS who have either resigned or retired from Government service or died and their contributions are lying with Accountant General (A&E) or Controller of Accounts, Odisha (Interim Fund Managers) without transfer to NPS Trust shall be settled at the level of Interim Fund Managers.
- In such cases, the entire accumulated employee and employer contributions along with interest shall be refunded to the claimant.
- In case of withdrawal upon death of the employee, the entire accumulated pension wealth shall be paid to the Nominee/ Legal Heir(s) of the employee. The 1<sup>st</sup> preference shall be given to spouse (Husband/ Wife). In absence of spouse, the entire accumulated pension wealth shall be equally distributed among all eligible legal heirs or on production of succession Certificate.
- The claimant shall submit his/her withdrawal request in prescribed Form to concerned Head of Office (where the last salary was drawn) along with the copy of relevant documents.
- After due verification, the Head of Office shall forward the Application to concerned Appointing Authority or such Authority as nominated by the Appointing Authority as Pension Sanctioning Authority (PSA) who in turns shall forward the same to the Interim Fund Manager (A.G. (A&E)/ Controller of Accounts, Odisha) with due countersignature.
- The Interim Fund Manager shall verify each instance of mistake/ omissions pointed out by the subscriber/ Head of Office and the details of recoveries attached in the Application Form with the ledger maintained by them for the purpose. After due verification and after being satisfied with correctness of the information furnished, the Interim Fund Manager shall issue the Authority of Payment to the concerned Head of Office, PSA, DTI(O) and person concerned.
- The DDO of the Head of Office shall prepare a Bill in the Miscellaneous Bill Form (T.O.-13) based upon the Authority received and shall present to the authorized Treasury/ Sub-Treasury under the head of Account 00-8342-00-117-1766-91083-820-deposit of employee and employer contribution to NPS. The payment shall be made direct credit to the Bank Account of the claimant.
- Any Government dues outstanding for recovery shall be recovered from the amount authorized by the Interim Fund Manager and credited to Government Account to respective Head of Account through treasury challan.

*(Vide Finance Department Notification No: 19176/F, dtd. 09.07.2015)*

**Extension of defined contributory pension system to State Autonomous Bodies & State Public Sector Undertakings:**

- The SABs and SPSUs which are under pensionable establishment and whose pension liability is paid from the Consolidated fund of the state shall join the PFRDA guided defined contribution pension system and implement the same for their eligible employees, who have joined in the service on or after 01.01.2005 following the principle and procedure laid down by PFRDA and also in conformity with the rules and procedure applicable to them.
- Besides the SABs and SPSUs which are not in pensionable establishment may exercise their option to come over to contributory pension system with prospective effect. In case of migration to NPS the employers share shall be borne by the SABs and SPSUs concerned.
- The SABs and SPSUs shall not sign separate agreement with NPS Trust and CRA as the same has already been signed by the State Government with the above authorities.
- The SABs and SPSUs which are required to join NPS shall submit the duly authorized Applications to their Administrative Departments for registration. The concerned Administrative Department after due verification shall recommend and forward the same to DTI (O) for onward transmission to PFRDA.

**TAX BENEFITS:**

- Employee's own contribution towards NPS Tier-I is eligible for tax deduction under section 80 CCD (1) of the Income Tax Act within the overall ceiling of Rs. 1.50 lakh under section 80 C of the Income Tax Act. From FY 2015-16, the subscriber is also allowed tax deduction in addition to the deduction allowed under section 80CCD(1) for contribution to NPS Tier I account subject to a maximum of Rs. 50,000 under section 80CCD 1(B).
- Employer's contribution towards NPS Tier-I is eligible for tax deduction under Section 80CCD (2) of the Income Tax Act (14% of salary for central government employees and 10% for others). This rebate is over and above the limit prescribed under Section 80C.
- Interim/ Partial withdrawal up to 25% of the contributions made by the subscriber from NPS Tier-I is tax free.
- With effect from 1.4.2019, lump sum withdrawal up to 60% of total pension wealth from NPS Tier-I at the time of superannuation is tax exempt.
- Minimum 40% of the amount utilized for purchasing an annuity from the Annuity Service Provider, registered and regulated by the Insurance Regulatory and Development Authority (IRDA) and empanelled by PFRDA is also tax exempt.

**GRIEVANCE REDRESSAL:**

Any grievance relating to withdrawal shall be lodged with the District Treasury / Special Treasury under intimation to DTI. Details of the procedure in each case have been spelt out in Annexure IV appended to Finance Department Letter No.13477/F dated 03.05.2016. Also any subscriber can lodge grievance online in CRA- NSDL Portal.

**FREQUENTLY ASKED QUESTIONS**

- Q:** Whether a retiring Government servant is entitled for leave encashment after retirement under the NPS?
- Ans:** The benefit of encashment of leave salary is not a part of the retirement benefits admissible under Central Civil Services (Pension) Rules, 1972. It is payable in terms of CCS (Leave) Rules which will continue to be applicable to the government servants who join the government service on after 1-1-2004. Therefore, the benefit of encashment of leave salary payable to the governments/to their families on account of retirement/death will be admissible.
- Q:** I have joined in Government service on contractual appointment. Am I eligible to be under NPS?
- Ans:** NPS is applicable to Government contractual employees appointed vide General Administration Department Notification No.32010/GA/ dated 12.11.2013 read with Finance Department Notification No. 29416/FIN/NPS/0006/2015/F. Dt. 16.11.2015
- Q:** Whether contribution towards Tier-I from arrears of DA is to be deducted?
- Ans:** Yes. Since the contribution is to be worked out at 10% of (Pay+ DP+DA), it needs to be revised whenever there is any change in these elements.
- Q:** What happens if an employee gets transferred during the month? Which office will make deduction of Contribution?
- Ans:** As in the case of other recoveries, the recovery of contributions towards New Pension Scheme for the full month (both individual and government) will be made by the office who will draw salary for the maximum period.
- Q:** Whether NPA payable to medical officers will count towards 'Pay' for the purpose of working out contributions to NPS?
- Ans:** Yes. Ministry of Health & Family Welfare has clarified vide their O.M. no. A45012/11/97-CHS.V dated 7-4-98 that the Non-Practicing Allowance shall count as 'pay' for all service benefits. Therefore, this will be taken into account for working out the contribution towards the New Pension Scheme.
- Q:** I am covered by the NPS. Can I contribute to the GPF?
- Ans:** No. The General Provident Fund (Central Service) Rules, 1960 is not applicable for employees covered by NPS.
- Q:** I am covered by the NPS. Am I eligible to Gratuity?
- Ans:** Yes. That will be regulated by O.C.S. (Pension) Rule-1992.
- Q:** Can I contribute more than 10% into my Tier-I account?
- Ans:** Yes. You will be permitted to contribute more than the mandated 10% of basic pay + DA into your Tier-I account. The additional contribution shall be deposited by you in online mode or in any Point of Presence.
- Q:** Will the Government also contribute more than 10% into my Tier-I account if I will deposit more than 10% of my (Pa)?

- Ans:** No. The contribution of the Government will be limited to 10% of your basic pay + DA.
- Q:** If I leave Government service before I retire will the Government continue to contribute to my Tier-I account?
- Ans:** No. The matching contribution by the Government will stop when you leave Government service. However, your savings in your Tier-I and Tier-II accounts will stay in your name and you will be able to continue using these accounts to save for your retirement.
- Q:** Am I guaranteed a certain rate of return?
- Ans:** No return is guaranteed as it is in case of EPF and PPF. The amount of money you make is dependent on how well the fund managers chosen by you perform. But, the extremely low charges in NPS sure give it an edge over the the pension plans of insurance companies.
- Q:** How does the employee come to know about allotment of PRAN?
- Ans:** Once the PRAN is generated, an email alert as well as a SMS alert will be sent to the registered email ID and mobile number of the subscriber by CRA-NSDL followed by sending of PRAN Kit
- Q:** What is PRAN and PRAN Kit?
- Ans:** On successful registration, a PRAN (Permanent Retirement Account Number) will be allotted to the subscriber. A PRAN Kit containing PRAN card, Subscriber details (referred as Subscriber Master List) and an information booklet is sent to the subscriber's registered address. The T-Pin and I-Pin are sent separately to the registered address. The PRAN Card is a document with PRAN, subscribers' name, father's name, photograph and Signature/thumb impression. This card proves the completeness of information in the CRA system. The Subscriber Master List shows all the information as provided by the subscriber in his/her application and accordingly captured in CRA system. A subscriber may verify the correctness of the information submitted for registration by looking at the Subscriber Master List.
- Q:** I have been allotted with a PRAN when I was in my past service. After giving resignation, I have joined in a pensionable establishment under Government of Odisha. Can I use my old PRAN?
- Ans:** PRAN is unique and portable. Multiple PRANs cannot be generated for the same person. The same PRAN can be used only by shifting the PRAN to DTI, Odisha (DTA) if that was under different sector. For this, subscriber has to apply in Form-ISS-1 to District/Special Treasury.
- Q:** How can I contribute my regular monthly contributions for the period prior to generation of my PRAN?
- Ans:** Subscriber can contribute for the arrear period (i.e from the second month's salary till the time of generation of PRAN) in maximum 12 equal installments from the salary along with regular contribution after due approval from District/ Special Treasury Officer. In case the subscriber intends to deduct his contribution for the before the generation of the PRAN in more 12 installments, she/he may move to NPS cell of Directorate of Treasuries through the DDO and the DTO. Please refer F.D notification No 3689/F Dated 07.02.2013 in the matter.



**Q:** I have forgotten my I-Pin. How to reset that?

**Ans:** Go to CRA website [www.npskra.nsdli.co.in](http://www.npskra.nsdli.co.in) and select option "Resetting of I-PIN" on homepage (under value added services) to reset the I-PIN. Enter mandatory details to regenerate the instant I-PIN through One Time Password (OTP) sent on registered mobile number. In case mobile number is not registered, reset the I-PIN by providing the request online and getting the request authorised by the concerned District/Special Treasury or submit the application in Form-S2 to concerned District/Special Treasury through DDO.

**Q:** How can I update my Mobile Number & Mail Id?

**Ans:** Please Login into the CRA System [www.cra-nsdl.com](http://www.cra-nsdl.com) with PRAN and I-PIN. Select the menu "Update contact details" option for modifying or adding the email ID & mobile number and update the details. Subscriber needs to confirm the changes and on successful updation, an SMS as well as email will be sent in the updated and old contact details or by applying to concerned District/Special Treasury in prescribed Form-S2.

**Q:** What benefits I will get by updation of my contact details?

**Ans:** By updation of your contact details you can avail SMS/Email alert on PRAN generation, on Transactions in PRAN/Fund Value, Email Intimation on changes in Subscriber details like Nomination, Address, Bank details, etc. and periodical PFRDA News letter.

**Q:** How can I update my Nominee details?

**Ans:** For updating Nominee Details, apply in prescribed S-2 form to District/ Special Treasury through your DDO.

**Q:** To whom I will report for any Missing credit in my Tier-I Account?

**Ans:** In case of any missing credit noticed by you, intimate the same with details of missing contributions to your District/ Special Treasury through DDO. After due verification, Treasury shall forward the same to NPS Cell of DTI for settlement

**Q:** Deduction of NPS contribution is applicable during drawal of my Arrear Dearness Allowance or not?

**Ans:** In case of enhanced D.A, the deduction towards the NPS on the differential amount is allowed, if the same is due to be drawn

**Q:** I am a DDO. Is it possible to access CRA-NSDL portal?

**Ans:** Yes, you can access the CRA System [www.cra-nsdl.com](http://www.cra-nsdl.com) using the user ID and password.

**Q:** How can the DDO obtain the User ID & password to access the CRA System?

**Ans:** Click on the hyperlink "Forgot Password" on home page to generate instant I-PIN. Using "Instant Reset I-PIN" option and providing the DDO Registration number followed by two zeros (e.g. if DDO Registration is "ABC012345D" then the User ID would be "ABC012345D00"). On submission of

User ID, the User is required to provide some basic information & to confirm where an Acknowledgement number will be generated. Now, submit the print out of Acknowledgement Number to Treasury for Authorization.

**Q:** In case of Missing of my PRAN Card, to whom I will report for Re-Issue?

**Ans:** In case of missing of your PRAN card, lodge a FIR at nearest Police Station and apply to District/ Special Treasury through DDO to process for Re-issue of PRAN card.

**Q:** I am Government employee and my Pension is regulated by O.C.S. Pension Rule-1992. Whether I can be registered under NPS?

**Ans:** Yes, you will be under NPS. Through e-NPS of Central Record Keeping Agency, NSDL, you can apply for Registration and allotment of PRAN. Also through e- NPS you can deposit your contribution by using Debit Card/ Credit Card and Net Banking. There will be no matching Government contribution.



## 32

# **BUDGET PRINCIPLES, PROCESS & PRACTICE**

- ◆ **BUDGETING PRINCIPLES**
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## **BUDGET**

### **PRINCIPLES, PROCESS & PRACTICE**

For successful financial management, Government needs advance planning and accurate estimation. Under Art.202 of the Constitution of India, a statement of the estimated receipts and expenditure of the State for each financial year has to be laid before the Legislature. This statement is known as the “Annual Financial Statement” or ‘Budget’. It covers all the transactions of the State Government during the previous year, the current year and the next year.

#### **BUDGETING PRINCIPLES:**

- (i) Budget is prepared on cash basis, i.e. budgeted numbers are based on expectations of actual receipt and expenditure.
- (ii) Rule of lapse: All unspent funds shall lapse at the end of the financial year.
- (iii) Realistic estimation: Provision of funds should be based on actual requirement.
- (iv) Budget to be on gross basis: Gross figures of receipts and expenditures are reflected separately for voting.
- (v) Budget estimates are linked to accounting classification.

#### **OBJECTIVES:**

Budget is an expression of the Government’s public policy. It informs the public as to how the Government plans to earn and spend. Through the instrumentality of budget, Government aims at promoting economic growth, bringing down inequalities in terms of earning and wealth, re-allocates resources across development sectors depending on set priorities, paving way for economic stability, contributing to economic growth and addressing the regional disparities.

#### **TYPES OF BUDGET:**

Budgets are of three types: balanced, surplus and deficit budgets—depending upon whether the estimated receipts are equal to, less than or more than estimated receipts:-

- (i) **Balanced Budget:** When the estimated receipts (revenue and capital) are equal to estimated expenditure.
- (ii) **Surplus Budget:** When receipts are more than expenditure. A surplus budget implies a situation where in revenue is in excess of expenditure.
- (iii) **Deficit Budget:** When estimated expenditure exceeds receipts. In a deficit budget, estimated revenue is less than estimated expenditure.

**FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT (FRBM) ACT:**

The Governments of welfare states are always expected to collect less as revenue and spend more especially on social sectors. Besides, high revenue deficit on account of salaries, pension, interest, defence etc, compelled the Central Government to incur huge borrowings. The rising government borrowings seriously eroded financial health of the country which resulted in substantive expenditure on interest payment. Therefore, in order to overcome the debt-deficit-debt cycle, the Central Government brought in a fiscal legislation “the Fiscal Responsibility and Budget Management Act, 2003” to usher in a rule based fiscal regime. Later, on the basis of recommendations of erstwhile Planning Commission and the Reserve Bank of India, it was also felt necessary to introduce such fiscal discipline legislation for the states. Accordingly, Fiscal Responsibility and Budget Management Act was enacted in Odisha in the year 2005. This act aims to introduce transparency in fiscal management system of the Central as well as of the State Governments. The Act seeks to correct the structural imbalance in the state finances and ensure fiscal sustainability.

**MEDIUM TERM EXPENDITURE FRAMEWORK:**

Pursuant to the provisions of Section 3 of Odisha Fiscal Responsibility and Budget Management (FRBM) Act, 2005, the State Government lays down a Medium Term Fiscal Plan (MTFP) in each financial year before the Odisha Legislative Assembly along with the annual budget. The MTFP sets forth a three year rolling targets for prescribed fiscal indicators along with the underlying assumptions. To meet the above requirement, a projection of the estimates of Receipt and Expenditure for three years has to be made. The projections are purely based on certain assumptions taking into account the trends and prospects which are subject to change.

**STATUTORY DOCUMENTS:**

- (i) Annual Financial Statement:-Abstract and details of total financial transactions of Government pertaining to Receipt and Expenditure under Consolidated Fund, Contingency Fund & Public Accounts by Major Heads.
- (ii) Revenue and Receipts (with details) under Consolidated Fund, Contingency Fund & Public Account
- (iii) Explanatory Memorandum :- Reflects expenditure by Major Heads under Consolidated Fund, Contingency Fund and Public Account. It comprises eleven Appendices:-

Appendix I : Guide to Major Heads of expenditure indicating the various Demands concerned with each major Head (both gross and recovery)

Appendix II : General abstract of expenditure by Major Heads of accounts (net after recoveries)

Appendix III : General abstract of Programme expenditure (net) Major Head-wise (State and District Sector.)

Appendix IV : Details of Opening and Closing Balance.

Appendix V : Contingency Fund.

Appendix VI : Details of Public Account (Outgoing)

Appendix VII : Debt Position of the State

Appendix VIII : Guarantee Statement.

Appendix IX : Grants for creation of capital assets and other revenue expenditure for capital formation

Appendix X : Grant-in-Aid Statement

Appendix XI : Subsidy Statement

(iv) Demand for Grants:- Each Department has its own Demand for Grant. Besides, a consolidated Demand for Grants reflecting expenditure up to Minor Head in respect of each Department is also presented. This document is known as Mini Budget.

(vi) Budget at a Glance: This document provides information (in net) on

- ♦ Aggregates of receipts and disbursements under broad headings such as tax revenues and other receipts.
- ♦ Broad break up of Expenditure and Outlays by sectors.
- ♦ Revenue Deficit, Primary Deficit and Fiscal Deficit of the State Government.
- ♦ Statements presented under FRBM Act, 2005 and Rules framed there under.

However, before going into the nitty-gritty of budget making, it is essential for us to get acquainted with some basic concepts and important terms frequently used in relation to budget exercises:

#### **GOVERNMENT ACCOUNTS:**

Government account refers to maintenance of all financial transactions pertaining to a State in a systematic and scientific fashion. According to Article 150 of the Constitution, the form in which the accounts of the Union and of the States shall be kept is to be prescribed by the President on the advice of the Comptroller and Auditor General of India. Accordingly, the Government Accounting Rules, 1990 has been formulated. As mandated by the Constitution, each State shall maintain its accounts in three parts, viz,

- Part I : Consolidated Fund,
- Part II : Contingency Fund, and
- Part III : Public Account.

(This explains why the AFS reflects the receipts and outgoings in respect of the each of these funds.)

#### **CONSOLIDATED FUND:**

The Consolidated Fund draws its existence from Article 267(1) of the Constitution. All revenues received by the Government, loans raised and all receipts from recoveries of loans granted by it, together constitute this Fund. Except for a few items of expenditure which are sourced from either the Contingency Fund or from the Public Account, all other expenditure of the Government is incurred from the Consolidated Fund. Government cannot incur any expenditure from the Consolidated Fund without authorization from the Legislature.

#### **CONTINGENCY FUND:**

Article 267(2) of the Constitution authorises the existence of a Contingency Fund. The State Contingency Fund has been created following enactment of the “Odisha Contingency Fund Act, 1950 by

transfer of Rs 35.00 lakh from the Consolidated Fund of the State. This fund is an imprest placed at the disposal of the Governor to facilitate meeting of urgent and unforeseen expenditure pending authorization from the State Legislature. Legislative approval for such unforeseen expenditure is obtained, ex post-facto. Following such approval, an equivalent amount is drawn from the Consolidated Fund to recoup the Contingency Fund. The corpus of the Contingency Fund as authorized by the State Legislature presently stands at Rs.400.00 crore.

### **PUBLIC ACCOUNT:**

Moneys held by Government in trust are kept in the Public Account. The Public Account draws its existence from Article 266(2) of the Constitution of India. It comprises: -

- I Small Savings Provident Funds, etc.
- J Reserve Funds
- K Deposits and Advances
- L Suspense and Miscellaneous
- M Remittances
- N Cash Balance

The accounts relating to Provident Funds, Reserve Funds, Deposits and Advances record transactions in respect of which the Government act as a banker receiving amounts which they afterwards re-pay. The Suspense and Miscellaneous and Remittance accounts comprise merely adjusting heads and all entries under them are cleared eventually by adjustment under final heads. Withdrawal of funds from Public Account does not require authorization of the legislature. Approval of the State Legislature is obtained when amounts are withdrawn from the Consolidated Fund and kept in the Public Account for expenditure on specific objects. The actual expenditure on the specific object is again submitted for vote of the legislature for withdrawal from the Public Account for incurring expenditure on the specific objects.

### **BUDGET AND ACCOUNTING CLASSIFICATION:**

One of the distinctive features of the government accounting system is the minute elaboration with which the financial transactions of Government under both receipts and expenditure are differentiated and classified. The task of any classification system is to identify basic similarities in Government operations and organise individual transactions into relatively homogeneous categories, which can provide some meaningful information on the nature, composition and impact of these transactions. The objective is to facilitate analysis and decision-making.

Classification is the structural key to planned and rational Government budgeting. The manner in which operations of Government are grouped determines and is determined by the character of the decisions that can be made in the budgetary processes. A meaningful classification and presentation of Government operations in terms of functions, programmes and activities, therefore, assumes great importance. Accounting Classification of transactions has accordingly been structured to correspond to programmes and activities so as to facilitate their presentation in the budget. In the plan, programmes and activities are classified by sectors and heads of development. Therefore, we find a close correlation among the Budget heads, Account heads and Plan heads. The ultimate aim is to clearly present the objectives of Government expenditure, facilitate

decision making at all levels, enhance the accountability of management and provide an additional tool for control of financial operations.

The classification of Government accounts reflects the needs of the time. The current structure of the budget and accounting classification was introduced in 1974. It replaced the previously followed organization-based classification of transactions with a function-and programme-based classification. A major effort to harmonise the classification of plan schemes with the accounting classification was attempted in 1987; and a rationalisation of object heads was carried out in 1994. Though the classification system has evolved with the needs of the time, its basic structure has remained more or less the same for over a quarter of a century.

### **COMPONENTS OF THE CONSOLIDATED FUND:**

Under the provisions of Article 112 and 202 of Constitution, the expenditure of Government is required to be shown separately under 'revenue' and 'capital'. The transactions relating to the Consolidated Fund are accounted for in three different sections, viz.,

- (a) Revenue Account
- (b) Capital Account
- (c) Loan Account

Besides, Article 266 of the Constitution makes a distinct mention of loans raised by Governments and amounts received in repayment of loans advanced by Government, amongst the categories of receipts that would form the consolidated Fund of the State Government. This explains why separate divisions are maintained for revenue, capital and loan transactions.

Each account consists of receipt heads and expenditure heads. Let us get ourselves familiarized with the major aggregates used in relation to transactions under both the accounts.

### **Receipts:**

Government receipts are grouped under two heads—Revenue Receipts and Capital Receipts.

### **Revenue Receipts:**

Revenue receipts are all those incomes which do not incur repayment liability. These include, in addition to the State's own revenues, statutory transfers and various grants from the Central Government for the financing of State Plans, Central Plan and Centrally Sponsored Schemes. Revenue receipts are further classified into Tax Revenue and Non-tax Revenue.

- (i) **Tax Revenue:** It is the primary source of income for the Government generated through taxation. Sources of Tax revenue include GST, Land Revenue, Electricity Duty, Stamp & Registration Fees, Excise Duty, MV Tax, Service Tax etc.
- (ii) **Non-Tax Revenue:** Important items of receipts under Non-Tax include interest earnings, dividend on Government investments, water rates from irrigation projects, forest revenue, mining royalty etc. along with various user charges for services rendered.
- (iii) **Transfers from Centre:**

**State's share in Central Taxes:** This is the Finance Commission recommended share of the States from the divisible pool of gross taxes revenues of the Central Government net of collection charges.



The pool comprises Corporation Tax, Taxes on Income, Custom Duty, Union Excise Duty, and Service Tax and excludes Surcharges and Cess levied for specific purpose. These are statutory untied transfers guaranteed by the Constitution under the provisions of Article 270. Following recommendations of the 14<sup>th</sup> Finance Commission, the vertical transfer to States from the central pool of the divisible taxes has been increased from 32% to 42% wherein the share of Odisha is 4.464% of the total divisible pool.

**Grants-in-aid:** These central grants comprise Finance Commission recommended grants to Local Bodies, grants for Disaster Response and grants-in-aid towards implementation of Central Sector and Centrally Sponsored Schemes.

### **Capital Receipts:**

These are receipts of capital nature, which cannot be applied as a set off to Capital Expenditure. Capital receipts either create liabilities (e.g. borrowing) or reduce assets (e.g. disinvestment). Thus, when Government raises funds either by incurring a liability or by disposing off its assets, it is called a capital receipt. Capital Receipts constitute both Non Debt Capital Receipts and Public Debt. **Non Debt Capital Receipts** includes recovery of institutional & non-institutional loans and advances and disinvestment proceeds and proceeds from sale of assets.

### **Public Debt:**

It includes both internal borrowings and loans from Government of India. Internal borrowings include State Development Loans accessed from open market, Small Saving loan, institutional loans from entities like NABARD, LIC, GIC, NCDC, REC, HUDCO etc., and loans from General Provident Fund (GPF) Account of the employees. Public Debt creates liabilities on the State Government. Loans from Government of India have dried up after discontinuance of Central assistance carrying loan component. Public Debt also includes back-to-back loans from multilateral funding agencies facilitated by the Union Government for Externally Aided Projects being implemented by the State.

### **Expenditure:**

Depending on the nature, functions and reporting objectives, various modes of classifying Government expenditure have been evolved. The more familiar headings used for segregating Government expenditures are discussed below:-

### **Classification of Expenditure – Revenue and Capital**

#### **Revenue Expenditure:**

Revenue expenditure refers to the expenditure which neither creates assets nor reduces the liability of the Government. These are mostly establishment centric or maintenance related outgoes. Expenditure on salary, pension, interest payment, subsidy, old age pension, electricity, water charges, motor vehicle, contingent expenditure and maintenance of capital assets like roads, buildings, irrigation works etc., is termed as revenue expenditure. However, grants for creation of capital assets and other revenue expenditure for capital formation are being separately exhibited in a statement in the Explanatory Memorandum.

#### **Capital Expenditure:**

These are expenditures met with the object of increasing concrete assets of a material and permanent character. Such expenditure results in the creation or acquisition of physical or financial assets like land,

buildings, machinery, equipment, as well as investment in shares. Money spent on construction of schools, colleges, hospitals, roads, irrigation projects, powerhouse, flood control work, water supply etc. which result in creation of permanent assets are instances of capital expenditure. It also includes repayment of loans.

Capital expenditure is generally met from receipts of capital, debt, deposit or banking character as distinguished from ordinary revenue derived from taxes, duties, fees, fines and similar items of current income including extra-ordinary receipts. It is open to the Government to meet capital expenditure from ordinary revenues provided sufficient revenue surplus is available for diversion to meet such expenditure.

**Exceptions:** Receipts representing 'Interest' are shown under "0049-Interest Receipts" and expenditure on the maintenance and repair of the non-residential buildings are shown under the major head "2059-Public Works" irrespective of the functions to which they relate. Expenditure on a temporary asset or expenditure on Grants-in-aid to local bodies or institutions (even if given for the purpose of assets creation) cannot ordinarily be classifiable as capital expenditure unless specifically authorised. Important general orders governing classification of pay and allowances (including travelling allowances) of Government servants, expenditure on civil works, contributions made by or to Government, refunds of revenue, shall be issued by Government from time to time.

**Sectors and Sub-sectors of Accounts:** For facilitating a purposeful review of Government operations, Revenue and Capital Expenditure have further been aggregated under the following broad sectors with each comprising specific functions and services. Such aggregation will give an overall picture of resource allocation at the state level among the various sectors:-

- (i) **General Services:** It comprises State Legislature, Governor's establishment, Council of Ministers, Election, Administration of Justice, Fiscal service, Debt Servicing, Administrative service and Pension.
- (ii) **Social Services:** Education, Health, Housing & Urban Development, Water Supply & Sanitation, Youth Service, Art & Culture, Information & publicity, Welfare of SC/ST/OBCs, Labour Welfare, Social Security, Nutrition, Relief operations are categorized as Social Services. and
- (iii) **Economic Services:** Agriculture, Animal husbandry, Dairy development, Forest, Fisheries, Food Storage & Warehousing, Co-operation, Rural development, Irrigation & Flood Control, Renewable Energy, Industry, Minerals, Road/Inland Water Transport, Science & Technology, Environment, Tourism, Foreign Trade, Census Survey & Statistics, Civil Supplies, Transfers from State, Grants & Contributions etc. constitute Economic Services.

### **Codification of Heads of Account: List of Major and Minor Heads**

Article 150 of the Constitution provides for maintenance of the Government accounts "in such form as the President may, on the advice of the Comptroller & Auditor General, prescribe". The executive powers to prescribe the form and content of accounts are delegated to the Comptroller & Auditor General of India. In exercise of these powers, the List of Major & Minor Heads, containing the accounting classification of receipts and disbursements, is maintained by the Controller General of Accounts on the advice of the Comptroller & Auditor General of India.

The existing system of classification in the Government of India follows a six-tier hierarchical structure. Expenditures are classified according to the function, programme, and their economic nature using numerical codes. Receipts are classified according to their nature and source. The classification system also applies to the State Governments, with the exception that they are given the flexibility to open their own heads below the third tier in the six tier hierarchy as per their respective needs. (PDF format is available online).

The details of six tier accounting classification along with the significance of each tier is explained in the following table:

### **Six Tier Accounting Classifications**

<b>Tiers of Classification</b>	<b>What it denotes</b>	<b>Remarks</b>
Major Head (4 digits)	Functions of the Government	These classification is uniform for all States & Union Government
Sub-Major Head (2 digit)	Sub-function	
Minor head (3 digit)	Programmes	These classification is State specific
Sub-head (4 digit)	Schemes & activities	
Detailed head (5digit)	Sub-schemes	
Object head (3 digit)	Primary unit of appropriation	

A four digit Code has been allotted to the Major Head, the first digit indicating whether the Major Head is a Receipts Head or Revenue Expenditure Head, or Capital Expenditure Head or Loans and Advances. Head or it pertains to Public Account, if the first digit is '0' or '1', the Head of Account will represent Revenue Receipt; '2' or '3' will represent Revenue Expenditure; '4' or '5' Capital Expenditure; '6' or '7' Loans and Advances Head; (4000 for Capital Receipt) and '8' will represent Contingency Fund and Public Account—(8000 for Contingency Fund).

The logic behind the design is that adding 2 to the first digit of the Revenue Receipt will give the Code Number allotted to corresponding Revenue Expenditure Head; adding another 2 to the first digit will give the Capital Expenditure Head and similarly adding another 2 to the first digit gives the corresponding Loans and Advances Head of Accounts; For example:-

0401 represents the Receipt Head for Crop Husbandry

2401 represents the Revenue Expenditure Head for Crop Husbandry

4401 represents the Capital Outlay on Crop Husbandry

6401 represents Loans for Crop Husbandry.

### **State Specific Accounts Classification:**

As already indicated above, Accounting Classification up to 3 tiers, *i.e* up to the Minor Head level is uniform for the Union Government and for all the State Governments. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> tiers of classification are State specific. The Government of India, in the meanwhile, have revised 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> tiers of classification as 2 digits each while Finance Department, Government of Odisha is yet to revise the same.

The following example would help in better appreciation of how transactions are recorded using the six tier accounting classification :

Demand No\* : 1 (Home Department)

Tier	Head of Classification	Nomenclature	Remarks
1 <sup>st</sup>	2052 (four digits)	Secretariat General Services	Major Head
2 <sup>nd</sup>	00 (two digits)	No nomenclature	Sub Major Head
3 <sup>rd</sup>	090 (three digits)	Secretariat	Minor Head
4 <sup>th</sup>	0640 (four digits)	Home Department (Scheme)	Sub Head
5 <sup>th</sup>	01003 (five digits)	Salaries (Sub Scheme)	Detailed Head
6 <sup>th</sup>	136 (three digits)	Pay	Object Head

NB:- \*As per Rule 121 of “Odisha Legislative Assembly Rules” each Department may be presented under one Demand. Accordingly Demand No 1 has been assigned to Home Department. Budget Provision is to be secured either at 5<sup>th</sup> or 6<sup>th</sup> level only.

### **Plan Heads of Development and their correlation to the Accounting Heads :**

Operation of economic and financial activities in a federal government environment require mapping of complex linkages between functions, programmes and schemes at different levels. Given the institution of planning process, dovetailing the operation of planning with that of accounting is required. It has been observed that the relationship between functions, programmes and schemes are not always linear and cut across various functions.

The erstwhile Planning Commission had evolved a different classification for sectoral analysis and resource allocation. Plan Outlay are categorized into the following 11 development sectors:-

- (i) Agriculture & Allied Activities,
- (ii) Rural Development,
- (iii) Special Area Programmes,
- (iv) Irrigation & Flood Control,
- (v) Energy,
- (vi) Industries & Minerals,
- (vii) Transport,
- (viii) Science, Technology & Environment,
- (ix) Social Services,
- (x) General Services,
- (xi) General Economic Services.

Each sector is divided into several Heads of Development. The Heads of Development are organized on functional lines and have broad correspondence with the Major Heads of Accounts. As in the accounting

classification, each Head of Development contains several programmes. Unlike accounting heads, plan head of development are not divided for revenue, capital and loan transactions.

In order to address the increasing divergence between the plan classification and the accounting classification over the years mainly because of the shifts in social priorities and technological advancement, Government of India adopted the new classification with effect from 1.4.1987. The following illustration would clarify how the accounts sector classification is mapped with plan heads of development:

The plan sectors “Agriculture and Allied Services”, “Rural Development”, “Irrigation and Flood Control”, “Energy”, “Industry and Minerals”, “Transport”, “Science Technology and Environment” and “General Economic Service” would correspond to the sub-sectors of the same nomenclature introduced under “Economic Services”. Similarly the account sub-sectors Education, Sports, Art and Culture, Water Supply and Sanitation, Housing and Urban Development, Social Welfare and Nutrition under sector Social Services, would correspond to the sub-heads of development, General Education, Sports and Youth Services, Technical Education, Art and Culture, Water Supply and Sanitation, Housing, Urban Development, Social Security and Welfare and Nutrition under Plan heads of development ‘Social Services’.

#### **Classification of expenditure - “Charged” or “Voted”**

- (i) **Voted Expenditure:** which requires the approval of the legislature.
- (ii) **Charged expenditure** – which does not require the voting of the legislature but is subject to discussion on the floor of the legislature..

#### **New Classification / Categorization of State Government expenditure:**

Following discontinuance of the Plan Non-Plan dichotomy by the Government of India, the traditional classification of expenditure has undergone further modifications. In line with the new classification adopted by the central Government, our Government has accordingly classified expenditure into following four broad categories:

<b>Sl No</b>	<b>Broad Category</b>	<b>Sub-category</b>
1	Administrative Expenditure	Establishment, Operation & Maintenance Debt Servicing
2	Programme Expenditure	State Sector Schemes Central Sector Schemes Centrally Sponsored Schemes
3	Expenditure from Disaster Response Funds	State Disaster Response Fund National Disaster Response Fund
4	Transfers from State	Central Finance Commission recommended transfers to local bodies State Finance Commission recommended transfers to local bodies Other transfers

**1. Administrative Expenditure:**

(i) **Establishment Operations and Maintenance (EOM):** It includes salary, wages, medical expenses, overtime allowances, foreign/domestic travel expenses, office expenses, materials and supplies, publications, advertising and publicity, training, other administrative expenses, POL, cost of ration, clothing and tentage, professional services, rent rates and taxes, royalty, pensionary charges, rewards and minor works, motor vehicles, information technology etc. Besides, this would include maintenance of physical infrastructure in Irrigation, Energy, Roads & Bridges, Buildings, Water Supply, Sewerage & Sanitation management etc.

(ii) **Debt Servicing Expenditure** constitutes debt repayment and interest payment

**2. Programme Expenditure:**

- i. **State Sector Schemes** include State's own Schemes (both existing State Plan and Non Plan), Externally Aided Projects (EAPs), NABARD assisted projects under RIDF. may include Scheme related establishment expenditure and scheme-based transfers to Public Sector Enterprises and Autonomous Agencies.
- ii. **Central Sector Schemes** include all schemes funded and implemented by the Central Agencies viz. Ministries/ Departments or its agencies and other SPVs. The Scheme specific establishment expenditure will also be included in the CSS.
- iii. **Centrally Sponsored Schemes** include all Centrally Sponsored Schemes for which Central Assistance is received by the State Government. This will also include other Central transfer to States for schemes like SRE, MPF under Non-Plan and schemes hitherto shown under Centrally Sponsored Schemes (CSP)

**3. Expenditure from Disaster Response Funds:**

- i. **State Disaster Response Fund:** provision to be made for both the Central assistance and State share.
- ii. **National Disaster Response Fund:** provision to be based on anticipated Central Assistance from NDRF

**4. Transfers from State:**

- i. **Central Finance Commission** recommended grants to local bodies
- ii. **State Finance Commission** recommended transfers to local bodies
- iii. **Other transfers:** transfers from the State Government other than the above two sub-categories

**Notes:**

- (i) Please remember the three accounts discussed above are not separate entities; they are being maintained for accounting purpose only. In fact, Government of Odisha has only one account with the RBI.
- (ii) The Government of Odisha has made an agreement with the Reserve Bank of India by virtue of which the general banking business of the Government including receipt, collection, payment

and remittance of money on behalf of Government is carried on and transacted by the Reserve Bank.

- (iii) The receipt and payment of moneys on behalf of a State outside its jurisdiction is made through the Accountant General of the State in which the transactions take place.
- (iv) Branches of the Reserve Bank or the State Bank or any other bank authorized by RBI acting as agent of the Reserve Bank, keeps a separate account of cash transactions undertaken by it on behalf of the State Government within whose area it is situated.
- (v) All transactions which cannot be debited or credited directly to the account of the Central Government and other State Governments together with all supporting vouchers, challans, paid cheques etc. are forwarded by the Bank daily to the local Treasury Officer or to the Accountant General as the case may be under intimation to Central Accounts Section, Reserve Bank of India, Nagpur.
- (vi) The Central Accounts Section, Reserve Bank of India, Nagpur acts as a general clearing house for adjustments among the Centre and the States.

**Deficit Indicators**– Deficit in Government account represents gap between the receipts and expenditure.

- (i) **Revenue Deficit / Surplus:** Revenue Deficit is the excess of Revenue expenditure over Revenue receipts. Conversely Revenue Surplus is excess of Revenue Receipt over Revenue Expenditure. As per the provisions of Odisha Fiscal Responsibility and Budget Management (FRBM) Act, 2005, the State is required to generate revenue surplus every year.
- (ii) **Fiscal Deficit:** The excess of expenditure (both Revenue and Capital) over the Revenue Receipt and non debt capital receipt represents the Fiscal Deficit. Fiscal Deficit is financed through borrowing during the Year.  $\text{Fiscal Deficit} = (\text{Revenue Receipt} + \text{Recovery of Loans} - \text{Total Expenditure (including Capital Expenditure but excluding repayment of Loans and Advances)})$ .

The Odisha FRBM Act, 2005 mandates containment of Fiscal deficit within 3.5% of GSDP provided the debt to GSDP ratio is less than or equal to 25%, the interest payment to revenue receipt (IP/RR) ratio is equal to or less than 10% and there is no revenue deficit in the year in which the borrowing limits are fixed and the immediately preceding year.

- (ii) **Primary Deficit:** Primary Deficit is Fiscal Deficit minus Interest Payment. It represents the net borrowing to meet the expenditure excluding the interest payment.  $\text{Primary Deficit} = (\text{Fiscal Deficit} - \text{Interest Payment})$ .

## BUDGET PROCESS:

Preparation of Budget documents is an annual ritual involving a flurry of activities across government Departments with the Finance Department playing the role of a sheet anchor. Each financial year, NITI Aayog circulates, among states, a set of guidelines for projection of resources for the Annual Plan. The Resources Branch of Finance Department, undertakes a detailed assessment of revenues from various tax and non-tax

sources including shared taxes and central grants, if any, other than development Departments State Plan Schemes in consultation with Departments. These receipts are netted with committed expenditure and such other establishment and maintenance related expenditure to find out availability of net revenue receipts. Other sources of receipts include miscellaneous capital receipts, borrowings from diverse sources and grants for State Sector Schemes. Contributions, if any, from PSUs are also added to the estimate to arrive at the aggregate resource for the State Plan. The final availability of resources for the state plan for the financial year is intimated to P & C Department for sectoral allocation.

Resource forecast for the Annual Plan takes into account the broad contours of fiscal discipline prescribed by Finance Commission, FRBM Act, State's requirement etc.,. It undergoes a number of additions deletions before finalization. So remember one thing, budget preparation is not a rocket science. Simple arithmetic knowledge is sufficient. However, it is a time bound work. Therefore, only involvement and sincerity will make you expert in the subject.

In fact, the general instructions for formulation of Budget Estimates are contained in Chapter- III of Odisha Budget Manual which was published in the year 1963. In the meanwhile, most of the processes for formulation of budget have been revised suitably and the entire process of budget preparation has been computerized.

To start with, the Finance Department issues a set of instructions for formulation of Revised Estimate and Budget Estimate each year. The budget cycle normally starts towards the end of September of the current financial year and ends in April of the next financial year. The process includes the following activities :

1. **Issue of Budget Circular :** Each officer associated with preparation of Budget must read the Budget Circular thoroughly. In this budget circular, Finance Department gives
  - (i) the overall idea about the broad contours of receipt, overall ceiling of expenditure in terms of fulfillment of different parameters set by successive Finance Commissions;
  - (ii) the formula / or percentage increase in arriving Budget Estimate under different primary units both for receipt as well as for expenditure;
  - (iii) method of submission of budget proposals;
  - (iv) time schedule for submission of budget proposals.
  - (v) broad departmental ceiling for preparation of budget estimate.
2. **Preparation & Consolidation:** You know, the process of submission of budget proposals has been automated. Accordingly,
  - (i) All the Estimating Officers/ Drawing and Disbursing Officers prepare their budget proposals both for receipt as well as for expenditure in accordance with the guidelines enunciated in the Budget Circular and submit their proposals online through IFMS portal by using their user id and password to their Controlling Officer;



- (ii) The Controlling Officers, soon after receipt of the budget proposals from their Estimating Officers/DDOs, consolidate the proposals along with proposals of their own establishment and submit it to the respective Administrative Department through IFMS;
- (iii) The Budget Section of the Administrative Departments import the data submitted by different Controlling Officers for its examination and consolidation through another application software *i.e* BETA;
- (iv) The information in terms of details of head of account, actuals of previous year, budget estimate of current year would be available in the software. It is required only to upload figures for the revised estimate of the current year and budget estimate of the next financial year;

**Note:** For introduction of a new scheme/sub scheme several 4<sup>th</sup> level/ 5<sup>th</sup> level codes are already available in the BETA software. Departments intending to introduce a new scheme for the first time should first make use of the codes already available in the software platform. If, however, none of the codes fits into the nature and the function of the scheme, the space earmarked for scheme/ sub scheme code should be marked as xxxx/ xxxxx for subsequent allotment of appropriate code by the Finance Department.

- (v) In fact, budget proposals of the Department are to be scrutinized on the basis of ceilings communicated and guidelines issued by Finance Department (for Administrative Expenditure) and Planning & Convergence Department (for Programme Expenditure) under the guidance of the FAs / AFAs of the Department;
- (vi) Finally, the consolidated proposal including proposals of the Department establishment received from different Sections in respect of Administrative and Programme Expenditure etc are to be submitted online in BETA application to P & C Department and Finance Department.

**3. Pre-Budget Meetings:** For administrative expenditure, Pre-Budget meetings will be organized by Finance Department to finalize budget proposal figures. For programme expenditure, the Administrative Department will prioritize their State sector proposals including Central Plan and Centrally Sponsored Plan schemes in Pre Budget Meetings in presence of representatives of Finance and P & C Department. However, for provision of funds under Central Plan or Centrally Sponsored Plan, Departments are to ensure commitments of the line Ministries regarding grant of funds.

**4. Printing and Presentation of Budget:** Soon after the preparation of the budget, Finance Department obtains approval of the Council of Ministers and lays it before the Odisha Legislative Assembly for its approval.

**5. Budget Discussions:** After the budget is laid, discussions on the budget begin.

- (i) The Departmentally related Standing Committees scrutinize the detailed demands for Grants and submit their reports after the Departments furnish replies to their questions and after the Secretary who is the Chief Accounting Authority gives oral evidence before the Committee.

- (ii) After the general discussions in the Legislative Assembly, Members may move cut motions. Cut motion could be 'Policy Cut', 'Economy Cut' or 'Token Cut'.
- (iii) On the last day of the discussions, the Speaker puts all outstanding Demands for Grants to the vote of the House. This process is known as 'Guillotine' which brings the debate on the financial proposals to an end.
- (iv) Voting of the Grants by Legislative Assembly by itself does not result in authorization of funds. For this purpose the Appropriation Bill introduced by the Finance Minister is passed by the Legislative Assembly.
- (v) Similarly, Finance Bill too is passed to bring the tax proposals, if any, into effect.
- (vi) Both the "Appropriation Bill" and "Finance Bill" become Acts after the assent accorded by the Governor.
- (vii) Director of Treasuries & Inspection upload the data relating to Demand for Grants of all Departments in IFMS for subsequent allotment and expenditure.

### **BUDGET IMPLEMENTATION:**

After approval of the budget by the Legislative Assembly,

- (i) The Departments have the responsibility to ensure that the expenditure is incurred for the approved purpose without exceeding the authorized budget and in public interest with due diligence.
- (ii) Various provisions given in the Odisha General Financial Rules, Delegation of Financial Powers Rules, other Rules including economy instructions issued by Finance Department from time are to be followed.
- (iii) In the meanwhile, Finance Department have adopted Cash Management for some major spending Departments to ensure greater evenness in the budgeted expenditure; reduce the rush of expenditure during the last quarter. Accordingly, such Departments are required to adhere to the instructions issued in this regard by Finance Department.

### **SUPPLEMENTARY STATEMENT OF EXPENDITURE**

A Supplementary Grant is an addition to the total authorized grant/ appropriation for a financial year and has to be obtained in the manner prescribed under Article 205(1) (a) of the Constitution of India. The procedure for presentation of Supplementary Estimate is the same as applicable to the Annual Budget Estimate and Appropriation Bill.

The Finance Department also issues a circular with a set of instructions in order to submit proposals for inclusion in the Supplementary Statement of Expenditure. On receipt of the proposals from the Controlling Officers, the Departments submit their proposals for Supplementary Estimate online as is done for Annual Budget Estimate. Normally, a Supplementary Grant can be taken under following circumstances:-

- (i) When the amount included in a grant (voted or charged) is found to be insufficient;
- (ii) When expenditure, whether charged or voted, has to be incurred on a new service not contemplated in the Appropriation Act for the year;

- (iii) When it is desired to obtain prior approval of the Legislature to a scheme which ultimately involves large financial commitment for the Government even though the expenditure anticipated in the current financial year on that account is either nil or negligible;
- (iv) To regularize the advance expenditure incurred by obtaining advance from “Odisha Contingency Fund” or advance expenditure has been incurred by issue of authorization order under paragraph 3.7.1 of the OPWD Code (Volume I);
- (v) For accounting adjustment suggested by Accountant General;
- (vi) In cases where Government commitment has already been obtained at Post Budget stage;
- (vii) Besides, supplementary grant may also be taken in accordance with the guidelines circulated for the Supplementary Estimate issued by Finance Department/ Planning & Convergence Department.
- (viii) As in the case of the Annual Budget, proposals for the Supplementary Statement of Expenditure are to be furnished online using IFMS & BETA software.

### **REAPPROPRIATION:**

Power of Appropriation of money from the Consolidated Fund vests with the Legislative Assembly. The Controlling Officers are required to see that the expenditure under each unit of appropriation is kept within the amount originally provided under that unit. Sometimes, higher expenditure under some units becomes necessary while some savings may occur in some other units. Therefore, transfer of funds from one unit to another becomes unavoidable in public interest. This transfer of funds within the appropriation is called re-appropriation.

Re-appropriations should be in thousands or multiple of thousands. No re-appropriation should exceed the approved limit of grant/ appropriation nor should it deviate from the broad purpose of the expenditure approved by the legislature. Appropriation is a legislative responsibility while re-appropriation is an administrative function.

Power to sanction re-appropriations is regulated by the rules made by the Governor under Article 166(3) of the Constitution. However, general limitations of re-appropriation are given below. Re-appropriation is prohibited :-

- (i) Across Demand;
- (ii) From ‘Voted’ unit to ‘Charged’ unit or vice versa;
- (iii) From ‘Revenue Account’ to ‘Capital/ or Loan Account’ or vice versa;
- (iv) For a service or charge which is a ‘New Service’. As such, re-appropriation is not permissible when there is no original appropriation;
- (v) Across State Sector, Central Sector and Centrally Sponsored Schemes;
- (vi) Re-appropriation cannot be made from the provision which was augmented through re-appropriation or by supplementary;
- (vii) Similarly, the unit from which amount has been diverted by re-appropriation shall not be augmented later on;

- (viii) The power to sanction re-appropriation is vested with Finance Department. However, Finance Department have delegated power to sanction re-appropriation in respect of Administrative Department under Rule 9 of Delegation of Financial Power Rules, 1978, where the Administrative Department can sanction re-appropriation under a primary unit up to a maximum limit of 25% of the original provision without referring the proposal to Finance Department;
- (ix) It shall be responsibility of the Controlling Officer to communicate revised allotment immediately after re-appropriation is sanctioned to the concerned Drawing Officer both for the unit from which fund is diverted and the unit where the appropriation is augmented. In case two Controlling Officers are involved in one re-appropriation, both shall be intimated accordingly by the Department;
- (x) In case of doubt with regard to admissibility of a re-appropriation the Finance Department may be consulted. The decision of Finance Department in this regard shall be treated as final;
- (xi) Sanction of Re-appropriation is permissible only within the one financial year. In other words there shall be no re-appropriation after the financial year is closed;
- (xii) Any irregular sanction of re-appropriation can be revised only before close of the financial year. Any irregular sanction of re-appropriation, if not revised by competent authority during the same financial year, shall be treated as null and void and shall not be given effect in the Appropriation Accounts;
- (xiii) Presently, re-appropriation proposals are processed online through BETA software.
- (xiv) All Officers who have power to sanction re-appropriation should maintain a register to record all re-appropriation made by them;
- (xv) Remember, Heads of the Department cannot sanction re-appropriation.

#### **Steps to be taken after closing of the financial year:**

Since the expenditure of the Government is being monitored through IFMS, all the transactions for a financial year will automatically cease at 12.00 mid night of 31<sup>st</sup> March of a year. But in real terms, the Accountant General closes the accounts of the Government at a later stage. However, following points are to be remembered after closing of the financial year.

- (i) Soon after the close of the financial year, locate the savings and communicate surrender to Finance Department in prescribed format with a copy to Accountant General;
- (ii) Prepare of Major Head wise Grant Statement showing Primary Unit wise Original Budget Provision, Amount of modification, if any, by way of Supplementary Estimate, Re-appropriation, surrender, Final Grant, Total Expenditure incurred, Saving/ Excess, Amount Surrendered with reasons;
- (iii) Reconciliation of figures in respect of re-appropriation, expenditure and surrender with those of the Accountant General;

- (iv) Compliance note on Notes and comments reflected in Appropriation Accounts under the Demand are to be prepared and sent to OLA Secretariat for its examination by the Public Accounts Committee with a copy to the Accountant General.

## FREQUENTLY ASKED QUESTIONS

**Q:** What is deficit financing?

**Ans:** Deficit financing means generating funds to finance the deficit which results from excess of expenditure over revenue. The gap being covered by borrowing from the public by the sale of bonds or by printing new money.

**Q:** Why we need deficit financing.

**Ans:** For developing countries like India, higher economic growth is priority. A higher economic growth requires finances. With the private sector being shy of making huge expenditure, the responsibility of drawing financial resources rests with the Government. As the Government's revenue from taxes and other sources fall short of its spending requirements, the Government resorts to borrowings from markets and external sources.

**Q:** What constitutes Public Debt?

**Ans:** Public debt is the total liabilities of the government contracted against the Consolidated Fund of India. It is further classified into internal & external debt. Internal debt constitutes Open market Borrowings, Special securities issued against NSSF, Institutional loans like NABARD, LIC, GIC, REC etc. External debt includes back to back loans from multi lateral agencies like World Bank, IMF, JICA etc.

**Q:** What is fiscal policy ?

**Ans:** Fiscal policy refers to Government spending and taxation policy intended to maintain economic stability. Government use fiscal policy to influence aggregate demand in the economy to achieve price stability, full employment and economic growth.

Fiscal policy could be neutral, expansionary or contractionary. Neutral policy is followed when the economy is in equilibrium. In such a situation Government spending is fully funded by tax revenue. Expansionary fiscal policy is not undertaken but is resorted to counter recession. Government spends more money, cut taxes or both. On the contrary, contractionary fiscal policy is pursued during times of rapid economic expansion to decrease spending.

**Q:** What is Vote -on-Account ?

**Ans:** Vote on Account is a special provision envisaged under Article 206 of the Constitution by which Government obtains approval of the legislature for funds sufficient to incur expenditure for a part of the year enabling it to incur expenses till a full budget is prepared.

- Vote-On-Account represents the expenditure side of the Government's budget while general budget includes both income and expenditure.
- A Vote-On-Account is passed by the legislature without discussion as opposed to General or Interim budget.

**Q:** What are extra budgetary borrowings?

**Ans:** Extra budgetary resources (EBRs) are those financial liabilities that are raised by Public Sector Undertakings for which repayment of entire principal and interest is done from Government budget. Such borrowings are made by state-owned firms to fund government schemes but are not part of the official budget calculations. Extra budget borrowing is excluded from the fiscal deficit calculations, but at the same time, are added to the total debt of the government.

**Q:** What is unfunded debt ?

**Ans:** The debt which is not financed. For example: receipts (loan) from GPF.

**Q:** What is GSDP?

**Ans:** For estimating the Gross State Domestic Product (GSDP), the methodology suggested by Central Statistical Organization is followed. The economy for this purpose has been divided into following 14 sectors:-

- (i) Agriculture including Animal Husbandry
- (ii) Forestry and Logging
- (iii) Fishing
- (iv) Mining and Quarrying
- (v) Manufacturing Registered
- (vi) Manufacturing Un-registered
- (vii) Construction
- (viii) Electricity, Gas and Water Supply
- (ix) Transport, Storage and Communications
- (x) Trade, Hotel and Restaurants
- (xi) Banking and Insurance
- (xii) Real Estate, Ownership of Dwellings and Business Services
- (xiii) Public Administration
- (xiv) Other Services

**Q:** What is budgetary deficit?

**Ans:** The budgetary deficit represents the net borrowing from Reserve Bank of India in a financial year which is recouped in the next year. It represents the difference between the opening and closing balance of the year.

**Q:** What are the circumstances under which receipt heads are used for drawal while expenditure heads are used for deposit.

**Ans:** Excess receipt arises when amount collected/ received and deposited in the Government account is in excess of what is due. In such cases, the excess amount is to be refunded. Since it is not an expenditure, refund is effected using receipt head of account making an entry "Deduct – Refund" under the said receipt head (code 900). Similarly excess expenditure occurs when payment exceeds what is due. In

such cases the excess amount drawn is to be deposited back in Government account. Since it is not a receipt, it is classified as reduction in expenditure. If the excess drawal pertains to same financial year, the amount is to be deposited under the same expenditure head. If the excess drawal pertains to previous financial year(s) the amount can be deposited under the expenditure head by making an entry “Recovery of Overpayment” (code 911)

**Q:** How expenditure incurred in excess of budget provision is regularized.

**Ans:** The expenditure in excess of the provision is regularized under the provisions of Article 205 of the Constitution. As per procedure, when the Department notices the excess expenditure from the Appropriation Accounts, they will furnish compliance explaining the circumstances under which such excess expenditure occurred to the Accountant General. After being satisfied with the explanations submitted by the Department, the Accountant General will recommend for its regularization to the Public Accounts Committee.

**Q:** How advance from Odisha Contingency Fund is availed and recouped ?

**Ans:** As per procedure, the Secretary of the Administrative Department shall make an application in prescribed format for the purpose of meeting emergent and unforeseen nature (only) to the Secretary, Finance Department. The Finance Department will issue sanction order after obtaining approval by the Governor. For its recoupment, the concerned Department will secure budget provision in the next Supplementary stage. After approval of the supplementary, the Department shall request the Accountant General for recoupment of the advance.



**33****MANAGEMENT OF  
GOVERNMENT FINANCES**

- ♦ **CONTROLLING OFFICER**
- ♦ **DRAWING & DISBURSING OFFICER**
- ♦ **HEAD OF A DEPARTMENT:**
- ♦ **HEAD OF AN OFFICE:**
- ♦ **REVENUE & OTHER RECEIPTS**
- ♦ **GENERAL FINANCIAL MANAGEMENT**
- ♦ **POWER TO SANCTION**
- ♦ **CONTINGENCIES**
- ♦ **PERMANENT ADVANCE**
- ♦ **STORES**
- ♦ **GRANTS-IN-AID**
- ♦ **LOANS AND ADVANCES**
- ♦ **LOCAL FUNDS**
- ♦ **FREQUENTLY ASKED QUESTIONS**



## MANAGEMENT OF GOVERNMENT FINANCES

Managing State's finances requires a robust institutional framework for planning, directing, monitoring, organizing, and controlling financial resources in an efficient and effective manner. In its most elemental sense, it refers to the set of laws, rules, systems and processes used by Government to mobilise revenue, allocate public funds, undertake public spending, account for funds and audit findings.

The broad objectives of finance management are to :

- ◆ **maintain fiscal discipline:** should ensure that aggregate levels of revenue collection and public spending are consistent with targets for the fiscal deficit, and do not generate unsustainable levels of public borrowings.
- ◆ **achieve allocative efficiency:** should ensure that public resources are allocated to agreed strategic priorities, in other words allocative efficiency is achieved
- ◆ **optimise operational efficiency:** should achieve maximum value for money in the delivery of services
- ◆ **ensure transparency and accountability in government spending** by applying checks and balances.

Finance management, in its inclusive sense, covers a wide spectrum of activities ranging from policy formulation to budget making to such other subjects like procurement, cash management, medium term expenditure frameworks, programme budgets, etc. However, in this Chapter we shall limit our study to the responsibilities of persons entrusted with the management and control of public funds, general financial rules and orders followed by all Departments and Organisations under the Government while dealing with matters involving public finances.

### CONTROLLING OFFICER:

The Officer entrusted with the responsibility of controlling the incurring of expenditure and / or the collection of revenue is called as Controlling Officer in terms of definition under Rule2(ix) of OGFR.

- (i) The term includes Heads of Departments and Heads of Administrative Departments who are responsible for submission of estimates and control of receipts and/ or expenditure.
- (ii) Finance Department is the competent authority to declare a Controlling Officer;
- (iii) The list of Controlling Officers is being maintained by Finance Department and the Integrated Odisha Treasury Management System (i-OTMS)
- (iv) The Controlling Officer is responsible for prompt assessment, collection and credit of government dues to the Consolidated Fund or Public Account as the case may be.

**DRAWING & DISBURSING OFFICER (DDO):**

The Administrative Departments/Heads of the Departments are competent to declare any officer holding Group-B and above posts under their administrative control as Drawing and Disbursing Officer in respect of specific establishments in terms of definition under Rule 2(ix-a) of OGFR.

- (i) The officer is entrusted with the responsibility of drawing and disbursing funds of the Government. He is also responsible for deposit of revenue;
- (ii) While declaring officer as Drawing and Disbursing Officer, the Administrative Departments/Heads of Department should specifically quote this Rule i.e. Rule – 2 (ix-a) of OGFR;
- (iii) In case, it is required to declare a person other than a Government Officer as DDO, Finance Department is competent authority to approve.

**HEAD OF A DEPARTMENT:**

As per definition under Rule 2(xv) of OGFR, Head of a Department is an authority who has been declared as such by the competent authority with reference to Rule 20 of the Odisha Service Code Volume – I.

- (i) The proposal for declaring any authority as “Head of a Department” is to be sent to Finance Department for approval and inclusion of the designated Government Servant as Head of the Department in Appendix –3 of Odisha Service Code.
- (ii) After obtaining the approval of Finance Department, the concerned Administrative Department is to issue the orders declaring the designated Government Servant as Head of the Department.

**HEAD OF AN OFFICE:**

The definition under Rule 2(xv-a) stipulates that the Administrative Departments or the Heads of the Departments can declare any officer as Head of Office.

- (i) If the declaration is made in general terms and not with reference to specified rules, the Head of an office may exercise all powers vested in him not only under these rules, but also other financial rules e.g. the Odisha Service Code, the Odisha Travelling Allowance Rules, General Provident Fund (Odisha) Rules, the Odisha Treasury Code and the Contributory Provident Fund (Odisha) Rules.
- (ii) The Head of the Office declared under this rule can authorise a sub-ordinate officer holding Group- B and above post working under him to sign the bills under Subsidiary Rule -102 of Odisha Treasury Code Volume-I. Such delegation, however, does not relieve the Head of the Office of his responsibilities in any way in terms of accuracy of the bill.
- (iii) In case of big establishments, where it is administratively not convenient for one gazetted officer to sign all the bills owing to the volume of work and location of different sections, etc. more than one Group B officer may be authorised by the Head of the office to sign bills on his behalf with the approval of the Government.

**REVENUE & OTHER RECEIPTS**

- (i) Controlling Officers will ensure timely assessment, collection and deposit of Government dues in Government account. He/ She shall compare it with treasury credits furnished by the A.G Odisha and ensure its correction by consulting with A.G Odisha.

- (ii) Revenue collecting Departments have their own rules and procedure with regard to assessment, collection and remission of revenue.
- (iii) An Officer of a Department entrusted to collect revenue on behalf of the Government, shall collect revenue by issuing a receipt in OTC 5, deposit it in Government account by treasury challan and maintain a proper account. The details of chart of account available in Finance Department portal “Revenue and Receipts” should be indicated in the challan.
- (iv) In case, Government dues are not recoverable for any reasons, orders of competent authority must be taken to that effect. **(Rule 25-37 OGFR)**

### GENERAL FINANCIAL MANAGEMENT

- (i) A Government officer assigned with the work of any financial transactions must book the transactions in appropriate accounts. Money received as dues should be deposited in to Government treasury/ account immediately according to treasury rules.
- (ii) For incurring expenditure from the Consolidated Fund/ Contingency Fund/ Public Account, it is mandatory to have sanction of the competent authority.
- (iii) Failure to comply prescribed financial rules will attract personal accountability of the officer concerned. Therefore, while incurring expenditure from public money it is advised to be more vigilant.
- (iv) Receipts which are not Government dues shall be kept in Public Sector Bank/Post Office Savings Bank. However, prior approval of Government is required for its deposit in any bank other than scheduled banks. The officer receiving such moneys shall be personally accountable for its proper use.
- (v) **General Principles to be followed before entering into any contract are given below :**
  - (a) The officer to sign the contract must be empowered to enter in to the contract by orders of the Government;
  - (b) The terms of the contract must be precise, definite;
  - (c) Legal and financial advice must be solicited while drafting the contract. *i.e* concurrence of Law Department and Finance Department may be obtained;
  - (d) Saving clauses like power to revoke or cancel the contract, safeguarding the Government property must be there;
  - (e) Copies of the contract must be sent to A.G, Odisha.

**(Rule 3-24 OGFR)**

### POWER TO SANCTION

Sanction means an official permission or approval for an action. In Government' day to day business, different types of sanctions are issued. For example: sanction can be accorded for incurring expenditure, creation of post(s), implementation of a scheme or project etc. Power to accord sanction is always attached to an authority for facilitating smooth financial management. The important aspects of such sanction are given below:

- (i) The details of power to sanction exercised by Administrative Departments/ Heads of the Department and Sub-ordinate offices have been laid down in Delegation of Financial Power Rules.
- (ii) A higher authority can exercise the power of its sub-ordinate authority;
- (iii) Important matters like grant of land, assignment or concession of revenue, grant of lease, license for mineral or forest right, creation of post(s) etc. always require prior approval of Finance Department.
- (iv) **Write off of losses:** When certain value in the stores or books of the Government is considered to be irrecoverable, it can be written off as per provisions under Rule 42 of OGFR.
  - (a) Power to sanction such write off of losses has been delegated to different authorities under Rule 15 of DFPR;
  - (b) If the loss appertains to fraud or negligence by any Government servant, recovery of whole or part thereof should be ensured;
  - (c) Heads of Departments and other subordinate authorities have no power to write off losses arising out of defect of system/ negligence of any Government servant;
  - (d) Orders of competent authority must be obtained for write off;
  - (e) All sanctions orders writing off must be addressed to A.G, Odisha.
- (v) **Communication of sanction:** Most of the time, varieties of sanction are required to be accorded by different authorities including a Department of Government. Rule 45 to Rule 48 of OGFR Volume I prescribes the procedure for communication of sanction. The important points required to be remembered while communicating a sanction are given below:
  - (a) For Administrative Departments, all financial sanctions including grant of land, land revenue, sanction of scheme should be addressed to the A.G, Odisha;
  - (b) The sanction order must contain the amount both in words and figures and most importantly, the source of appropriation, *i.e* from which head of account the amount would be met;
  - (c) While communicating sanctions relating to creation of posts or writing off of losses to any Heads of the Department, it should be either in form of an order or letter. However, it must be endorsed to the A.G, Odisha in both the cases;
  - (d) While issuing sanction order on account of pay, special pay, allowances etc., there should be a clear but brief summary of reasons for grant of such sanction;
  - (e) Sanctions accorded by a Head of the Department should also be communicated to A.G, Odisha;
  - (f) All financial sanctions should be issued by or with the concurrence of the FA/AFA/ FA-cum-CAO/Accounts Officer, as the case may be;

- (g) In recent time, financial sanction order has been automated in IFMS;
- (h) Normally, the date of issue of the sanction order is considered as date of effect of sanction and it becomes operative as soon as funds have been provided in the Budget pertaining to that year. Financial sanction lapses with close of the financial year;
- (i) Sanction to an estimate for a public works is valid for five years from date of its issue;
- (j) Sanction like revision of pay, grant of concession, allowances etc., should not be effective retrospectively without specific approval of the Government.  
**(Rule 38-54 OGFR)**

## CONTINGENCIES

Contingencies means incidental expenses of miscellaneous character incurred for day to day management of an office. The limit of power to be exercised in sanctioning contingent expenditure by Administrative Department/ Head of the Department and Sub-ordinate authority have been indicated under Rule 10 and Rule 20 of DFPR.

- (i) The contingent expenditure may be recurring or non-recurring. Recurring contingent includes expenditure on purchase of xerox paper, pen, pencil, curtains etc while non-recurring contingent expenditure includes purchase of tables, almirahs, computer etc.
- (ii) While exercising power in terms of financial limit delegated in DFPR, an authority should take utmost care not to exceed the limit. For non-recurring contingent expenditure, the power of the sanctioning authority should be reckoned with reference to the total value of articles to be purchased on a single occasion. The tendency to split up the total indent just to avoid sanction of higher authority is irregular and amounts to infraction of rules.
- (iii) However, in case of recurring expenditure, it is important not to exceed the financial limit prescribed. But there is no restriction on the number of occasions so long as the financial limit has not been exceeded.
- (iv) The detailed procedure including call for quotation, tender etc. relating to procurement of goods, engagement of consultants and outsourcing of services has been outlined in another chapter “Public Procurement Policy”.  
**(Rule 77-81 of OGFR)**

## PERMANENT ADVANCE

In order to meet urgent requirement of an office, some money is needed in shape of Permanent Advance before it is sanctioned and drawn from the treasury. Therefore, a reasonable amount is provided to offices including Administrative Departments, Heads of the Department and Sub-ordinate offices. Such reasonable amount is called as Permanent Advance. Permanent Advance is granted for meeting day to day contingent and emergent expenditure of Government Offices. The salient features of Permanent Advance are:-

- (i) Heads of Department can sanction permanent advance of <sup>1</sup> 1,000 for each subordinate office.
- (ii) Permanent Advance exceeding <sup>1</sup> 1,000 but not exceeding <sup>1</sup> 10, 000 for any subordinate office including a Head of Department shall be sanctioned by the Administrative Department;

- (iii) Permanent Advance for an office exceeding ₹ 10,000 shall only be sanctioned by the Finance Department by a proposal of Administrative Department.
- (iv) The accountability of the amount lies with the holder of the Permanent Advance;
- (v) While furnishing proposal to Finance Department for sanction of Permanent Advance exceeding ₹ 10,000, the Administrative Department must ensure following conditions:-
  - (a) The advance should be based on the average monthly contingent expenditure of the office for the preceding twelve months.
  - (b) The application for permanent advance by an office should be accompanied by a statement for the preceding twelve months, showing the amounts of contingent bills based with classified details of items of expenditure for each month.
- (vi) Permanent Advance sanctioned is to be drawn from the Public Account under the Head of Account “8672-Permanet Cash Imprest-101-Civil-1680-Permanent Advance -91010-Advance for Cash Imprest”. Since the Permanent Advance is to be drawn from Public Account no allotment is required for the drawal. (Rule 82 of OGFR)

## STORES

Stores include all articles and materials purchased/ acquired for use of the Government. For example: furniture, equipment, fixtures, instruments, machinery and articles of *dead stock*. Remember, any unsold items which are lying in the warehouse or store for a long time are termed as *dead stock*.

- (i) The Departments including engineering Departments having large amount of stores have put in place specific procedure for purchase and maintenance of such stores;
- (ii) For other Civil Departments, soon after all stores are received, the responsible officer should verify the number of articles, quality etc and give a certificate on the invoice to the effect that they have been recorded in the appropriate Stock Register.
- (iii) Proper and separate Inventories in OGFR 6 should be maintained by the authority as per type of the articles. It should record price of the articles. Where price is not available, market price must be quoted.
- (iv) The Head of the Office or higher authority must check the inventories as well as ensure physical check once in a year.
- (v) For disposal of stores, detailed procedure has been laid down in a separate chapter “Public Procurement Policy”. (Rule 92 to 125 of OGFR)

## WORKS

Civil works such as Roads & Bridges, Buildings, Irrigation, Flood Control, Drainage, Water Supply & Sanitation and Electrical Works are classified under two main categories: “Original works” and “Repair works”.

- (i) Original works means all new constructions, additions and alterations to existing works, special repairs to newly purchased or previously abandoned buildings or structures, including remodelling or replacement;

- (ii) Repair works means works undertaken to maintain building and fixtures and other works.
- (iii) **Commencement of Work:-** A work cannot be commenced unless, following conditions are satisfied:-
  - (a) Decision of competent authority has been obtained;
  - (b) Alienation of land, wherever necessary;
  - (c) A properly detailed design prepared by competent authority;
  - (d) Estimates containing the detailed specifications and quantities of various items have been prepared on the basis of the current Schedule of Rates maintained by Public Works Department;
  - (e) Budget Provision have been made;
  - (f) Administrative approval has been obtained from the appropriate authority. Remember that minimum Budget Provision of 15% of the estimated cost is a necessary pre condition for according Administrative Approval.
- (iv) The following are the exceptions to the fundamental rules enunciated above:-
  - (a) In exigency of public service such as breaches in embankments/ storm damage to buildings or roads/ transmission line etc., specific orders are accorded for commencement of work prior to sanction of estimate and allotment of funds;
  - (b) In such cases, orders of competent authority should be conveyed in writing to carry out necessary work subject to condition that necessary approval or technical sanction to the estimate as the case may be is accorded within three months from the date of commencement of the work as per the provisions under Para 3.7.1(b) of OPWD Code.
- (v) Powers of different authorities to accord administrative approval in respect of different categories of works like non residential, residential, electric installation, water supply and sanitation, Inspection Bungalow etc have been laid down in Rule 13 of DFPR. (**Rule 126 to 163 of OGFR**)

## GRANTS-IN-AID

First of all, let us discuss what is grant-in-aid? How it is different from normal Government expenditure? In fact, Government machinery can hardly manage all activities / discharge all functions in a society due to various limitations. Therefore, Government often extends financial assistance to other organizations/ institutions/ private bodies/ individuals etc. which is not a part of its own machinery. In such cases, the financial assistance provided by the Government to that organization is termed as grant-in-aid.

- (i) The general principle of grants-in-aid is that it can be given to a person or a public body or an institution having a legal status of its own.
- (ii) The Government of India gives grant-in-aid to the State Governments. A State Government gives grant-in-aid to local bodies like PRIs and ULBs. Thus, GIA rules of Government of India varies with those of Government of Odisha.

- (iii) Provisions regarding administration of payment of grants-in-aid of Odisha Government have been laid down under Rule 170 to Rule 173 of OGFR, Volume I.
- (iv) **Grant-in-aid of Central Government:** The Central Government gives grants-in-aid to the State Governments from the Consolidated Fund of India as per provisions under Article 275 and 282 of the Constitution.
- (v) The Central Government releases grants-in-aid to the State / Union Territory Government under Central Plan Schemes and Centrally Sponsored Schemes;
- (vi) **Grant-in-aid of Odisha Government:** Accordingly, the State Government gives grants-in-aid out of its Consolidated Fund to the local bodies, agencies, and institutions such as universities, co-operative institutions and others such as private individuals, public bodies for discharging their functions like social, cultural, educational, sports activities etc. Grants-in-aid can also be given for capital expenditure like creation of assets.
- (vii) The private individual or a public body includes organization set up as autonomous organisation under a specific statute or as a society registered under the Societies Registration Act, 1860 or Indian Trusts Act, 1882 or other statutes; or
  - (a) Voluntary organizations or Non-Government Organisations carrying out activities which promote the welfare schemes and programmes of the Government;
  - (b) Educational and other institutions;
  - (c) Urban and Rural local self government institutions;
  - (d) Co-operative societies.
- (viii) The grants-in-aid for Pani Panchayats, Aided Educational Institutions including Block Grants for the Universities and private Educational Institutions etc. would be governed by the relevant Acts/Rules/Regulations of the respective Administrative Departments.
- (ix) However, for recurring grants-in-aid for salary would require the concurrence of Finance Department and approval of State Cabinet;
- (x) The grants for promotion of various recreational activities, culture, arts, research activities etc. would be sanctioned by the Government in respective Administrative Departments subject to availability of budgetary allocation;
- (xi) **Utilisation Certificate:** Each grantee institution is required to submit Utilisation Certificate in respect of those grants-in-aid sanctioned for specific purpose where-in the sanction order specifically stipulates submission of such Utilisation Certificate.
  - (a) In the absence of such specific stipulation for submission of Utilisation Certificate, submission of Utilisation Certificate is not necessary;
  - (b) Utilisation Certificate in respect of grants-in-aid sanctioned for general purpose is not necessary;



- (c) The utilization certificates against Government of Odisha grants should be furnished in Form OGFR-7A of OGFR, Volume –II;
  - (d) The utilization certificates in respect of grants-in-aid sanctioned by the Central Government should be furnished in Form GFR-19A of General Financial Rules, 2005 published by Department of Expenditure, Ministry of Finance, Government of India.
- (xii) However, keeping in view the norms of Indian Government Accounting Standard-2 (IGAS-2) and its incorporation in Finance Accounts of the State Government, Finance Department have further simplified the rules governing sanction of grant-in-aid, maintenance of accounts and submission of utilisation certificate vide their Office Memorandum No 21241/F, dated 17.07.2014.
- (Rule 164 to 178 of OGFR)**

### LOANS AND ADVANCES

Loans and advances sanctioned by the State Government can broadly be divided into following categories. These rules are applicable to all Departments in making loans and advances of public money, unless there is any special rule or order of Government.

- (i) **Loans and advances bearing interest:** Such category of loans and advances can further be divided into following types:-
  - (a) Loans to Local Funds, Private individuals, Government Companies, Corporations, Local Bodies, Autonomous Bodies, Co-operative Institutions, Statutory Corporation, Statutory Corporations, quasi public bodies and other non-Government or private institutions, individuals, Miscellaneous Loans and Advances;
  - (b) Recoverable advances to Government Servant for House Building, Purchase of Conveyances etc
- (ii) **Interest-free advances:** Such category of advances can further be divided into following types:-
  - (a) Advances repayable-comprising mostly miscellaneous advances to Government servants for various public purposes;
  - (b) Permanent advances – As mentioned above
- (v) The loans and advances to Government Servants indicated above are compiled in a separate chapter;
- (vi) Powers of Administrative Departments, Heads of Departments to sanction loan and advance are enunciated in Rule 11 of the Delegation of Financial Powers Rules, 1978;
- (vii) The terms and conditions governing sanction of loans and advances to different borrowing organizations including rates of interest have been laid down by Finance Department in their Office Memorandum No 11010/F, dated 24.03.2012.
- (viii) Further, these rules are required to be modified so as to compile information relating to Loans and Advances made by the State Government in accordance with Indian Government

Accounting Standard-3 (IGAS-3) and its incorporation in Finance Accounts of the State Government. Accordingly, Finance Department have modified the process of sanction of loan vide their Office Memorandum No 6940/F, dated 20.03.2015.

- (ix) **Sanction of Loan:** Administrative Department in consultation with Finance Department is the appropriate authority to sanction a loan. Before considering a loan application from any of the organizations following important points are to be ensured :-
- (a) There is adequate budget provision;
  - (b) The loan sanction order should contain the Head of Account in which interest is to be paid and the Head of Account in which the principal repayment is to be made;
  - (c) Always, the interest due is to be realised first and then the principal repayment is to be received.
  - (d) The borrowing organization should furnish the following materials and information:-
    - Copies of profit and loss accounts and balance sheets for the last 3 years along with main sources of income and how the loan is proposed to be repaid;
    - The security proposed to be offered for the loan together with a valuation of the security offered by an independent authority;
    - Details of loans taken from the Central Government/ State Government/ other organizations;
    - The purpose of loan and any other information as would be insisted upon by Finance Department.
- (x) **Interest on Loans :** Besides, specific rates of interest prescribed by Finance Department in their Office Memorandum No 11010/F, dated 24.03.2012 following general principles for rates of interest are to be followed:
- (a) A loan shall bear interest for the day of payment but not for the day of repayment. Interest for any shorter period than a complete year shall be calculated as:-
 
$$\frac{\text{Number of days} \times \text{Yearly rate of interest}}{365 \text{ (366 in case of Leap Year)}}$$

Unless any other method of calculation is prescribed in any particular case or class of cases;
  - (b) In the event of default either in repayment of principal or interest, penal interest @ 2.5% over and above the original rate(s) will be levied;
- (xi) **Conditions of Repayment:** The following general principles should be followed for repayment of loans.
- (a) The loanee must furnish a written undertaking of the acceptance of its terms and conditions.

- (b) Repayment of each loan or advance with interest shall be subject to a specific term.
- (c) The term of repayment shall commence from the date on which the loan is fully availed of or declared by the competent authority as closed.
- (d) Where payment is stipulated in instalments, the dates thereof shall ordinarily be fixed at half-yearly intervals.

*(Rule 200 to 214 of OGFR)*

## LOCAL FUNDS

As per SR 467 of Odisha Treasury Code, a body, which by law or rule having the force of law come under the control of the Government in terms of which it can deal with its own with matters like budget, creation and filling up posts, enactment of leave, pension rules etc. is known as a Local Fund. For example: NACs and Municipalities under Municipal Fund, Universities and Councils under Education Fund etc.

- (i) Local Funds are not considered to be Government body;
- (ii) Government sanction grants-in-aid and loans to these bodies;
- (iii) Without prior approval of the Government, revenues collected by the Local Funds cannot be put in the treasuries, they will be kept in pure banking accounts;
- (iv) The financial transactions between Government and local bodies are regulated by Rules 190-199 of OGFR read with SR 469 to 497 of Odisha Treasury Code.

## FREQUENTLY ASKED QUESTIONS

**Q:** What are the duties assigned to a DDO as per provisions of OGFR?

**Ans:** The detailed duties assigned to a DDO have been laid down in Rule 318 to 320 of OGFR, Volume I.

**Q:** What is the procedure when actual revenue is collected and deposited into the Government accounts in excess of what is due?

**Ans:** When revenue in excess of what is due is deposited in Government account and is required to be refunded, it can be done as per procedure laid down in para 2.2 of General Directions of List of Major and Minor Heads issued by the Controller General of Accounts, Government of India. In this case, it is considered as "Refund of Revenue". It will be booked under same Receipt Major Head but on a different Minor Head "Deduct-Refunds" (code '900'). However, advice of Finance Department in the matter may be taken.

**Q:** What would happen if a Head of the Department seeks Government approval for incurring an expenditure for which he is competent as per DFPR?

**Ans:** In such cases, the Head of the Department may be directed to exercise his power as per delegation. But the Department, if considers, may issue some directives only.

**Q:** What is the procedure to be followed for regularisation, if some amount is drawn from treasury after sanction but could not be utilised and there is no scope of its future utilisation or some over payments are made?

**Ans:** In such case, procedure laid down under para 3.10 of General Directions of List of Major and Minor Heads issued by the Controller General of Accounts, Government of India may be followed. According to the procedure, recoveries of overpayments whether made in cash or by short drawal from a bill, during the same financial year in which such overpayments were made, shall be recorded as **reduction of expenditure** under the same head of account under which the amount was drawn. Recoveries of overpayments pertaining to previous year(s) shall be recorded under distinct minor head 'Deduct-Recoveries of Overpayments' (code-911) below the concerned Major/sub-major head. However, Finance Department may be consulted in such cases.

**Q:** What is the procedure, if an amount under contingencies is required before it is actually incurred?

**Ans:** Wherever, amount is required to be drawn in advance on abstract bill for meeting expenditure it can be drawn as per procedure laid down under SR 260 to 262 of Odisha Treasury Code. It is also known as Abstract Contingent (AC) Bill and Detailed Contingent(DC) Bill. In such cases, approval of Finance Department is needed.

**Q:** What is the procedure to dispose of unserviceable stores?

**Ans:** The procedure has given elaborately in a separate chapter "Public Procurement Policy"

**Q:** How can the provisions under rule 3.7.1 of OPWD code be enforced?

**Ans:** In case of emergency only provisions under the rule 3.7.1 of OPWD Code can be enforceable with prior concurrence of Finance Department.

**Q:** Is there any difference between UC format devised by Government of India and Government of Odisha ?

**Ans:** Yes. For State Government it is OGFR-7A of OGFR, Volume –II and for Government of India it is GFR-19A of General Financial Rules, 2005.



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### **PUBLIC PROCUREMENT POLICY**

- ◆ **GENERAL PRINCIPLES**
- ◆ **COMPETENCY OF AUTHORITIES TO PURCHASE GOODS**
- ◆ **LIMITED TENDER ENQUIRY**
- ◆ **ADVERTISED TENDER ENQUIRY**
- ◆ **SINGLE TENDER ENQUIRY**
- ◆ **STANDARD INSTRUCTIONS**
- ◆ **PROCEDURE OF PROCUREMENT**
- ◆ **TWO BID SYSTEM**
- ◆ **ADVANCE PAYMENT**
- ◆ **DISPOSAL OF GOODS**
- ◆ **MODES OF DISPOSAL**
- ◆ **GOVERNMENT E-MARKET PLACE (GeM)**
- ◆ **ADOPTION OF E-AUCTION/ E-SALE**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## PUBLIC PROCUREMENT POLICY

Different Government Departments and offices under them used to purchase considerable quantities of goods to meet their requirement for day to day working as well as for undertaking various functions. The goods may include articles of stationery, office equipments, furniture, heavy machinery, raw material, foodstuff, commodities, livestock, spare parts, instruments, industrial plant etc. As a Government officer at one stage or the other, one has to make purchases on behalf of the Government. It is one of the most important areas of financial management.

Prior to formulation of this Public Procurement Policy, rules governing purchase of goods were prevailing under different chapters of Odisha General Financial Rules, Volume-I read with Appendix-6 of Odisha General Financial Rules, Volume II. Besides, financial powers delegated to different authorities to purchase goods have been laid down under Rule 10 and Rule 20 of Delegation of Financial Power Rules, 1978 while procedure for procurement goods, engagement of consultants and outsourcing services has been enunciated under Rule 12 of Delegation of Financial Power Rules, 1978 read with **FD OM No 37323/F, dated 30.11.2018**.

However, in order to ensure efficiency, economy, transparency, value for money, fair and equitable treatment of suppliers and promotion of competition in public procurement, the Government of Odisha in Finance Department have issued a set of guidelines for procurement of goods in their **OM No 4939/F, dated 13.02.2012** respectively. The guidelines may be accessed from Finance Department official website. **Remember** that these guidelines are to be followed in conjunction with provisions of “Manual on Policies and Procedure for Purchase of Goods” issued by Department of Expenditure, Ministry of Finance, Government of India.

### GENERAL PRINCIPLES:

- ◆ First of all, ensure that the goods to be procured are in strict conformity in terms of quality, type and quantity exactly required by the Department/ Organization;
- ◆ Before initiating procurement process, ensure that:-
  - (i) offers are to be invited following a fair, transparent and reasonable procedure;
  - (ii) the selected offer adequately meets the requirement in all respects;
  - (iii) the price of the selected offer is reasonable and consistent with the quality required;
  - (iv) the considerations which weighed with it while taking the procurement decision are recorded at each stage.
- ◆ While assessing the quantum of requirement, the meaning of “each case” spelt out in the definition at Rule 2(d) of DFPR, 1978 should be kept in mind judiciously. For example: “Each Case” in respect of non-recurring contingent expenditure refers to “an occasion” while “Each Case” under recurring contingent expenditure refers to “each type of expenditure per annum”.

**COMPETENCY OF AUTHORITIES TO PURCHASE GOODS:**

- Since, specific power to purchase goods has been delegated to different authorities in terms of price/cost, one has to assess first, the approximate cost of such procurement. The revised financial limits of the authorities competent to sanction contingent expenditure prescribed in Finance Department O.M. No 27047/F, dated 27.09.2021 are indicated below.

Sl No	Authority	Power to sanction	
		Recurring	Non Recurring
1	Adm. Dept	Full Power	Full Power
2	Member BoR/ PCCF/ DG, Police	₹ 40,00,000	₹ 2,00,00,000
2	Other Heads of Departments	₹ 20,00,000	₹ 1,00,00,000
3	Collector	₹ 10,00,000	₹ 50,00,000
4	Heads of Sub-ord. Offices		
	(i) Sr. Class- I & above	₹ 2,00,000	₹ 4,00,000
	(ii) Jr. Class- I	₹ 1,50,000	₹ 3,00,000
	(iii) Class- II	₹ 60,000	₹ 2,00,000

- Thus approximate cost/ price of the goods to be procured are important. Soon after assessment of the cost of goods to be procured, the authority has to follow the procedure outlined below:

**STEP-1:**

If cost of the goods to be procured is ₹ 15,000 or less, then authority may purchase such goods without inviting quotations or bids. However, the authority has to furnish a certificate as given at Para 7(i) of the aforesaid Office Memorandum No 4939/F, dated 13.02.2012.

**STEP-2:**

If the type of goods to be procured by an authority are of standard type and identified as common user items of registered suppliers approved/ finalized by the Director, Export Promotion and Marketing(D.E.P.M) or by any registered Co-operative Societies within Odisha, then the authority, without inviting any quotations/ bids/ tenders may purchase goods as per rate contract available in their respective website by placing order with them.

**Remember**, the Directorate of Export Promotion and Marketing, Odisha working under the administrative control of M.S & M.E Department have already issued specific guidelines for procurement of goods from such approved/ registered suppliers. In order to promote local MSEs as defined in Odisha MSME Development Policy, 2016 or Start-ups defined under para 7(vi) of Odisha Start-up Policy, 2016, the Finance Department have issued a set of guidelines vide their Office Memorandum No 27928/F, dated 16.10.2020.

**STEP-3:**

If the cost of the goods is above ₹ 15,000/- but less than ₹ 1,00,000, the authority is required to constitute a Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the

Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier. Then on the basis of the recommendations of the Committee, procurement can be made. However, before recommendations, the Committee has to give a certificate as prescribed at Para 8 of the aforesaid Office Memorandum No 4939/F, dated 13.02.2012.

**STEP-4:**

If the cost of the goods to be procured is more than ₹ 1,00,000, the authorities are required to adopt following standard method of obtaining bids.

**LIMITED TENDER ENQUIRY:**

- (i) This method of procurement shall be adopted if the cost of procurement is more than ₹ 1,00,000 but less than ₹ 5,00,000.
- (ii) In such case, copies of the bidding document should be sent directly by speed post/registered post/courier/e-mail to firms which are borne on the list of registered suppliers. **Remember**, the list of registered suppliers means either the list prepared/ maintained by any Administrative Department requiring bulk supply of goods or list of Micro & Small Enterprises (MSEs) located within Odisha prepared by the Director of Export Promotion & Marketing, Odisha in terms of provisions of the Odisha MSME policy.
- (iii) The number of supplier firms in Limited Tender Enquiry should be more than three.
- (iv) Web based publicity should be given for limited tenders. Efforts should be made to identify a higher number of approved suppliers to obtain more responsive bids on competitive basis.
- (v) Sufficient time should be allowed for submission of bids;
- (vi) In case, the competent authority of the Department certifies that the demand is urgent, then it can go for **Limited Tender Enquiry** putting on record the circumstances for such urgency and sources of supply are definitely known, even if the cost of goods to be procured is **more than ₹ 5,00,000**.

**ADVERTISED TENDER ENQUIRY:**

- (i) This method may be adopted if the cost of goods to be procured is more than ₹ 5,00,000;
- (ii) A brief advertisement may be given in at least one local and one National News paper having wide circulation with details available in the website of the concerned authority;
- (iii) If the Department has its own website, it should also publish all its advertised tender enquiry;
- (iv) Hard/ soft copies of the bidding documents should be prepared for sale;
- (v) If the Department feels that goods of required quality may not be available inside India and look for suitable competitive offers from abroad, the Departments may send copies of the tender notice to concerned Indian Embassies abroad or foreign embassies in India with a suitable forwarding letter;
- (vi) Sufficient time, preferably three weeks from the date of publication of tender notice or availability of bidding documents should be allowed for submission of bids. For foreign bidders, four weeks may be given.



**SINGLE TENDER ENQUIRY:**

- (i) This method may be adopted if it is in the knowledge of the Department that only a particular firm is the manufacturer of the required goods;
- (ii) If it is required to purchase goods necessarily from a particular source emergently, then this method may be adopted subject to condition that approval of Government or of next higher authority is obtained and circumstances for taking such decision must be recorded.
- (iii) In such case, the authority has to give a Proprietary Article Certificate as prescribed at Para 17 of the Office Memorandum dated 13.02.2012.

**STANDARD INSTRUCTIONS:**

- ♦ In order to ensure transparency, competition, fairness and elimination of arbitrariness in the procurement process some standard instructions have been prescribed in the aforesaid Office Memorandum which may please be followed scrupulously.

**PROCEDURE OF PROCUREMENT:**

- ♦ Rule 12 of DFPR, 1978 relates to the power and procedure governing procurement of goods, engagement of consultants, outsourcing of services and execution of contracts by the Heads of the departments and the Administrative Departments. The power of the Administrative Departments as well as of the Heads of Departments to execute contracts and sanction expenditure on purchases has been amended recently in **FD OM No 27047/F, dated 27.09.2021** as indicated below.

Authority	Delegated Power for		
	Procurement of goods	Engagement of Consultants	Outsourcing of services
Administrative Departments	Full Power	₹ 3,00,00,000	Full Power
Heads of Department	₹ 10,00,00,000	₹ 1,00,00,000	₹ 50,00,000

- ♦ As per the provision, in all such cases, a committee has to be constituted consisting members from Finance/Law/ Domain expertise etc. The Committee shall scrutinize involving purchases as per the limit delegated to the authorities. Minutes of each meeting should be issued with due approval of the competent authority
- ♦ In view of requirement for big projects, involving high technical requirement, the Administrative Departments have been delegated with the power to engage consultants for preparation of architectural designs, DPRs, supervision consultancy, and other ancillary services of such projects within 2 % of the project cost.
- ♦ Similarly, Finance Department have issued detailed guidelines for engagement of consultants and outsourcing of services in **FD OM No 37323/F, dated 30.11.2018**. The Finance Department has advised to refer the Manual for Procurement of Consultancy & Other Services 2017 issued by the Department of Expenditure, Ministry of Finance, Government of India available in the website [www.finmin.nic.in](http://www.finmin.nic.in).

- ◆ If the estimated cost of the work or service is up to ₹ 10.00 lakh, preparation of a list of potential consultants may be made on the basis of enquiries from other Adm. Departments/ Heads of Departments/ Other Offices/ Chamber of Commerce etc.
- ◆ If the estimated cost is more than ₹10.00 lakh, an enquiry for seeking “Expression of Interest” from consultants should be published through a brief advertisement in at least one local daily and one national daily with details available in the website.
- ◆ On the basis of response, the consultants may be shortlisted. **Remember:** The shortlisted consultants should not be less than three.
- ◆ The **Terms of Reference** may be prepared including (i) statement of objectives, (ii) outline of tasks, (iii) schedule for completion of tasks, (iv) support or input/materials/data to be provided, (v) final output in quantifiable/ comprehensible terms etc.
- ◆ The **Request for Proposal (RFP)** should be prepared which can be used by the authority for obtaining offers from the consultants for the required work/service. The RFP may include (i) letter of invitation, (ii) information to consultants regarding procedure for submission of proposal, (iii) Terms of Reference, (iv) eligibility and pre-qualification criteria, (v) list of key positions/resource persons, (vi) bid evaluation criteria and selection procedure, (vii) standard formats for technical and financial proposal, (viii) proposed contract terms, (ix) procedure for mid-term review and (x) review of the final draft report.

#### **TWO BID SYSTEM:**

- ◆ For purchasing high value plant, machinery etc. of a complex and technical nature, bids may be obtained in two parts as under:-
  - (i) **Technical bid** consisting of all technical details along with commercial terms and conditions; and
  - (ii) **Financial bid** indicating item-wise price for the items mentioned in the technical bid.
- ◆ The technical bid and the financial bid should be sealed by the bidder in separate covers duly super scribed and both these sealed covers are to be put in a bigger cover which should also be sealed and duly super scribed.
- ◆ The technical bids are to be opened by the authority/ Department at the first instance and evaluated by a competent committee or authority.
- ◆ Secondly, the financial bids of only the technically acceptable offers should be opened for further evaluation and ranking before awarding the contract.
- ◆ While participating in the tender process, the Local MSEs, Khadi, Village, Cottage & Handicraft Industries, Local Startups have been exempted from earnest money and concessional payment for performance security.
- ◆ **Late Bids:** In the case of advertised tender enquiry or limited tender enquiry, late bids (i.e. bids received after the specified date and time for receipt of bids) **should not be considered.**

- ◆ Depending on the cost and nature of the goods, it may be necessary to enter into **maintenance contact** of suitable period. **REMEMBER:** The equipment or machinery is maintained free of charge by the supplier during its warranty period and the paid maintenance should commence only thereafter.

**Bid Security:**

To safeguard against a bidder's withdrawing or altering its bid during the bid period, **Bid Security** (also known as **Earnest Money**) may be obtained (within 2% to 5%) from the bidders except those who are registered with either DGS & D, or Director of Export Promotion & Marketing or with the concerned Department.

**Performance Security:**

- ◆ To ensure due performance of the contract, **Performance Security** for an amount of 5% to 10% of the value of the contract is to be obtained from the successful bidder irrespective of its registration status awarded with the contract.

**ADVANCE PAYMENT:**

- ◆ Ordinarily, payment for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments in the following types of cases:-
  - (a) Advance payment demanded by firms holding maintenance contracts for servicing of air-conditioners, computers, other costly equipment, etc.
  - (b) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

However, such advance payments should not exceed the following limits:

- (a) Thirty per cent of the contract value to private firms;
  - (b) Forty per cent of the contract value to a State or Central Government agency or a Public Sector Undertaking; or
  - (c) In case of maintenance contract, the amount should not exceed the amount payable for six months under the contract.
- ◆ Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it dispatches the goods from its premises in terms of the contract.

**DISPOSAL OF GOODS:**

- ◆ An item may be declared surplus or obsolete or unserviceable if the same is of no use to the Department/ authority. The reasons for declaring the item surplus or obsolete or unserviceable should be recorded by the authority competent to purchase the item.
- ◆ The competent authority may, at his discretion, constitute a committee at appropriate level to declare item(s) as surplus or obsolete or unserviceable.
- ◆ The book value, guiding price and reserved price, which will be required while disposing of the surplus goods, should also be worked out. In case where it is not possible to work out the book value, the original purchase price of the goods in question may be utilized.

- ◆ In case an item becomes unserviceable due to negligence, fraud or mischief on the part of a government servant, responsibility for the same should be fixed.

### MODES OF DISPOSAL:

- ◆ Surplus or obsolete or unserviceable goods of assessed residual value above ₹ 25,000 should be disposed by:
  - (i) obtaining bids through advertised tender, or,
  - (ii) public auction.
- ◆ For surplus or obsolete or unserviceable goods of assessed residual value less than ₹ 25,000, the mode of disposal will be determined by the competent authority, keeping in view the necessity to avoid accumulation of such goods and consequential blockage of space and, also, deterioration in value of goods to be disposed of.

### GOVERNMENT E-MARKET PLACE (GeM)

- ◆ Article 299 of the Constitution stipulates that contracts legally binding on the Government have to be executed in writing by officers specifically authorized to do so. Further, the Indian Contract Act, 1872 and the Sale of Goods Act, 1930 are major legislations governing contracts of sale/ purchase of goods in general. There is no law exclusively governing public procurement of goods.
- ◆ Therefore, in order to enhance transparency, efficiency and effectiveness in public procurement process, the Government of India decided that the Directorate General of Supplies & Disposal(DGS&D) will create a one stop **Government e-Market Place (GeM)** to facilitate on line procurement of common use goods & services required by various Government Departments/ Organizations/ PSUs.
- ◆ Accordingly, the Government of Odisha in Finance Department have decided to adopt GeM and issued instructions to all departments for maximum utilization of online service of DGS&D for making procurement through GeM in their letter No 22439, dated 11.08.2016 and No 14214, dated 28.04.2017. Later, this online procurement facility has been extended to non-Government entities like statutory and autonomous bodies, societies, local bodies, boards, development authorities and improvement trusts. (*FD letter no. 36401/F dated 22.11.2018*)
- ◆ The DGS&D portal facilitates public procurement with minimum human interface and no entry barrier to *bonafide* suppliers. It has reduced administrative costs of the vendors in pursuing payments. The use of GeM portal has resulted in substantial reduction in prices in comparison to tender, rate contract and direct purchase rates.
- ◆ The State GeM Procurement Unit has been constituted under the Director of Treasuries & Inspection, Odisha, Bhubaneswar.
- ◆ All Government offices have been instructed to involve local suppliers and manufacturers to take part in Government procurements by creating awareness and enlisting them with their products in the GeM portal.

- ◆ In order to facilitate in time payments, the GeM has been integrated with IFMS for Government offices while in respect of non-Government entities, GeM pool account is to be opened. The detailed standard operating procedure (SOP) on opening and operation of GeM Pool Account has been given in **FD letter No 36401, dated 22.11.2018.**
- ◆ It is the responsibility of the Procuring Authority to ensure that all Government procurements are made through GeM. In case procurement is made outside GeM, a certificate as mandated in **FD Letter No 5972/F, dated 20.02.2019** signed by the procuring officer and countersigned by the Head of Office with the record of e-bid floated through GeM should be kept in the file before placing the order for future reference.
- ◆ If open bidding is inevitable, a certificate is to be furnished by the officer responsible for the procurement to the effect that the item procured either is not available on GeM or the price discovered in open bidding is less than the price available at GeM portal. In case, buyers are not able to get the items in desired quality and quantity, permission for buying goods can be obtained from the next higher authority with sufficient justification.
- ◆ In case,
  - (i) The price discovered in open bidding is less as compared to price discovered on GeM; or
  - (ii) The L1 bidder is incapable of supplying the full quantity and splitting of bid among bidders at L1 price is not possible in GeM; or
  - (iii) Bidders accept the order and fail to supply the goods in-time,
- ◆ Then, the Procuring Authority shall either procure goods/ services through open tender or any authorised electronic platform such as e-procurement portal of the State, GeM Platform or MSTC Platform etc without compromising the general principles of public procurement.
- ◆ Keeping in view the above objectives, the Procuring Authority shall decide the mode of procurement *i.e.* open tender or e-procurement platform as indicated below:-
  - (i) If the goods or services are to be procured from e-platform, Reverse Auction (RA) and Analytics tools available on such platform shall be mandatorily used to ensure reasonableness of price.
  - (ii) In case the Procuring Authority decides to procure the goods or services through open tender, simultaneous bidding on e-platform may be made to ascertain the reasonableness of price.
- ◆ However, simultaneous bidding on e-platform may not be resorted to in case the procurement is urgent in nature or if the Procuring Authority is of the view that simultaneous bidding will not add value to the price discovery process. In such cases approval of next higher authority is mandatory.

**(F.D.Letter No 1492/F, dated 13.01.2021)**

- ◆ When goods or services of required specification are not available on GeM, procuring authority can request GeM for addition of those products or services. Instruction has been issued in **F.D letter No 28021/F, dated 16.08.19** along with the prescribed format for placing request for addition of New Category/Sub Category of products or services on GeM. After lapse of 2 weeks from the date of such request if the item is not found available on GeM, the procuring authority may proceed for open market procurement keeping in view the urgency of the procurement.
- ◆ It may be noted here that in public procurement either through GeM or otherwise, the procuring officer has a responsibility, which cannot be avoided on any ground.

#### **ADOPTION OF E-AUCTION/ E-SALE:**

- ◆ For auction of scrap/unserviceable/condemned/obsolete material including e-wastes, store (Ferrous and non-ferrous), Plant and Machinery, condemned vehicles etc. the Metal and Scrap Trading Corporation (MSTC) Limited is operating e-sale platform.
- ◆ The Finance Department have allowed all Government Departments /PSUs/ Autonomous Bodies / Societies/Local Bodies and other non-Government entities to avail services of the Metal and Scrap Trading Corporation (MSTC) Limited through competitive transparent bidding to earn/save more revenue to the State in their Letter No 20914, dated 13.06.2019.
- ◆ The concerned Departments/PSUs/Autonomous Bodies /Societies/ULBs and other non-Government entities have to register separately in MSTC portal to avail the services. They have to enter into a common agreement with the MSTC Ltd. The model Service Provider Agreement is given in the above letter dated 13.06.2019. The MSTC portal has also a procurement platform.
- ◆ The services provided by the MSTC include
  - (i) Sale of scrap, unserviceable/condemned/obsolete material including e-wastes, store (Ferrous and non-ferrous), Plant and Machinery, condemned vehicles;
  - (ii) Sale of Products like Ores & Minerals, Forest Produce, Agricultural produce, etc.,
  - (iii) Purchase of common use goods and services, which are not available on GeM portal as may be required by the Buyer Department/PSU through MSTC's e-procurement platform.
- ◆ **REMEMBER:** e-procurement services on MSTC portal shall be used in exceptional circumstances, for procurement of common use goods and services, which are not available on GeM portal.

#### **FREQUENTLY ASKED QUESTIONS**

**Q:** What is e-Procurement?

**Ans:** e-Procurement is the process by which the physical tendering activity is carried out using internet and associated technologies.

**Q:** Which are the three major pillars of the Public Procurement?

**Ans:** The three main pillars of Public Procurement are Transparency, Efficiency and Equal Opportunity.

**Q:** Can a bidder withdraw a bid after a bid opening?

**Ans:** No, he cannot. If at all he wishes then he has to forfeit his EMD.

**Q:** What is Earnest Money Deposit (EMD) in tenders?

**Ans:** The buyer takes this amount to check the earnestness/seriousness of the bidders in case they are selected. The bidder has to pay this EMD amount along with the bid response. The EMD value can be a fixed amount or a certain % of the bid price.

**Q:** Who is eligible for availing benefits under Policy?

**Ans:** The MSEs who are registered with DIC/ Khadi & Village Commission/ Coir Board/ NSIC/ Directorate of Handicrafts or any other body specified by the Government from time to time are eligible to avail benefits under Policy.

**Q:** What are the other benefits/ facilities available to the MSEs under the policy?

**Ans:** To reduce the transaction cost of doing business, MSEs will be facilitated by providing them tender sets free of cost, exempting from payment of earnest money and price preference system.

**Q:** What is the difference between Procurement and buying?

**Ans:** Buying is generally used for small items and specifically in cases where the specification/scope of the product/services is established and the sources are also well known. whereas in case of procurement the items to be acquired can be much much more complicated, the completion or supply duration can be years.



**35****DIGITIZATION**

- ◆ **e-GOVERNANCE**
- ◆ **ODISHA STATE WIDE AREA NETWORK (OSWAN)**
- ◆ **ODISHA STATE DATA CENTRE (OSDC)**
- ◆ **COMMON SERVICE CENTRE (CSC)**
- ◆ **STATE SERVICE DELIVERY GATEWAY (SSDG)**
- ◆ **e-DISTRICT**
- ◆ **iFMS**
- ◆ **e-MUNICIPALITY**
- ◆ **LAND RECORDS(NLRMP)**
- ◆ **LITIGATION MANAGEMENT SYSTEM (LMS)**
- ◆ **E-ABHIJOGA (JANA SUNANI)**
- ◆ **ODISHA SECRETARIAT WORKFLOW AUTOMATION SYSTEM(OSWAS)**
- ◆ **STUDENT ACCESS MANAGEMENT SYSTEM (SAMs)**
- ◆ **INTEGRATED MINES & MINERALS MANAGEMENT SYSTEM**
- ◆ **e-DESPATCH**
- ◆ **FREQUENTLY ASKED QUESTIONS**



## DIGITIZATION

The concept of “governance” is not new. It is as old as human civilization. Normally, we mean “governance” as the process of decision-making and the process by which decisions are implemented. The Government, in the present society, is one of the most vital players in governance. Now let us be familiarized with “good governance”. The “good governance” includes public participation, consensus oriented, accountable, transparent, responsive, effective, equitable and efficient. At the same time, it follows the rule of law. Undoubtedly it minimizes corruption, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of the society. Thus, it is very clear that “good governance” is ideal which is difficult to achieve in its totality. Very few countries and societies have come close to achieving good governance in its totality. However, to ensure sustainable human development, actions must be taken to work towards this ideal with the aim of making it a reality.

### **e-GOVERNANCE:**

The emerging theories of new public management seek to transform governments from its rules focused, hierarchical and file-based model to citizen focused, flat structured and empowered. This new public management driven reforms coupled with emerging high-performance computing and sophisticated communication technologies are seeking to re-engineer the existing cumbersome governance into one stop, 24 hours available SMART (Simple, Moral, Accountable, Responsive and Transparent) Governance otherwise known as e-Governance. The mainstay of e-governance is eliminating middlemen and corruption. Mere application of Information Technology in the processes of Government functioning for efficient delivery of services to the people, business and industry may not be categorised as e-Governance. In fact, e-Governance allows direct participation of stakeholders in Government activities. It involves computerization and networking of Government departments along with their website presence where each stakeholder can access to undertake transactions.

### **e-GOVERNANCE in India**

The bureaucracy in India became pro Information and Communication Technology oriented in late 1990s after accepting the policy of liberalization. Through adoption of ICT, the Government of India provided various services to its citizens at their doorsteps in a limited manner. The citizens who have always to go through multiple steps to get government approvals and has to knock at different doors to avail different services got the services in much better ways without interruption. Railway reservation, bank automation, tax administration, land records, online revenue collections etc. are various examples of e-Governance in India.

## e-GOVERNANCE in Odisha

In the process of e-Governance, the Government of Odisha has also adopted a number initiatives through ICT in providing various services to its citizens. The services include “Bhulekh”, “e-Shishu”, “ORIS”, “iFMS”, “e-Despatch”, “e-Municipality”, “e-Admission”, “e-PDS”, “e-Procurement”, “e-District”, “e-FIR”, “e-Abhiyoga”, “e-Procurement” and many more. Today, the people of Odisha have an online access 166 different kinds of public utility forms in PDF format through the website developed by different Departments. For optimum service delivery, the Government have also adopted 5T (Teamwork, Technology, Time, Transparency, Transformation) formula for all its offices. Each citizen now can access Citizen E-Services available in Government of Odisha portal to avail such services facilitated by different administrative departments.

The Government of Odisha has created a dedicated Department *i.e.*- Electronics & Information Technology Department to deal in the matters of IT, ITES and Communication. The department formulates and implements IT and ITES related policy matters. The details of NeGP Mission Mode as well as Core Projects are available at the department’s official website. The key points of the projects are indicated below.

### NeGP

#### ODISHA STATE WIDE AREA NETWORK (OSWAN)

- ◆ The Odisha State Wide Area Network (OSWAN) project is a part of Union’s State Wide Area Network (SWANs) project initiated in 2005.
- ◆ Under this project, all the States and UTs, although separated by significant geographical distances, have been connected for exchange of voice, video and data between two or more locations in fraction of a second, It brings speed, efficiency, reliability and accountability in overall system of Government-to-Government (G2G) functioning.
- ◆ The State Head Quarters at Secretariat, 30 District Head Quarters and 284 Block Head Quarters have been connected along with 60 other horizontal offices;
- ◆ The project has following two components:-
  - (i) **Vertical Component:** It is implemented using multi-tier architecture with the State (SHQ) connected to each District Head Quarter (DHQ) and subsequently with each Block Head Quarter (BHQ) known as Point of Presence (PoP).
  - (ii) **Horizontal Component:** It includes connectivity among all Departments of the State Government at each tier through respective PoPs.
- ◆ Since the project is a technical intensive project, the Odisha Government is taking technical assistance of Telecommunications Consultants India Ltd.(TCIL) for its implementation.
- ◆ Under the project, State of Art Real Presence (RPX) video conferencing facility with all Collectors has been connected. Besides, 39 VC Studios have been established under OSWAN.

#### ODISHA STATE DATA CENTRE (OSDC)

- ◆ The State Data Centres (SDC) have been established across the States & UTs in the country since 2008 with a view to providing shared, secured and managed infrastructure for consolidating and securely

hosting State level data and applications for better operations with minimal overall cost of Data Management. The various Mission Mode Projects (MMPs), both at the Central level, State level and also the integrated services of the NeGP are using such SDCs to deliver their services.

- ◆ The Odisha State Data Centre (OSDC) is running live since October, 2011;
- ◆ 18 important applications like e-District, e-Registration, iOTMS, e-Municipality, CCTNS, WAMIS, OPSC etc of 15 Departments are functioning smoothly under the scheme.

### **COMMON SERVICE CENTRE (CSC)**

- ◆ The Common Service Centre (CSC) scheme envisages the establishment of lakhs of broadband Internet-enabled kiosks in rural areas, which deliver Government and private services at the doorstep of the citizens. Visualizing a honeycomb pattern with one village surrounded by 6 villages, the scheme ensures that each village would have a CSC either within its own area or in an adjoining village. The scheme is operational since 2008.
- ◆ The scheme aims at front end delivery points for delivery of Government, private and social sector services to rural as well as urban citizens in an integrated manner;
- ◆ Online electricity bill, water bill, holding tax payment, online undergraduate and graduate student admission under SAMS are some of the services being offered at our CSCs.

### **STATE SERVICE DELIVERY GATEWAY (SSDG)**

- ◆ The National e-Governance Service Delivery Gateway (NSDG), MMP under the NeGP, is a standard-based messaging switch which provides seamless inter-operability and exchange of data.
- ◆ It aims to achieve a high order of inter-operability among autonomous and heterogeneous entities of the Government (in the Centre, State and Local bodies level), based on a framework of e-Governance Standards.
- ◆ It acts as a messaging middleware between a Service Seeker (Service Access Provider) to a Service Provider (typically a backend Government Department that puts up its service for electronic delivery) and in return sends the response back to the Service Seeker through the Gateway.
- ◆ The gateway achieves integration amongst diverse set of applications built on varying platforms through compliance with a set of e-Governance Specifications inter-operability Interface Protocol and interoperability Interface Specifications (IIP/IIS) that are based on open standards such as the W3C, XML and SOAP specifications.

### **e-DISTRICT:**

- ◆ e-District has been selected as a National MMP under the NeGP with an objective to undertake the back end computerization of a number of high volume citizen services, which are being provided at the District level, by the District Administration to enable the delivery of these services through the CSCs.
- ◆ A core set of 6 category of services have been identified at the national level which have to be implemented across all Districts and the States can make their own choice of another set of 4 services which are the States' own priority for implementation.

- ◆ The scheme was started in Odisha with Ganjam & Mayurbhanj as the pilot districts. More than 6 lakh certificates have already been issued in these two districts electronically.
- ◆ Based on successful implementation of pilot project, Government of India has approved the DPR for State Wide Rollout of e-District Project and implementation of six services Roll out started.
- ◆ M/s. Wipro Ltd. has been appointed by DeitY, GoI as the consultant under State Project Management Unit (SPMU).
- ◆ Out of Total 317 Tahasils of the State roll out has started in 291 Tahasils
- ◆ All RIs of the State will be given Laptops Printers & Scanners for end-to-end automation of the system.

#### **iFMS:**

- ◆ As a part of NeGP, Integrated Finance Management System (iFMS) was initiated in Odisha since 2010 as a Mission Mode Project. The project extends from treasury management to financial management. It also gives a common platform to different stakeholders like AG, Odisha, RBI, Administrative Departments, Central Government Agencies and several Accredited Agency Banks to function with nearly 165 treasuries in a fast, secured and transparent manner.
- ◆ Apart from treasury transactions (receipt & payment management), the system provides multiple functions like Budget Preparation, Budget Authorization, Verification of Accounts, Processing of Pension, Sanction Order Preparation, Cash Management, UC Management, Fiscal Monitoring etc.
- ◆ Initially it was confined to treasuries transactions (iOTMS) only which later extended to other financial management under a big umbrella iFMS. It facilitates bill preparation, budget preparation, and distribution, PF and Pension management of teachers of aided colleges.
- ◆ The iFMS has several major integrations with HRMS, WAMIS, VATIS, I3MS, Sarathi & Vahan, SSSC, PFMS, NSDL, e-Kuber etc.

#### **e-MUNICIPALITY:**

- ◆ The H & UD Department is implementing integrated Municipal e-Governance application Software System across the ULBs of the state which is one of the flagship projects of Odisha. The scheme has been implemented in 114 ULBs which includes 5 Municipal Corporations, 48 Municipalities and 61 NACs.
- ◆ The main objective of this scheme comprises of State wide application hosted in Odisha State Data Centre, facility of online application for services and issuance of digital and QR coded certificates and to provide platforms to other state applications for citizen centric services.
- ◆ The scheme provides various citizen centric e-Services that is Birth and Death Certificate, Trade Licence, Property and Holding Tax, Water Connection Charges, Building Plan, Grievances, Certificate Verification etc.

#### **LAND RECORDS: (NLRMP)**

- ◆ The National Land Records Modernization Programme (NLRMP) has been formulated by merging two Centrally Sponsored Schemes i.e., Computerization of Land Records (CLR) and Strengthening of Revenue Administration & Updating of Land Records (SRA & ULR) during the year, 2008-09.

- ◆ This programme has been implemented by our State Government from the year 2009-10. Presently all the districts have been covered under this programme.
- ◆ The programme provides a number of e- Governance applications to the citizens like Land/ Revenue Payment, e-Registration, e-Mutation, Bhu- Naksha, e- Stamping System, Digilocker, and Tahasil Information etc.

### **LITIGATION MANAGEMENT SYSTEM (LMS)**

- ◆ The number of litigation against Government has been growing at a fast pace in recent times. There is said to be more than one lakh cases against the Government in different Departments. In the previous system, these cases are dealt with in different branches of the Government Departments in files by the Assistants manually.
- ◆ Owing to its large number, it has become difficult to prepare and submit a proper reply to the Courts in regard to the petitions filed by the private parties. Many times delays occur in the submission of reply by the Departments to the Court. Sometimes the notices regarding the institution of cases are received quite late. The reply to the petitions submitted by the Departments are sometimes not submitted to the Courts on time. These deficiencies in the present, litigation management system has invited adverse remarks from the Courts and has led to passing of adverse orders against the Government.
- ◆ Therefore a web enabled computerized litigation management system adopted by Government which called the ONLINE LEGAL CASELOAD MANAGEMENT SYSTEM (OLCMS) that will establish a network between the offices of the different Departments, HODs and district offices on the one hand and the office of the Advocate General, Government Advocates, on the other hand.

### **Key Objectives of LMS:**

- (i) To develop a decision support system for litigation management;
- (ii) To develop a database of all cases against the Government pending in the Courts.
- (iii) To monitor the status of cases.
- (iv) To facilitate interaction between Government Departments and Government Advocates.
- (v) To track all important events in respect of a case such as communication of notice of the case, assignment of Government Advocates, submission of draft reply, revision of the reply by Government Advocate, filing of reply in the Court, adjournments, interim orders, judgment compliance, appeal etc.

### **E-ABHIJOGA (JANA SUNANI)**

- ◆ E-Abhijoga is Odisha State Grievance Redressal Portal. It's objective is to facilitate online availability of the grievance redressal mechanism to citizens thereby providing him/her facility to lodge the grievances anytime, anywhere. Its two more objective includes to track the status and to send reminders and clarifications, irrespective of citizens geographical location, and to introduce a standard and uniform approach of grievance redressal in all State Government Departments and offices to enable the Public Grievance officer for easy access to grievances. E-Abhijoga also includes paperless processing of grievances as per internal workflow of the organization.

### **Benefits for the Citizen**

- (i) Single channel:- e-Abhijoga is designed in such a way that the grievance is channelized into one cohesive system with a Unique Grievance Tracking Number.
- (ii) Easy to Use:- Allow registration of grievance through internet on 24\*7 basis. There are provision to submit grievance.
- (iii) Quick feedback:- Unique Registration number to the citizen upon submission of the grievance to the system.
- (iv) First response to the citizen within 24 hours of submission of the grievance. Any question or documents required for redressal of the grievance will be asked in one go on time bound basis on receipt of the grievance.

### **e- SISHU SUCHANA MIS PORTAL:**

#### **◆ Objectives**

- (i) To facilitate and operate in an marginal and technical capacity at the Institutions, Agencies, District and state level for effective monitoring of child protection services in the State.
- (ii) The monitoring shall be carried out at Institutions Level, Agencies Level, District and State level.
- (iii) At each level a standardized format is maintained so that the output & outcome indicates an evidence based monitoring has been established.
- (iv) All the Institutions and Agencies will collect upgrade and maintain the database of all vulnerable children at their end.
- (v) So that the DCPU will collect data of vulnerable children in the district level. And OSCPS will monitor on the basis of inputs from the DCPUs and Institutions.

#### **◆ Features**

- (i) This system support the creation of new Institutions and maintenance of existing institutional facilities for both children in conflict with law and children in need of care and protection. These include Child Care Institutions (CCI), District Child Protection Unit (DCPU), Special Homes (SH), and Observation Homes (OH).
- (ii) For each child in institutional care, an Individual Care Plan (ICP) shall be prepared by the concerned agency online.
- (iii) Each agency can track the detail record on inflow of children, data during their stay in agency, exit details of children and also the data of completion of 18 year children's details.
- (iv) All the activities done at the agency level, DCPU can track that details at district level & at state level OSCPS can also track that details.

### **ODISHA SECRETARIAT WORKFLOW AUTOMATION SYSTEM(OSWAS)**

- ◆ With a view to improve accountability, transparency & effectiveness in Government administration the scheme has been implemented in different Departments of the Secretariat. This electronic file

movement system has now been extended to all Heads of the Department for speedy disposal of cases and to avoid duplicity of works both at Heads of the Department and Department level.

- ◆ The system facilitates opening of a file to decision making at the highest level of the State administration.

#### **STUDENT ACCESS MANAGEMENT SYSTEM (SAMs)**

- ◆ An innovative initiation for e-Admission & e-Administration to provide Citizen Centric, Transparent, Time saving & Economical platform of admission of students as well as for college administration
- Successfully running for last 4 years for admission & academic administration in all 2000+ Junior & Degree Colleges
- ◆ Won the National Award on e-Governance during the last National e-Governance Conference at Jaipur, Rajasthan during February-2013 & CSI-Nihilent Award-2013.

#### **INTEGRATED MINES & MINERALS MANAGEMENT SYSTEM:**

- ◆ For automation of mines and minerals transportation on a pilot basis
- ◆ Online issue of transit permit and transit pass, checking each transaction of transportation of mineral from mines, connecting all the checkpoints through a dedicated connectivity, cross checking all the minerals transported at Government weighbridge, check gate and railway sliding.
- ◆ Objective of the project is to bring transparency and efficiency in the administration by using ICT tools

#### **e-DESPATCH:**

- ◆ Automation of issue & dispatch of letter across the Government Departments & offices.
- ◆ Implemented in more than 38 Departments and Subordinate offices of 10 Departments.
- ◆ Won NASCOM innovation Award-2010.

#### **Sanjog Helpline**

- ◆ Citizen Grievance Redressal System through a single toll-free number (18003456770/155335)

#### **FREQUENTLY ASKED QUESTIONS**

**Q:** Why Biometric standards are important?

**Ans:** Biometric Standards are developed to ensure interoperability of biometric devices and algorithms so as to avoid vendor lock-in and also ensure long term storage of data with technology independence. The defined biometric standards are applicable to all e-Governance applications as per the Government's Policy on Open Standards.

**Q:** What is meant by e-Gov Standards?

**Ans:** The national e-Governance Plan was launched by the Government of India (GoI) with the intent to support the growth of e-governance within the country. Having realized the needs of common man, it was felt that the e-Governance systems need to interoperate and for seamless sharing of data and

service among the systems, standards need to be in place. To ensure Interoperability among e-Governance applications, Government of India has set-up an Institutional mechanism for formulation of Standards through collaborative efforts of stakeholders like Department of Information Technology (DIT), National Informatics Centre (NIC), Standardization Testing and Quality Certification (STQC), other Government departments.

**Q:** What is 'Interoperability' in E-Governance?

**Ans:** The 'Interoperability' in E-Governance is defined as 'the ability of the public agencies to work together towards mutually beneficial and agreed common goals of providing public services from multiple disparate & diverse public agencies to all other stake-holders like the Citizen and the Business'.

**Q:** How does Authorisation differs from Authentication?

**Ans:** Authorisation is the process of verifying that a known person has the permissions and rights to perform a certain operation in an application. Authentication, therefore, must precede authorisation. An effective access management system incorporates one or more methods of authentication to verify the identity of the user, including passwords, digital certificates, hardware or software tokens, and biometrics. Authorisation governs what a user can access or do within an application.





## **36**

### **INCOME TAX CALCULATION**

- ◆ **SALARY INCOME**
- ◆ **EXEMPTION? DEDUCTION**
- ◆ **IMPORTANT FEATURES**
- ◆ **CALCULATION OF TDS**
- ◆ **DUTIES OF TAX PAYER**
- ◆ **FREQUENTLY ASKED QUESTIONS**

## INCOME TAX CALCULATION

When you receive a payment as salary or interest from the bank, you might have noticed that a certain percentage of the total sum has been deducted as TDS. This is ***Tax Deducted at Source***. In fact, as per provisions of section 192 of the Income Tax Act, any person responsible for paying any income chargeable under the head “salaries” shall, at the time of payment, deduct income tax on the amount payable computed on the basis of the rates in force for the financial year. Therefore, it is mandatory for the Government to deduct this tax and deposit it with the Income Tax Department within the stipulated time. Since TDS deduction is compulsory, it is important to understand the rate of such deduction and how such deduction happens.

The total taxable income of a person includes all incomes received, accrued or earned by him during the previous year. Income is chargeable to tax either on accrual basis or on receipt basis, whichever is earlier. However, if an income tax has been taxed on accrual basis, it shall not be taxed again on receipt basis. As per provisions of Income Tax Act 1961, previous year is defined as the ***financial year*** which immediately precedes the ***assessment year***. For example, when we pay tax as TDS from our salaries during the financial year 2022-23, we submit the returns in next financial year known as assessment year *i.e* 2023-24.

### **SALARY INCOME:**

As per provisions under section 192 of the I.T. Act, salary includes all types of Pay, DA, HRA, Other Allowances, Honoraria, Pension, Subsistence Allowance, Wages, Annuity, Fees and Government’s contribution for NPS etc. Out of the above, some items are taxable while others are exempted, the details of such items are given below:-

#### **Income from salaries include:**

- (a) Pay as defined in Rule 33 of OSC, leave salary, advance pay, arrear of pay, dearness pay etc;
- (b) Dearness Allowance;
- (c) House Rent Allowance (with provision for exemption);
- (d) Compensatory Allowance (excluding special compensatory allowance);
- (e) Transport Allowance (with provision of exemption);
- (f) Honorarium;
- (g) Wages, Commissions;
- (h) Bonus;

- (i) Encashment of leaves for availing LTC;
- (j) Subsistence Allowance;
- (k) Deputation Allowance;
- (l) Interim Relief;
- (m) Overtime Allowance;
- (n) Special Duty Allowance; if any
- (o) Pension, family pension except provision of Section 10(18) awards/family pension in respect of awardees of Param Veer Chakra, Maha Veer Chakra, Veer Chakra or other gallantry awards;
- (p) Government's contribution under Tier I, NPS;
- (q) Value of rent free accommodation;
- (r) Retrenchment compensation;
- (s) Remuneration for extra work.

**Income from salaries exclude:**

- (a) Death-cum-Retirement Gratuity; (section 10)
- (b) Payment from G.P.F;
- (c) Uniform Allowance;
- (d) Cost of medical treatment;
- (e) Value of Leave Travel Concession;
- (f) Leave Encashment on retirement;
- (g) Commuted Value of Pension;
- (h) Travelling Allowance/Conveyance Allowance;
- (i) Special Compensatory Allowance/Remote Locality Allowance. Difficult Area Allowance or Disturbed Area Allowance subject to prescribed limits;
- (j) Kit Maintenance Allowance etc.

**EXEMPTION/ DEDUCTION:**

Besides the items enlisted under exclusion list above, one can claim exemption under House Rent Allowance and Transport Allowance and can claim deductions under different sections of IT Act :

- ♦ **House Rent Allowance:** One can claim an exemption for HRA if he is paying house rent. If the employee is living in a rented house, exemption is allowed to the extent of the least of the following:-
  - (a) The actual amount of HRA received;
  - (b) Rent paid in excess of 10% of the salary;

- (c) 50% of the salary if the residence is at Mumbai, Kolkata, Delhi or Chennai, 40% of salary if the residence is situated at any other place.

**Remember:** If an employee lives in his own house, or in a house where he does not pay any rent/ pays rent not exceeding 10% of salary, no exemption is available, and the entire amount of HRA drawn by him is taxable [Section 10(13-A)]. An illustration is indicated below for better appreciation.

**Illustration:** Let an ASO is living in a rented house at Bhubaneswar. The details of pay etc are given below. Pay : Rs 38,700 pm, DA : Rs 10,836, HRA: 5,140 and paying house rent @ Rs 8,000 pm. Calculate HRA exemption.

**Solution:** Let us now calculate HRA exemption as per instructions given at (a), (b) and (c) above.

- (a) Actual HRA received:  $5140 \times 12 = \mathbf{61680}$
- (b) Rent paid in excess of 10% of salary:  $8000 - 3870 = 4130 \times 12 = \mathbf{49560}$
- (c) 40% of salary =  $38700 \times 40\% \times 12 = \mathbf{185760}$

Out of the above three amount 49560 is the **least**. Therefore, this amount will be deducted from the gross salary as HRA exemption.

- ♦ **Transport Allowance:** Exemption @ Rs.3200/- per month for an employee, who is blind, orthopedically handicapped with disability.
- ♦ **Interest on Home Loan:** It is otherwise known as loss under the head -Income from House Property. For the purpose of computing loss under the head in respect of a self-occupied residential house, a normal deduction up to a maximum of Rs.2,00,000/- is allowed in respect of interest on borrowed capital for constructing or acquiring the residential house subject to condition that such loan has been completed within three years from the end of the financial year in which capital was borrowed.
- ♦ **Professional Tax** and Entertainment Allowance subject to maximum of Rs. 5, 000/- p.a. [Section 16]
- ♦ **Section 80C:** There is a provision for deduction up to maximum of Rs.1,50,000 for contribution to the following saving schemes:
  - (a) Insurance premia assured;
  - (b) Subscription to Provident Fund/Public Provident Fund;
  - (c) Investment in National Savings Certificates IX issue;
  - (d) Unit-Linked Insurance Plan, 1971;
  - (e) Investments in Government approved securities;
  - (f) In respect of purchase/construction of residential house property:
    - ♦ Any installment or part payment of amount due under self financing or other schemes of any development authorities/housing board or any company or co-operative society of which the government servant is a member.

- ♦ Repayment of loans (Principal only) taken from government /bank/LIC/public companies as HDFC/Co-operative societies, engaged in providing long-term finance for purchase/ construction.
- (g) Subscription to units of any Mutual Fund or to any pension fund set up by any Mutual Fund notified under clause 23-D of Section 10 of Unit Trust of India Act, 1963, as the Central Government may specify by notifications;
- (h) Tuition fees, whether at the time of admission or thereafter paid to any university, college, school or other educational institutions situated in India, for the purpose of full time education of any two children of the employee;
- (i) Maximum fixed deposits upto Rs.50,000/- in scheduled bank for minimum period of five years;
- (j) Any contribution made to any pension fund set up by any mutual fund;
- (k) Any investment in an account under the Sr. Citizen Savings Scheme Rules, 2004.
- ♦ **Section 80CCC:** Deduction in respect of contribution to Pension Fund of LIC (Jeevan Suraksha)/ Annuity plan of LIC or of any other Insurance Companies. It will not exceed Rs.1 lakh.
- ♦ **Section 80 CCD(1):** Deduction in respect of Government Servants' contribution in respect of employees under New Pension Scheme. This is subject to maximum of 10% of Band Pay + Grade Pay + D.A. The deduction under section 80CCD(1) shall not exceed Rs.1.5 lakh.
- ♦ **Section 80 CCD(IB):** From the financial year 2015-16 this new section has been introduced to provide for additional deduction for amount contributed to NPS up to Rs. 50,000/- [SECTION 80CCE- Total of amounts under section 80C, 80CCC and 80CCD(1)- Limited to Rs. 2 lakh i.e. including deduction U/S 80 CCD (IB)]
- ♦ **Section 80 CCD (2):** Governments 'share of Tier I Contribution. This is in addition to the Deduction under Section 80 CCE, viz. Rs.1, 50,000/- or Rs. 2,00,000/- as the case may be.
- ♦ **Section 80 CCG:** will be 50% of the amount invested (Maximum 50,000 for getting a deduction of 25,000), subject to following conditions: Under this section, one can invest in Rajiv Gandhi Equity Savings Scheme (RGESS) subject to condition that :
  - (a) Scheme is for resident individual (not available to HUF);
  - (b) Gross income not to exceed 12 Lac (F.Y. 2013-14 onwards);
  - (c) Assessee is a new retail investor;
  - (d) Lock in period of 3 years;
- ♦ **Section 80D:** Deduction in respect of medical insurance premia: Deduction u/s.80D (Maximum Rs.50,000/) is available if the following conditions are satisfied-
  - (a) The taxpayer is an individual or HUF
  - (b) Payment should be made out of income chargeable to tax

- (c) Payment should be made by any mode other than cash. However, payment on account of preventive health check-up can be made by any mode(including cash)
- ♦ **Section 80 DD:** For dependent handicapped : A sum of Rs.75,000/- for assesseees who have to incur expenditure on treatment/ maintenance/ rehabilitation or insurance of physically handicapped/ mentally retarded/ blind dependent relative, who has been certified as “Disabled”. But if one is “Severely Disabled” having any disability of 80 per cent or above the amount is Rs.1,25,000/-. The employee, however, shall furnish to the DDO a copy of the certificate issued by the medical authority in the prescribed form as per Rule 11-A(2).
  - ♦ **Section 80 DDB:** If an assessee or his/her dependent member of family is suffering from some specified diseases like : neurological diseases, cancer, aids, chronic renal failure, thalassaemia etc. then the amount actually paid for the treatment subject to Maximum of Rs. 40,000/- and if it is for senior citizen then Rs. 1,00,000/-. Subject to condition:
    - (a) The deduction allowable shall be reduced by the amount of insurance cover for medical treatment, if any received.
    - (b) The assessee shall furnish a certificate in the prescribed form from concerned specialist of a Government hospital.
  - ♦ **Section 80 E:** Any amount paid by way of interest on education loan taken from any financial institution for the purpose of pursuing higher education (for self, spouse or children) in any recognized institution, is deductible without limit. This deduction shall be allowed in computing the total income for the financial year in which the employee starts paying the interest on the loan taken and immediately succeeding seven financial years or until the financial year in which the interest is fully paid by the employee, whichever is earlier. [The limit is on duration i.e. one loan – for 8 years]
  - ♦ **Section 80 G:** Donations for charitable purposes are admissible for deduction:
    - (a) PM’s National Relief Fund, African Fund, National Defence Fund, Chief Minister’s Relief Fund, etc.- 100% of the amount donated;
    - (b) Jawaharlal Nehru Memorial Fund, Prime Minister’s Drought Relief Fund, Indira Gandhi Memorial Trust, Rajiv Gandhi Foundation Trust or any other charitable and religious institute approved by the Income Tax Department- 50% of the amount donated
  - ♦ **Section 80 GGA:** Any sum paid to any scientific research and rural development projects, to any university doing such work (should be notified by the I.T. department)
  - ♦ **Section 80 GGC:** Any sum paid as a donation to any political party (registered u/s 29 A of the Representation of the People Act). No deduction shall be allowed in respect of any sum contributed by way of cash.
  - ♦ **Section 80 RRB:** [Deduction in respect of royalty on patents] If the income of any assessee includes any income by way of royalty in respect of a patent registered under the patents act, 1970, a deduction is allowed from such income subject to maximum of Rs. 3,00,000/-

- ♦ **Section 80 QQB:** [Deduction in respect of royalty on books] If the income of any assessee includes any income by way of royalty income (of authors) on books or the copy right fee, a deduction is allowed from such income subject to a maximum of Rs. 3,00,000/-
- ♦ **Section 80 TTA:** Deduction in respect of Interest on (introduced from financial year 2012-13) deposits in saving account of an individual is allowed from his gross total income if it includes any income by way of interest received on deposits (not being time deposits) with a banking company, co-operative society or post office. This deduction is limited to Rs. 10,000/- in any year.
- ♦ **Section 80 U:** Deduction for assessee who has disability: If an assessee himself is Disabled or Severely Disabled a fixed deduction of Rs.75,000/- or Rs.1,25,000/- respectively may be deducted from the income of an assessee. However, the disability has to be certified by the medical authority.
- ♦ **Income from House Property:** Besides the items of salaries included for calculation of tax, income from house property is also taken into consideration for such calculation subject to following provisions under Section 22 of IT Act..

#### IMPORTANT FEATURES:

- ♦ The Drawing and Disbursing Officers (DDO) of all Government Organizations act as trustees of Income Tax Department. The DDO is known as 'deductor' while on the other hand; the Government servant who pays tax is called 'deductee'. Therefore, ASOs working in Accounts Section are required to be thorough in calculation of Income Tax.
- ♦ TRACES is a web-based application of the Income Tax Department that provides an interface to all stakeholders associated with TDS administration. It enables viewing of challan status, downloading of NSDL Conso File, Justification Report and Form 16/16A as well as viewing of annual tax credit statements (Form 26AS). Each deductor is required to register in the Traces portal. Form 16/16A issued to deductees should mandatorily be generated and downloaded from the TRACES portal.
- ♦ Each deductor has a TAN (Tax Deduction and Collection Account Number) which is a 10-digit alphanumeric number that is used to track TDS deduction.
- ♦ TDS deductions are linked to PAN numbers for both the deductor and deductee. If TDS has been deducted from any of your income you must go through the Tax Credit Form 26AS. This form is a consolidated tax statement which is available to all PAN holders. All TDS linked to your PAN is reported here. This form also has income tax directly paid by you – as advance tax or self assessment tax. Therefore, it becomes important for you to mention your PAN correctly, wherever TDS is applicable on your income.
- ♦ You can easily file your TDS returns through Clear Tax software *i.e.* Clear TDS. It is an on line TDS software that requires no download or desktop installation or software update. It helps you to prepare regular & correction e-TDS statements online easily with just a few clicks on your computer. It is also compatible with TDS returns of previous financial years for easy import. You can also generate your TDS certificates through this software.

- ♦ The Income Tax Department has been sending SMS to the tax payers that mention the amount of TDS against the PAN of the tax payer. The SMS alert will let you know the TDS credited in respect of your income from salary, interest etc every quarter.
- ♦ Form 26AS is a statement which shows the amount of tax deducted and deposited in a person's name/PAN in a particular financial year. An individual can, check the TDS by viewing this Form 26AS.
- ♦ Each deductor issues a TDS certificate certifying the amount deducted from the income of the deductee and deposited with the Income Tax Authority.

### INCOME TAX SLAB RATES:

- ♦ Every year, the Central Government presents a finance budget where it brings various amendments to the Income Tax Act. This includes changes in tax slabs wherever applicable.
- ♦ However, the income tax you pay depends on your annual income. Budget 2023 introduced new reduced tax rates that shall come into effect from the year 2023-24. At the same time the tax payer shall have the option to choose between the **new tax regime** and the **old tax regime**. Therefore, taxpayers can compare their tax liabilities under the two systems and opt for the one that is most beneficial to them. The tax slab rates both for the old and the new regime are indicated below:

#### New Tax Regime

A tax rebate has been introduced in the New Tax Regime on income up to Rs 7.00 lakh. This implies that one will not pay tax if his taxable income is below Rs 7.00 lakh. Under the new tax regime. .

Income Slab	Tax rate
Upto Rs 3,00,000	Nil
Rs 3.00 lakh to Rs 6.00 lakh	5%
Rs 6.00 lakh to Rs 9.00 lakh	10%
Rs 9.00 lakh to Rs 12.00 lakh	15%
Rs 12.00 lakh to Rs 15.00 lakh	20%
Above Rs 15.00 lakh	30%

The standard deduction of Rs 50,000 has been introduced in the New tax Regime for salaried tax payers.

The differences between the proposed new tax regime for FY 2023-24 and the existing new tax regime (applicable till FY 2022-23) are as follows:

- Basic exemption limit has been hiked to Rs 3 lakh from Rs 2.5 lakh
- The number of income tax slabs has been reduced from 6 to five
- The tax rebate under Section 87A has been hiked to taxable income level of Rs 7 lakh from Rs 5 lakh. The amount of tax rebate has doubled to Rs 25,000 from Rs 12,500



The highest surcharge has been reduced from 37% to 25% under the new tax regime

- Standard deduction of Rs 50,000 has been introduced from FY 2023-24 for salaried individuals and pensioners.

### **CALCULATION OF TDS:**

- (i) Calculate the total earnings of an employee over the entire financial year (*i.e.*, from 1<sup>st</sup> April to 31<sup>st</sup> March) The earnings include pay, special pay, arrear pay, DA, arrear DA, HRA, OA, TA, RCM, honorarium etc. If the employee is drawing HRA, calculate the exempted amount.
- (ii) Collect a declaration from the employee about the investments he/she has plan to make. At the end of the year, collect proof of such investment. Without proof, the deductor cannot approve tax exemptions.
- (iii) Consider all exemptions that an employee is eligible for. Reduce allowable exemptions from the gross annual salary. This is the taxable income. Based on the tax slab, the employer must calculate tax at source appropriately and such calculated tax must be deducted from the assessee's monthly salaries on average basis.
- (iv) A table for calculation of income tax is given below. The officer working on behalf of the deductor may design an excel sheet himself or download readymade TDS available online for easy calculation of income tax.

### **DUTIES OF TAX PAYER**

- (i) Every tax payer is expected to be aware of his compliance obligations under Tax laws and seek help of the Department if needed.
- (ii) He has to obtain a PAN and register it in e-filing portal of Income Tax Department. He has to link his PAN with Aadhar number.
- (iii) He has to furnish his PAN to the deductor for credit of tax amount deducted from his income. Non furnishing of PAN will attract tax deduction at higher rate.
- (iv) He has to inform his DDO about his income at the beginning of each year. He should also furnish the DDO, the statement in form 12BB showing particulars of claims for possible deductions under section 192 from his gross income. He can update it any time but much before closing of the financial year.
- (v) After filing of TDS statement every quarter by the DDO, the tax credit messages are delivered to the registered mobile number of the tax payer by the IT Department. Form 26AS also reveals how much tax has been credited during a particular period of the financial year. The tax payer needs to verify the amount deducted and amount credited and intimate the DDO in case of discrepancies.
- (vi) After end of the financial year, the tax payer should collect Form 16 (Part –A & Part-B) from the DDO generated from TRACES (Tax Reconciliation Analysis and Correction Enabling System) portal.
- (vii) If the tax payer has other income, *i.e.*, income from deposits (recurring/ savings/ fixed) in a bank or a post office, he should collect details of such income. If TDS has been deducted from such income, the certificate in Form 16A should be collected from the concerned bank/ post office.

- (viii) As per information contained in Form 16 received from DDO and other income details, the tax payer needs to file return of income in prescribed form (Form No ITR1 for salaried employees) in <http://www.incometax.gov.in> portal.
- (ix) Numerous videos from Clear Tax/ Tax Agencies/ Chartered Accountants are available in “Youtube” through which the tax payer can be well educated.

### **DUTIES OF DDO**

- (i) Obtain TAN: Every deductor is required to obtain a unique identification number called TAN (Tax Deduction Account Number) which is a ten digit alpha numeric number e.g. BBNH00051C. This number is to be quoted by the deductor in every correspondence related to Income Tax matters concerning TDS.
- (ii) He should obtain PAN of the all deductees.
- (iii) He should deduct the tax at correct rate.
- (iv) When the salary bill is submitted to the treasury, the tax deducted in the bill is transferred to the Government of India account directly.
- (v) File statements of tax deduction in the prescribed time.
- (vi) The due dates for filing of TCS statement are:
  - (vii) 15th of July for 1<sup>st</sup> Quarter
    - ♦ 15th of October for 2<sup>nd</sup> Quarter
    - ♦ 15th of January for 3<sup>rd</sup> Quarter
    - ♦ 15th May for last 4<sup>th</sup> Quarter.
- (vii) Use correct form to file TDS/TCS Returns. They are:
  - ♦ Form 24Q for salaries
  - ♦ Form 26Q for non salaries
  - ♦ Form 27EQ for TCS
  - ♦ Form 27A/27B Control sheet for electronic TDS/TCS
- (viii) It may be noted that all government offices have to compulsorily file e-TDS/e-TCS statements.
- (ix) At the beginning of a financial year, the DDO needs to estimate the gross salary of each employee for the whole year. After allowing basic exemptions and deductions claimed by the assessee as per his declaration in Form 12BB, the DDO should calculate total tax as per prescribed tax rate including cess on net taxable income and deduct tax from the monthly salary bills on an average basis.
- (x) If any employee gives information about the deposits/ subscriptions/ payments for claiming rebate in Income Tax and the DDO is not satisfied about the genuineness of the employee’s claim, he should not

allow any rebate and the employee would be free to claim the deduction/ rebate on such amount by filing his return of income with the Income Tax department.

- (xi) In Government offices, the tax deducted by the DDOs is booked to the credit of the Central Government under the head of account i.e. **0021 – Income Tax** as a book adjustment. This amount is deposited without production of any challan. In such case, the Treasury Officer shall submit a statement in Form 24-G (on monthly basis) to the authorized agency of the Income Tax Department within 10 days from the end of the month and intimate the **BIN** generated by the agency to each of the deductors which contains Receipt No. of Form 24-G, DDO's sequence No and the date on which the tax is deposited.
- (xii) The schedule of date for TDS on salary in Form 24Q
- |  |   |                             |
|--|---|-----------------------------|
| First Quarter ending 30 <sup>th</sup> June       | - | By 31 <sup>st</sup> July    |
| Second Quarter ending 30 <sup>th</sup> September | - | By 31 <sup>st</sup> October |
| Third Quarter ending 31 <sup>st</sup> December   | - | By 31 <sup>st</sup> January |
| Fourth Quarter ending 31 <sup>st</sup> March     | - | By 15 <sup>th</sup> May     |
- (xiii) The person furnishing the returns (DDO) shall quote his TAN (Tax Deduction Number) and PAN (Permanent Account Number) of the employees in respect of whom the tax is deducted. All the returns in Form 24-Q are required to be furnished in electronically mode.
- (xiv) If the deductor fails to deliver a statement within the time prescribed in Section 200(3)- viz. Quarterly returns in respect of tax deducted at source he shall be liable to pay, by way of fee a sum of **Rs. 200/-** for **every day** during which the failure continues. This fee is mandatory in nature and to be paid before furnishing of such statement.
- (xv) Any person receiving any specified payment (subject to TDS) shall be required to furnish his PAN to the person responsible for deducting tax at source. If the deductee fails to furnish his PAN to the deductor, the TDS shall be deducted @ 20% or the applicable rate, whichever is higher. (Section 206-AA)
- (xvi) If a DDO fails to deduct the whole or any part of the tax at source or after deducting, fails to pay the whole or part of the tax to the credit of the Central Government within prescribed time he shall be liable to pay.
- ◆ Simple interest at one percent for every month or part of the month on the amount of such tax from the date on which such tax is deductible to the date on which such tax is deducted;
  - ◆ Simple interest at one and one-half percent for every month or part of the month on the amount of such tax from the date such tax was deducted to the date on which such tax is actually paid;
  - ◆ Such interest, if chargeable is mandatory in nature and, has to be paid before furnishing of Quarterly Return of TDS of respective quarter;
  - ◆ If any person fails to deduct whole or part of the tax at source or fails to pay the whole or part of the tax deducted, he shall be liable to pay, by way of penalty, a sum equal to the amount of tax not deducted or paid by him.

- ◆ If a person fails to pay to the credit of the Central Government within the prescribed time, the tax deducted at source by him, he shall be punishable with rigorous imprisonment for a term which shall be between 3 months to 7 years along with the fine.
- (xvii) The DDO is required to furnish a certificate in Form 16 to the payees to the effect that tax has been deducted and to specify therein the amount deducted and certain other particulars. Form 16 is to be furnished to the employees by the DDOs by 31st day of May of the financial year immediately following the financial year in which the income was paid and the tax was deducted and Form 16-A to the service provides on quarterly basis. Revised Form 16 annexed to Notification No.11 dated 19-2-2013 shall specify:
  - ◆ Valid PAN of the deductee ;
  - ◆ Valid TAN (Tax deduction and collection A/c No.) of the deductor;
  - ◆ BIN of PAO/CDDO where tax deduction is without challan or CIN where payment of tax is through banks;
  - ◆ Receipt numbers of all the relevant Quarterly Statements i.e. Form 24-Q.
- (xviii) Part A of the Form 16 will be issued by generating and subsequently down loading it through TRACES portal and after duly authenticating and verifying it, in respect of all sums under provision of Section 192. Form 16 shall have a unique TDS certificate number. Total amount of salary to be shown in Form 16 shall be excluding any amount exempt under Section 10 of I.T. Act.
- (xix) If the DDO fails to issue these certificates to the person concerned by the due date will be liable to pay, by way of penalty, under Section 272-A (2)(g) a sum which shall be Rs.100/- for every day during which failure continues.

### FREQUENTLY ASKED QUESTIONS

**Q** : What to do if the TDS credit is not reflected in form 26AS?

**Ans** : Non-reflection of TDS credit in Form 26AS can be due to several reasons like non-filing of TDS statement by the payer, quoting incorrect PAN of the deductee in the TDS statement filed by the payer. Thus, in case of non-reflection of TDS credit in Form 26AS, the payee has to contact the payer for ascertaining the correct reasons for non-reflection of the TDS credit in Form 26AS.

**Q** : At what rate the DDO will deduct tax if I do not furnish PAN to him ?

**Ans** : As per section 206AA, if you do not furnish your PAN then the DDO shall deduct tax at the higher of the following rates :

- At the rate specified in the relevant provision of the Act.
- At the rate or rates in force, i.e., the rate prescribed in the Finance Act.
- At the rate of 20%.

**Q** : How can I know the quantum of tax deducted from my income by the DDO?

**Ans** : To know the quantum of the tax deducted by the payer, you can ask the payer to furnish you a TDS certificate in respect of tax deducted by him. You can also check Form 26AS from your e-filing account at <https://incometaxindiaefiling.gov.in> You can also use the “View Your Tax Credit” facility available at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in)

**Q** : If the DDO does not deduct tax at source will the payee face any adverse consequences by means of action taken by the IT department?

**Ans** : It is the duty and responsibility of the payer to deduct tax at source. If the payer fails to deduct tax at source, then the payee will not have to face any adverse consequences. However, in such a case, the payee will have to discharge his tax liability. Thus, failure of the payer to deduct tax at source will not relieve the payee from payment of tax on his income.

**Q** : If I buy any land/building then is there any requirement to deduct tax from the sale proceeds to be paid by me to the seller?

**Ans** : Yes, Finance Act, 2013 has introduced section 194-IA which provides for deduction of tax at source in case of payment of sale consideration of immovable property (other than rural agricultural land) to a resident. Section 194-IA is not applicable if the seller is a non-resident. Tax is to be deducted @ 1%. No tax is to be deducted if the consideration is below Rs. 50,00,000. If the sale consideration exceeds Rs. 50,00,000, then tax is to be deducted on the entire amount and not only on the amount exceeding Rs. 50,00,000. If the seller is a non-resident then tax is to be deducted under section 195 and not under section 194-IA. Thus, in case of purchase of property from non-resident TDS provisions of section 195 will apply and not of section 194-IA

**Q** : I have not received TDS certificate from my DDO. Can I claim TDS in my return of income?

**Ans** : Yes, the tax credit in your case will be reflected in your Form 26AS and, hence, you can check Form 26AS and claim the credit of the tax accordingly. However, the claim of TDS to be made in your return of income should be strictly as per the TDS credit being reflected in Form 26AS. If there is any discrepancy in the tax actually deducted and the tax credit being reflected in Form 26AS then you should intimate the same to the deductor and should reconcile the difference. The credit granted by the Income-tax Department will be as per Form 26AS.

**Q** : Is there any minimum amount up to which tax is not deducted?

**Ans** : The Income tax Act has prescribed a different threshold limit for deduction of tax at source under various sections. If the payment made during the year is below the threshold limit, then there is no requirement to deduct tax at source. There will be no deduction of tax at source from salaries, if net taxable income is less than Rs. 2,50,000 for an individual other than senior citizen, Rs. 3,00,000 for Senior Citizens and Rs. 5,00,000 for Super Senior Citizens.



**37****MISCELLANEOUS**

- ◆ ANNUAL ESTABLISHMENT REVIEW
- ◆ MAINTENANCE OF SERVICE BOOK
- ◆ ARREAR CLAIMS
- ◆ SELF CONTAINED NOTE
- ◆ REPORT
- ◆ MINUTES
- ◆ LOCAL BODIES
- ◆ GOVERNMENT GUARANTEE
- ◆ PUBLIC PRIVATE PARTNERSHIP DETAILED
- ◆ PROJECT REPORT
- ◆ BOOK CIRCULAR
- ◆ FREQUENTLY ASKED QUESTION

## MISCELLANEOUS

A good number of Acts, Rules and Circulars are framed by the Government in different Departments regularly. Presenting all these circulars in such a Hand Book is really impossible. However, chapters have been organized according to the course curriculum of Induction Training of ASOs. There are, however, some topics, considered essential in dealing with different matters in Secretariat Departments, which could not be included in previous chapters, have been outlined in this chapter. This chapter is basically a selection of topics from certain important areas which is felt to have been not adequately covered in the previous chapters.

### **ANNUAL ESTABLISHMENT REVIEW (AER):**

The Odisha Fiscal Responsibility and Budget Management Act, 2005 mandates the State Government to contain the expenditure on salary within 80% of State's own revenue. Therefore, each Department reviews their staff strength so as to contain the expenditure on salary within required level in each financial year as per directives of the Finance Department. This exercise is otherwise known as Annual Establishment Review (AER). Prior to 1978, salaries of employees for the month of March but drawn in April of the financial year were drawn only after Annual Establishment Review is done by the Administrative Department with concurrence of the Finance Department.

- The procedure of AER in respect of regular establishments was simplified in Finance Department Resolution No 10806/F, dated 02.03.1978. This procedure has further been simplified in Finance Department O.M. No 17583/F, dated 12.05.2019. As per new procedure, online submission of Annual Establishment Review (AER) report has been made operational in HRMS.
- HRMS has the facility for auto-generation of AER of the employees by the Head of Offices in Schedule-I, Heads of Departments in Schedule-II and Administrative Departments in Schedule-III. There is provision for submission of information regarding regular establishment (Part-A), GIA Establishment (Part-B), Non-Regular Establishment (Part-C), other establishment (Part-D) and outsourced/contract employees (Part-E) in AER.
- The Establishment Officers dealing with Office Establishment/Field Establishment are responsible for submission of AER in HRMS based on the actual sanctioned strength and vacancies of the Head of Office/Heads of Department/Administrative Department. The Men-in-Position in AER being auto populated in HRMS, any change in the existing Men-in-Position shall be required to be reported by the Head of Office in HRMS regarding the decrease or increase of posts through retirement, joining on promotion, joining on transfer from a substantive post from another establishment, joining on transfer from a deputation post of a foreign service organization.

**ARREAR CLAIMS:**

Literally, arrear means a payment that is past its due date. In Government offices, arrear has a specific meaning. The procedure of claim and settlement of arrear has been laid down in Rule 72 & 73 of OGFR, Volume-I. The important points relating to such arrear are indicated below.

- Arrear claims up to 3 years shall be sanctioned by the Drawing and Disbursing Officer after usual checks and scrutiny against double payment/over payment.
- Arrear claims more than 3 years and up to 6 years will be sanctioned by Heads of Department on the basis of their records and certificate of the Drawing and Disbursing Officer to the effect that the amount has not been drawn previously and that an undertaking has been obtained from the person concerned that in case of over and double payment detected later, the same shall be recovered from him. The proposal in this regard should be submitted to the Head of the Department by the Drawing and Disbursing Officer after exercising usual checks and scrutiny against double payment/over payment. For the purpose of this Rule, the date on which the claim is presented at the Treasury or any other office of disbursement shall be considered to be the date of which it is preferred.
- Arrear claims above 6 years old are ordinarily not to be entertained. In exceptional cases where, however, such delay is not due to the fault of the Government employee the Drawing and Disbursing Officer will furnish a certificate that he is satisfied that the amount has not been drawn previously. He should also furnish an undertaking that in case of over or double payment detected later the same will be recovered. The proposal should be sent along with detailed justification to the Administrative Department for sanction. **(OGFR 72 & 73)**

**MAINTENANCE OF SERVICE BOOK:**

Rule 72-A of the Odisha Service Code read with Appendix-11 provides that every step in a Government Servant's official life must be recorded in his service book, and each entry must be attested by the head of the office or if he himself is the head of an office, then the entry must be attested by his immediate superior. Besides, Rule 69 & 70 of OGFR Vol-I read with instructions contained in the Hand Book on Drawal and Disbursement of Personal Entitlements of Gazetted Officers and Finance Department Memorandum No.4121-F., dated the 24<sup>th</sup> August, 1979 contain the procedure of maintenance of service book.

In July every year, the service books should be taken up for verification by the head of the office who, after satisfying himself that the services of the Government servant concerned are correctly recorded in each service book, should record in it a certificate in the following form over his signature:- "Service verified up to (date) from (the record from which the verification is made)" Presently, Centre for Modernizing Government Initiative(CMGI) has initiated steps for complete automation of service book in HRMS platform.

**PREPARATION OF A REPORT:**

Most of the time, in Government Departments, a report on any matter is required to be submitted to higher authorities. There is no prescribed format suitable for all kinds of reports. But the model outlined below may be useful in preparation of a report:



- (i) **Title**, which tells about the subject;
- (ii) **Executive Summary**, which contains the problem, a brief outline of the points covered and the main recommendations or findings;
- (iii) **Table of contents**, which lists the topics covered and the page references;
- (iv) **Objectives of the study**, which identifies the problem and the results expected from the recommendations;
- (v) **Methodology**, which shows the manner of approaching the problem, the techniques applied and the assumptions made during the study;
- (vi) **Discussion**, which describes the facts collected, analysis made and opinion formulated;
- (vii) **Recommendations**, which offer suggestions to solve the problem and reasons for making the suggestions;
- (viii) **Costs and gains**, which gives an estimate of the costs involved in implementing the recommendations and the benefits that can be derived;
- (ix) **Appendices**, which are detailed statements or other information of considerable volume which cannot be made part of the report, but which will help in understanding the problem and the recommendations made.

#### **PREPARATION OF MINUTES:**

An ASO is, very often, required to prepare minutes of a meeting; therefore, it is essential to know how to draft a minute. A good minute of a meeting is:-

- (i) **brief**- Brevity should be sought in two ways;
  - o first, a minute should be selective. It is not a verbatim record and should not attempt to reproduce, however summarily, what every speaker said;
  - o secondly, the points selected for inclusion in the minute should be recorded as briefly as possible, making use of any striking phrases used in the discussion;
- (ii) **self-contained**- A minute should, normally, be self-contained so that it is intelligible without reference to other documents;
- (iii) **decisive**: The minute should be as crisp and decisive as possible. This is specially important for the conclusions. But it applies also to the record of the discussion. The Secretary should not try to reproduce what the speaker said; he should get down to the essential core of the discussion and record that as early as possible.
- (iv) The structure of a good minute or proceeding of a meeting can be subdivided into three parts, namely:-
- (v) **Statement of the problem** – The minute should be given by inviting reference to the memorandum or memoranda giving the number and date and should set out the problem for discussion in detail.

- (vi) **Points in discussion** – After recording the statement of the problem, the Secretary shall proceed to narrate the points discussed briefly in an impersonal manner. Sometimes, when different members disagree, the personal style may be used. He should not hesitate to discard the irrelevant and inessential points and should describe only the essential points leading to the conclusion.
- (vii) **Conclusion** – A minute should end with conclusions which should be clear and precise. Where action is required, the conclusions should place the responsibility firmly upon a Department or individual. The conclusion, if necessary, may be set out in different paragraphs, serially numbered.
- (viii) **Minutes** of a meeting should be prepared and circulated as early as possible.

#### **PREPARATION OF DETAILED PROJECT REPORT (DPR):**

Following aspects are to be kept in mind while preparing DPRs:-

- (i) **Background**: This part should contain a brief description of the sector/ sub-sector/ national/ regional priority/ strategy and policy framework along with the existing situation;
- (ii) **Problems to be addressed**: This part should discuss the problems to be addressed through the project/ scheme. Analytic evidence supported with surveys/ reports relating to the nature and magnitude of the problems may be presented;
- (iii) **Project Objectives**: This part should indicate the development objectives proposed to be achieved. The general description of the project may be presented in this part;
- (iv) **Target Beneficiaries**: Target beneficiaries should be clearly identified. Options regarding cost sharing and beneficiary participation should be explored;
- (v) **Project Strategy**: This part should contain an analysis of alternative strategies to achieve the objectives. Involvement of NGOs may be considered. Options for leveraging Government funds through public-private partnership must be given priority and explored in depth;
- (vi) **Legal Framework**: This section contains the legal framework within which the project will be implemented and other related legal issues;
- (vii) **Environmental Impact assessment**: Environmental impact assessment is also an important aspect of a project/ scheme. Therefore, these issues like land acquisition diversion of forest land, rehabilitation and resettlement are to be undertaken in this part along with measures to address such issues;
- (viii) **On-going Initiatives**: This section should provide a description of on-going initiatives and the manner in which duplication will be avoided;
- (ix) **Technology Issues**: This section should elaborate on technology choices, if any, evaluation of options, as well as the basis for choice of technology for the proposed project;
- (x) **Management arrangements**: This part should reflect responsibilities of different agencies for project management and implementation of the project/ scheme. This part can also include mechanism for monitoring and coordination;
- (xi) **Means of Finance and Budget**: This part contains the cost of the project, phasing of expenditure, and the means of finance including options for raising funds through private sector participation;

- (xii) **Time frame:** This section should indicate the time frame for completion of the proposed project starting from its commencement;
- (xiii) **Evaluation:** This section reflects lessons from evaluation of similar projects implemented in the past. Continuation of projects/schemes should be based on the findings of an independent, in depth evaluation of such projects/ schemes;

### **PUBLIC PRIVATE PARTNERSHIP (PPP):**

Now-a-days, most of the Governments explore possibilities of implementing the schemes based on Public Private Partnership popularly known as PPP. It (PPP) means an arrangement between the Government or a statutory entity or a Government owned entity on one side (referred as public authority) and a private sector entity on the other, for the provision of public assets or related services for the benefit of the public through investments being made by or management undertaken by the private sector entity for a specified period of time. The important features of PPP are given below:

- (i) In case of **risk involving projects**, where the private sector receives performance linked payments, the arrangements should conform to specified, pre-determined and measurable performance standards;
- (ii) It is important to note that the ultimate **accountability** to users for provision of these services continues to remain with the public entity, even if the delivery is by the private partner;
- (iii) The **payments** to the private partner may be in the form of user charges, annuity or unitary payment, viability grant, as the case may be, or in lieu of other consideration such as land or other natural resources;
- (iv) The **terms and conditions** of the PPP project shall be specified in the concession agreement between the public authority and the private partner as per provisions under applicable laws;
- (v) The project proposed to be developed under PPP framework must be **permissible under the common law** and it must be legally tenable. It must be ensured that the project would include compliance with certain general, civil and criminal law like Indian Contract Act 1872, Sale of Goods Act 1930, Companies Act 1956, Land Acquisition Act 1894, Indian Penal Code 1860 etc.;
- (vi) **Method of Procurement:-** The private partner for a PPP project shall be selected through a transparent process conforming to good practices. The selection shall be carried out through bid / transaction documents with the approval of the competent authority as per provisions of the Odisha PPP Policy 2007 or its subsequent amendments;
- (vii) **Bid documents** generally refer to those documents that are published in media with an intention to invite proposals from potential private parties for project development/operation/service provision or a combination of them. The proposals received in response to the bid documents are evaluated, eventually selecting the private partner for the PPP arrangement. Bid documents provide all the information that is required for an entity to participate in a procurement process for a project;
- (viii) The **procurement procedure** specified in the bid documents should conform to the prevailing public procurement rules/laws of Odisha and shall be governed by the principles of non-discrimination, mutual recognition, transparency and equal treatment;

- (ix) Generally, **bidding documents** used for the project to be implemented under PPP framework comprise the following documents:
- Notice Inviting Tender (NIT)
  - Request for Qualification (RFQ) document
  - Request for Proposal (RFP) document comprising information to bidders
  - Project Information Memorandum or Feasibility Report and Draft PPP Agreement and other relevant agreements
- (x) Sometimes, in addition to the above, an **Expression of Interest** (EoI) document may also be issued as a bid document while inviting EoI from interested parties for a project;
- (xi) The public authority may choose to adopt a **single-stage** or a **two-stage bidding** process depending on the nature, complexity, size of the

### **BOOK CIRCULAR:**

In a Government Organization, important decisions with regard to plans, policies taken at appropriate levels are circulated amongst different Departments/ Heads of the Department/ District & Block Offices. These decisions are normally taken to be established principles. All the Departments of the Government ought to follow such set of established principles compiled as Book Circular. Since independence, several book circulars have been issued by several Administrative Departments out of which some have become redundant. The book circulars along with its content are indicated in the following table.

### **FREQUENTLY ASKED QUESTIONS:**

**Q:** Why it is important to conduct Annual Establishment Review every year?

**Ans:** The Odisha FRBMA Act, 2005 mandates the State Government to contain the expenditure on salary within 80% of the State's own revenue.. Therefore, it is mandatory to review the staff strength of each Department each year as per directives of the Finance Department.

**Q:** How an office shall submit Annual Establishment Review?

**Ans:** Each office has to submit Annual Establishment Review on line through HRMS.

**Q:** Can arrear claim of a Government servant be entertained without any time limit.

**Ans:** Arrear claims above 6 years old are ordinarily not to be entertained. In exceptional cases where, however, such delay is not due to the fault of the Government employee the Drawing and Disbursing Officer will furnish a certificate that he is satisfied that the amount has not been drawn previously.



TABLE

Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
1	8016 21.09.1946	Home	Improving and expediting disposal of business in all Government offices	To bring it to the notice of Assistants and Officers of all Government offices to avoid unnecessary writing during noting and drafting.
2	5060 10.11.1946	Planning & Reconstruction	Instructions on subject of closer association of District Officers with the execution of schemes relating to Post-War development	To associate all District Cadre Officers in preparation of District Plan and formation of District Development Committee
3	1059 03.02.1947	Revenue Department	Principles to be followed in postings and transfers of members of the Provincial Civil Service	(i) State Civil Service Officers with experience in Sub-Division, District are to be posted in Secretariat. (ii) 3 years transfer policy
4	1061 03.02.1947	-do-	Principles to be followed in postings and transfers of members of the Sub-ordinate Civil Service, Executive Branch	Distribution of power among Department/ Divisional Commissioner/ Collector relating to transfer and posting of Sub-ordinate Civil Service, Executive Branch Officers.
5	3045 04.12.1946	Home	Method of preparation and communication of confidential reports on officers.	The circular relates to the method of communicating adverse remarks to the officers.
6	2616 21.03.1947	Home	Distribution of functions between the Collector/ Deputy Commissioner/ District Magistrate/Additional District Magistrate	The circular relates to the distribution of functions between the Collector/ Deputy Commissioner/ District Magistrate/Additional District Magistrate
7	1879 15.04.1947	Health & Family Welfare	Rules governing medical attendance on Government servants in Odisha	The circular relates to the The Odisha Services (Medical Attendance) Rules, 1947

Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
8	4347 14.05.1947	Home	Duties of the Heads of the Department	The circular gives the details of the duties of a Head of the Department
9	4842 31.05.1947	Home	Directives for officers to join in their respective Departments in absence of detailed posting order.	The circular relates to a direction for all Gazetted Officers to join in their respective Departments in absence of detailed posting order.
10	25.07.1947	Education	Co-operation between the officers of the Revenue Department and Education officers in Ganjam in the matter of education	The circular relates to instructions for officers of Revenue Department connected with the Ganjam Agency.
11	8697 19.09.1947	Home	Verification of character and antecedents of Government servants before their first appointment.	The circular relates to Verification of character and antecedents of Government servants before their first appointment.
12	NA	Revenue	Touring of District and Sub- Divisional Officers	The circular relates to incorporations of all directives on touring of District and Sub- Divisional Officers.
13	432 09.01.1948	Home	Social Reforms	The circular is a directive for apathetic Government officers to be encouraging towards social reforms.
14	11116 02.07.1948	Home	Sponsoring of Public Funds by Government servants	The circular relaxes rule 23 of the Government Servant Conduct Rules. Payment of subscription to charitable or benevolent purpose is permissible.

Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
15	766 15.07.1948	Home	Manner of disposal of daily daks	The circular is an instruction to all heads of offices, Heads of the Department and Secretariat Departments to the effect that the Officer shall see all the receipts at dak stage.
16	12956 04.08.1948	Home	Treatment of juveniles or adolescents convicted of criminal offences.	The circular is a detailed guideline issued to all District Magistrates so as to how to treat juvenile offenders.
17	2877 09.08.1948	Home	Non participation of Government servants in political activities.	The circular relates to instructions for Government servants to maintain discipline in their conduct and not to indulge in political activities.
18	5356 29.12.1948	Erstwhile Backward Classes Welfare	Responsibility for the amelioration of conditions in backward areas and up lift of backward classes.	Ensuring keenness, sincerity, and efficiency among officers dealing with schemes relating to backward classes welfare.
19	1683 14.02.1959	Finance	Examination of Appropriation Accounts 1945-46	Timely application for sanction to continuance of temporary staff and interim sanction when the scrutiny of the proposal involves unusual delay.
20	6225 27.04.1949	Home	Abolition of practice to mention caste, religion, community etc in Government records.	The circular relates to directives to all Departments and Heads of the Department to abolish the practice to mention caste, religion, community etc in Government records.

Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
21	8912 07.05.1949	Home	Procedure for terminating the services of officers engaged on contract and of temporary Government servants.	The circular relates to the procedure to be adopted for terminating the services of officers engaged on contract and of temporary Government servants.
22	19406 29.10.1949	Home	Due observance of the statutory section 240(3) of the Government of India Act, 1935	The circular relates to due observance of the statutory section 240(3) of the Government of India Act, 1935 while dismissing a Government servant.
23	21089 06.12.1949	Home	Participation of Government Servants in Political Activities	The circular relates to certain directives on participation of Government servants in political activities in terms of Rule 23 of the Government Servants' Conduct Rules
24	12510 04.10.1951	Home	Procedure of submitting petitions by the public to the Competent Authorities	The circular relates to the procedure to deal with different types of petitions received from the public including anonymous petitions
25	4623 28.04.1952	Home	Procedure for submission and disposal of memorials and representations to Government	The circular relates to instructions regarding submission, receipt, transmission and disposal of memorials and representations addressed to HE the Governor and Hon'ble Ministers
26	10173 06.09.1952	Home	Amendment to Book Circular No 20	The circular is meant to amend the Book Circular No 20. Instructions of Book Circular No 20 is not applicable in Tenancy laws of the State.



Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
27	1049 22.01.1953	Home	Memorials and Representations from Government servants on service matters.	The circular relates to the manner how a Government servant or any person on his behalf will submit memorials on service matters
28	1661 05.02.1953	Home	Applications of Government servants for employment elsewhere.	The circular relates to the procedure to deal with the applications of the Government servant for employment elsewhere.
29	142 19.02.1953	Home	Maintenance of Character Rolls	The circular relates to the procedure of maintenance of character rolls of the Government servants.
30	6598 1905.1953	Home	Compulsory Retirement	The circular relates to the procedure of compulsory retirement of ministerial Government servant under Rule 71 (b) of the Odisha Service Code.
31	11068 20.07.1953	Home	Representation or interview of a Government servant with HE the Governor or Hon'ble Minister	The circular relates to the manner by which a Government servant will submit representation or seek interview of HE the Governor or Hon'ble Minister
32	1448 04.09.1953	Cabinet (erstwhile P & C)	Petitions from members of the Public against Government servants	The circular relates to instructions to deal with the petitionsetc. From the members of the public containing allegations, complaints against Government servants.
33	13578 05.09.1953	Home	Submission of Propoerty Statement of Government servants	The circular relates to instructions on submission of propoerty statement of State Government employees

Book Circular No	Number and Date	Issuing Department	Subject	Objective/ Remarks
34	1665 11.09.1953	Cabinet (erstwhile P & C)	Setting up of a suitable machinery for implementation of Five Year Plan.	The circular relates to the frame work for implementation of Five Year Plan- Constitution of District Development Committee
35	1805 27.06.1956	Cabinet (erstwhile P & C)	Role of a public servant in a welfare state	The circular relates to detailed instructions for Government servants in respect of their role.
36	2223 11.08.1958	Home	Revision of Character Roll Forms for recording of remarks and method of communicating adverse remarks.	Revision of Character Roll Forms for recording of remarks and method of communicating adverse remarks.
37	922 20.04.1962	Home	Revision of Confidential Character Roll Forms of the non Gazetted staff of the Secretariat Departments.	Revision of Confidential Character Roll Forms of the non Gazetted staff of the Secretariat Departments.
38	1130 23.02.1963	Home	Amendment to Book Circular No 5	The circular relates to amendment of method of communicating adverse remarks to the officers. (Book Circular No 5)
39	12221 23.02.1963	Tribal & Rural Welfare	Performance of dance and music by Adivasi boys and girls before high dignitaries	Performance of dance and music by Adivasi boys and girls before high dignitaries
40	17187 15.09.1965	Political & Services	Enhancement of the age of compulsory retirement of Government servants	The circular relates to the procedure to be followed in case of extension and re-employment of retired Government servants.
41	40368 25.06.1966	Revenue	Tour Programme of Tahasildars	The circular relates to instructions regarding performance of tours of Tahasildars.

Book Circular No.	Number and Date	Issuing Department	Subject	Objective/ Remarks
42	9165 28.04.1967	Political & Services	Transfer of Gazetted Officers of State Civil Services	The circular relates to provisions for normal transfer and posting of Gazetted Officers of all Departments of the Government
43	69553 16.12.1970	Revenue	Amendment to Book Circular No 12	The circular relates to amendment of directives issued earlier on touring of District and Sub-Divisional Officers.
44	7331 31.05.1975	P & C	Timely sanction and implementation of Development Programmes	The circular relates to guidelines for timely sanction and implementation of development programmes
45	12795 30.07.1979	P & C	Role of Revenue Divisional Commissioners in implementation of Development Programmes	The circular relates to the guidelines for the Revenue Divisional Commissioners in implementation of development programmes.
46	741 05.02.1982	General Administration	CCR of non gazetted employees	The circular relates to the procedure for recording, maintaining and communicating of adverse remarks of CCRs and disposal of representations.
47	19064 10.07.1990	Parliamentary Affairs	Relationship between Member of the Parliament and Legislators and Government servants	The circular relates to a model guidelines on relationship between Member of the Parliament and Legislators and Government servants.
48	7480 31.10.2021	General Administration	Procedure for recording of confidential character rolls in respect of specially declared Gazetted Officers	The procedure for recording of confidential character rolls in respect of specially declared Gazetted Officers

