

(Corrected as per Corrigendum No. 440/Rules/DHC dated 16.09.2011)

**HIGH COURT OF DELHI: NEW DELHI**

**NOTIFICATION**

No. 315/Rules/DHC

Dated: 07.07.2011

In exercise of powers conferred under Article 235 of the Constitution of India, Section 47 of the Punjab Courts Act, 1918 and all other powers enabling it in this behalf, the High Court of Delhi hereby makes the following Rules, in respect of Leave of Members of Delhi Higher Judicial Service:-

**Delhi Higher Judicial Service (Leave) Rules, 2010**

**Chapter I**

**Preliminary**

**1. Short Title:** These rules may be called Delhi Higher Judicial Service (Leave) Rules, 2010.

**2. Commencement:** These Rules will come into force from the date they are notified by the High Court of Delhi.

**3. Extent of application:** These rules shall apply to officers appointed to Delhi Higher Judicial Service.

**4. Definitions:** Unless the context otherwise requires:-

- a) “*Accounts Officer*” means the officer, whatever his official designation, in whose District the office of the Member of the Service is situated;
- b) “*Administrator*” means the Administrator appointed under Article 239 of the Constitution of India for the Union Territory of Delhi.
- c) “*Authority competent to grant leave*” means the authority specified in Column (3) of the First Schedule to these rules, competent to grant the kind of leave specified in the corresponding entries in Column (2) of the said Schedule;
- d) “*Date of retirement*” or “*date of his retirement*” in relation to a Member of Service, means the afternoon of the last day of the month in which a Member of Service attains the age prescribed for retirement under the terms and conditions governing his services.
- e) “*District Judge*” means the District Judge of the concerned district in which the Member of the Service is posted;
- f) “*Duty*” means duty as a Member of the Service and includes:-
  - (i) service as probationer;
  - (ii) such other periods as the High Court may, by general or special order, declare as 'duty';
- g) “*Form*” means a Form appended to the Second Schedule to these rules;
- h) “*Government*” means Government of National Capital Territory of Delhi.
- i) “*High Court*” means “High Court of Delhi”.

- j) “*Leave*” means and includes earned leave, half pay leave, commuted leave, leave not due, extraordinary leave, study leave, special disability leave, maternity leave, paternity leave, special casual leaves, special sick leaves, child care leave or any other authorized leave of absence.
- k) “*Leave Salary*” means the monthly amount admissible to a Member of Service who has been granted leave under these rules.
- l) “*Member of the Service*” means a person appointed to the service under the provisions of Delhi Higher Judicial Service Rules, 1970.
- m) “*Month*” means a calendar month.
- n) “*Service*” means the Delhi Higher Judicial Service constituted under section 3 of the Delhi Higher Judicial Service Rules, 1970.
- o) Words and expressions used herein and not defined but defined in the Fundamental Rules and Supplementary Rules shall have the meanings respectively assigned to them in the Fundamental Rules and Supplementary Rules.

## CHAPTER II General Conditions

### **5. Right to leave:**

- (1) Leave cannot be claimed as of right.
- (2) When the exigencies of service so require, leave of any kind may be refused or revoked by the authority competent to grant it, but it shall not be open to that authority to alter the kind of leave due and applied for except at the written request of the Member of Service.

### **6. Regulation of claim to leave:**

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

### **7. Effect of dismissal, removal or resignation on leave at credit:**

- (1) Except as provided in Rule 56 and this rule, any claim to leave to the credit of a Member of Service, who is dismissed or removed or who resigns from government service, ceases from the date of such dismissal or removal or resignation.
- (2) Where a Member of Service applies for another post under the Government of India or under Government of NCT of Delhi but outside his parent department and if such application is forwarded through proper channel and the applicant is required to resign his post before taking up the new one, such resignation shall not result in the lapse of the leave to his credit.
- (3) A Member of Service, who is dismissed or removed from service and is reinstated on appeal or revision, shall be entitled to count for leave his service prior to dismissal or removal, as the case may be.
- (4) A Member of Service, who having retired on compensation or invalid pension or gratuity is re-employed and allowed to count his past service for pension, shall be entitled to count his former service towards leave.

## **8. Commutation of one kind of leave into another:**

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

Provided that no such request shall be considered unless received by such authority, or any other authority designated in this behalf, within a period of 30 days of the concerned Member of Service joining his duty on the expiry of the relevant spell of leave availed of by him.

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

NOTE.- Extraordinary leave granted on medical certificate or otherwise may be commuted retrospectively into leave not due subject to the provisions of Rule 27.

## **9. Combination of different kinds of leave:**

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

*Explanation*—Casual leave which is not recognized as leave under these rules shall not be combined with any other kind of leave admissible under these rules except with special casual leave.

However, it may be possible, in some cases, that an officer has only half a day's casual leave to his credit and he avails of said casual leave in the afternoon and is unable to resume duty on the next working day, because of unexpected illness, or on some other compelling grounds and is thus constrained to take leave for that day. In such a circumstance he may be permitted by the competent authority to combine half a day's casual leave with regular leave if his absence on the next working day was due to sickness or on other compelling grounds. The officers who have however already applied for leave of the kind due and admissible to cover their absence for the subsequent working day and thereafter should not be allowed the last half a day's casual leave for the afternoon.

## **10. Maximum amount of continuous leave:**

(a) No Member of the Service shall be granted leave of any kind for a continuous period exceeding five years.

(b) Unless the High Court in view of the special circumstances of the case, determines otherwise, a Member of the Service who remains absent from duty for a continuous period exceeding five years whether with or without leave, shall be deemed to have resigned from the service.

Note: Provided that a reasonable opportunity to explain the reason for such absence shall be given to the Member of the Service before the provisions of sub rule (b) are invoked.

## **11. Acceptance of service or employment while on leave:**

(1) A Member of Service while on leave, including leave preparatory to retirement shall not take up any service or employment elsewhere, including the setting

up of a private professional practice as an Advocate, without obtaining the previous sanction of -

(a) the President, if the proposed services or employment lies elsewhere than in India; or

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

(2) (a) No Member of Service while on leave, other than leave preparatory to retirement shall ordinarily be permitted to take up any other service or employment.

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

(c) A Member of Service while on leave preparatory to retirement shall not be permitted to take up private employment. He may, however, be permitted to take up employment with a Public Sector Undertaking or a body controlled or financed by the government and in that event also leave salary payable for leave preparatory to retirement shall be the same as admissible under Rule 55.

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

(b) The leave so cancelled under Clause (a) shall be allowed to be encashed in the manner provided in sub-rule (2) of Rule 56.

### CHAPTER III Grant of and Return from Leave

#### **12. Application for leave:**

Any application for leave or for extension of leave shall be made in Form 1 or Form 2, as applicable, to the authority competent to grant leave.

#### **13. Leave Account:**

A leave account shall be maintained in Form 3 by the Accounts Officer in the office of the District Judge in respect of every Member of the Service.

NOTE—The District Judge shall send a monthly statement of leave account of every Member of Service to the High Court by the 10<sup>th</sup> day of every succeeding month.

#### **14. Verification of title to leave:**

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

NOTE—The order sanctioning leave shall indicate the balance of earned leave/half pay leave at the credit of the Member of Service.

- (2) (a) Where there is reason to believe that the obtaining of admissibility report will be unduly delayed, the authority competent to grant leave may calculate, on the basis of available information, the amount of leave admissible to the Member of Service and issue provisional sanction of leave for a period not exceeding sixty days;
- (b) The grant of leave under this sub-rule shall be subject to verification by the authority maintaining the leave account and a modified sanction for the period of leave may be issued, where necessary.

### **15. Leave not to be granted in certain circumstances:**

Leave shall not be granted to a Member of Service whom a competent punishing authority has decided to dismiss, remove or compulsorily retire from government service.

### **16. Grant of leave on medical certificate**

(1) An application for leave on medical certificate made by any Member of the Service shall be accompanied by a medical certificate as per Form 4 given by an Authorised Medical Practitioner.

*Explanation:* Authorized Medical Practitioner shall mean a person who is authorised to practice medicine under any government approved system of medicine;

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

(3) The authority competent to grant leave may, at its discretion, secure a second medical opinion by requesting a Government Medical Officer not below the rank of a Civil Surgeon or Staff Surgeon, to have the applicant medically examined on the earliest possible date.

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

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

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

### **17. Leave to a Member of Service who is unlikely to be fit to return to duty**

(1)(a) When a Medical Authority has reported that there is no reasonable prospect that the Member of Service will ever be fit to return to duty, leave shall not necessarily be refused to such a Member of Service.

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

(i) if the Medical Authority is unable to say with certainty that the Member of Service will never again be fit for service, leave not exceeding twelve months in all may be granted and such leave shall not be extended without further reference to a Medical Authority;

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

(2) A Member of Service who is declared by a Medical Authority to be completely and permanently incapacitated for further service shall –

(a) if he is on duty, not be invalidated from service during his service period;

(b) if he is already on leave, not be invalidated from service on the expiry of that leave or extension of leave, if any, granted to him under sub-rule (1).

## **18. Commencement and termination of leave:**

Except as provided in Rule 19, leave ordinarily begins on the day on which the transfer of charge is effected and ends on the day preceding that on which the charge is resumed.

## **19. Combination of holidays with leave:**

(1)(i) When the day, immediately preceding the day on which a Member of Service's leave (other than leave on medical certificate) begins or immediately following the day on which his leave expires, is a holiday or one of series of holidays, the Member of Service shall be deemed to have been permitted (except in cases where for administrative reasons permission for prefixing/suffixing holidays to leave is specifically withheld) to leave his station at the close of the day before, or return to it on the day following such holiday or series of holidays.

(ii) In the case of leave on medical certificate-

(a) When a Member of Service is certified medically unwell to attend office, holiday(s), if any, immediately preceding the day he is so certified shall be allowed automatically to be prefixed to leave and the holiday(s) if any, immediately succeeding the day he is so certified (including that day) shall automatically be allowed to be suffixed to the leave, and

(b) When a Member of Service is certified medically fit for joining duty, holiday(s), if any, succeeding the day he is so certified (including that day) shall automatically be allowed to be suffixed to the leave.

- (2) Unless the authority competent to grant leave in any case otherwise directs--
- (a) if holidays are prefixed to leave, the leave and any consequent rearrangement of pay and allowances take effect from the day after the holidays; and
  - (b) if holidays are suffixed to leave, the leave is treated as having terminated and any consequent rearrangement of pay and allowances takes effect from the day on which the leave would have ended if holidays had not been suffixed.

## **20. Grant of leave beyond the date of retirement or appointment as the Judge of the High Court :**

No leave shall be granted to a Member of the Service beyond the date on which he retires from service under Rule 16 of the All India Services (Death cum Retirement Benefits) Rules, 1958 or appointed as the Judge of the High Court.

## **21. Recall to duty before expiry of leave:**

(1) In case a Member of Service is recalled to duty before the expiry of his leave, such recall to duty shall be treated as compulsory in all cases and the Member of Service shall be entitled-

- (a) if the leave from which he is recalled is in India, to be treated as on duty from the date on which he starts for the station to which he is ordered, and to draw-
  - (i) travelling allowance under rules made in this behalf for the journey; and
  - (ii) leave salary, until he joins his post, at the same rate at which he would have drawn it but for recall to duty;
- (b) if the leave from which he is recalled is out of India, to count the time spent on the voyage to India as duty for purposes of calculating leave, and to receive-
  - (i) leave salary, during the voyage to India and for the period from the date of landing in India to the date of joining his post, at the same rate at which he would have drawn it but for recall to duty;
  - (ii) a free passage to India;
  - (iii) refund of his passage from India if he has not completed half the period of his leave by the date of leaving for India on recall or three months, whichever is shorter;
  - (iv) travelling allowance, under the rules for the time being in force, for travel from the place of landing in India to the place of duty.

## **22. Return from leave:**

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

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

(3) A Member of Service who has taken leave on medical certificate may not return to duty until he has produced a medical certificate of fitness in Form 5.

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

(b) Such Member of Service shall report his return to duty to the authority which granted him leave or to the authority, if any, specified in the order granting him the leave.

NOTE—A Member of Service who had been suffering from Tuberculosis may be allowed to resume duty on the basis of fitness certificate which recommends light work for him.

### **23. Absence after expiry of leave:**

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

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

## **CHAPTER IV**

### **Kinds of Leaves due and admissible**

#### **24. Earned Leave:**

(a) The leave account of every Member of Service shall be credited with earned leave, in advance, in two installments of 15 days each on the first day of January and July of every calendar year.

(b) If a Member of the Service is appointed after the 1<sup>st</sup> of January of a Year, earned leave shall be credited to his leave account at the rate of 2½ days for each completed month of service which he is likely to render in a half-year of the calendar year in which he is appointed.

*Explanation:* If 1<sup>st</sup> January or 1<sup>st</sup> July is holiday and a member joins the service on the next working day, he shall be entitled to the full credit of leave.

(c) The credit for the half-year in which a Member of the Service is due to retire or resign from service shall be afforded only at the rate of 2½ days per completed month in the half-year upto the date of retirement or resignation. If the leave already availed of is more than the credit, so due to him, necessary adjustment shall be made in respect of leave salary overdrawn, if any.

(d) The earned leave at the credit of a Member of the Service at the close of a half-year shall be carried forward to the next half-year subject to the condition that the earned leave so carried forward plus the credit for that half-year shall not exceed 300 days for which encashment has been allowed along with leave travel concession while in service or under Rule 56.

*Explanation:* In cases where the earned leave at credit on 1<sup>st</sup> January/1<sup>st</sup> July is 300 days or less but more than 285 days then an advance credit of 15 days earned leave will be made in the leave account. However, the resultant total will be shown as 300 + the number of days exceeding the ceiling of 300 days in brackets. The leave taken thereafter

during the current half year will be first adjusted against the figure shown in the brackets in the leave account and at the end of the half year the balance will be shown as 300 + the number of days exceeding 300 days, if any, after adjusting the leave taken. Thus, while arriving at the total earned leave to be again credited at the beginning of the next half year the number of days shown in bracket shall be deducted from the total number of 15 days earned leave sought to be credited.

(e) When a Member of the Service is removed or dismissed from the service or dies while in service, credit of earned leave shall be allowed at the rate of 2½ days per completed month upto the end of the month preceding the month in which he is removed or dismissed from service or dies in service. Where the quantum of earned leave availed is in excess of the leave, the overpayment of leave salary shall be recovered in such cases.

(f) While affording credit under these rules, fraction of the day shall be rounded off to the nearest day.

(g) The maximum earned leave granted to a Member of the Service at a time shall be 180 days.

Provided that earned leave granted as preparatory to retirement shall be subject to a maximum of 300 days.

(h) Formal application of leave in Form A or Form B appended with these rules must always be submitted fifteen days in advance, unless prevented by exigencies completely unanticipated.

(i) If a Member of the Service has availed of extraordinary leave and/or some period of absence has been treated as *dies non* 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 1/10<sup>th</sup> of the period of such leave and/or *dies non* subject to maximum of 15 days.

## **25. Half Pay Leave:**

(a) The half pay leave account of every Member of Service shall be credited with half pay leave in advance, in two installments of ten days each on the first day of January and July of every calendar year

(b) The leave shall be credited to the said leave account at the rate of 5/3 days for each completed month of service which he is likely to render in the half-year of the calendar year in which he is appointed.

(c) The credit for the half year in which a Member of Service is due to retire or resign from the service shall be allowed at the rate of 5/3 days per completed month up to the date of retirement or resignation.

(d) When a Member of the Service is removed or dismissed from service or dies while in service, credit of half pay leave shall be allowed at the rate of 5/3 days per completed month upto the end of the month preceding the month in which he is removed or dismissed from service or dies in service.

(e) Where a period of absence or suspension of a Member of Service has been treated as *dies non* in a half-year, the credit to be afforded to his half pay leave account at the commencement of next half-year, shall be reduced by one-eighteenth of the period of *dies non* subject to a maximum of ten days.

(f) The leave under this rule may be granted on medical certificate or on private affairs.

(g) While affording credit of half pay leave, fraction of a day shall be rounded off to the nearest day.

## **26. Commuted Leave:**

(a) Commuted Leave not exceeding half the amount of half pay leave due may be granted on medical certificate to a Member of Service subject to the condition that twice the amount of such leave shall be debitable to the half pay leave due.

(b) No commuted leave may be granted under this rule unless the Competent Authority has reason to believe that the Member of the Service will return to duty on its expiry.

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

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

(c) Half pay leave upto a maximum of 180 days may be allowed to be commuted during the entire service where such leave is utilized for an approved course of study, certified to be in the interest of the Judiciary as an Institution, by the High Court.

*Explanation:* (1) Commuted leave may be granted at the request of the Member of Service even when earned leave is due to him.

(2) Commuted leave shall be however granted only on production of medical/fitness certificate from an Authorized Medical Practitioner.

## **27. Leave Not Due**

(a) Save in case of leave preparatory to retirement, Leave Not Due may be granted to a Member of Service limited to a maximum of 360 days during the entire service on medical certificate. However, in case of a female member, the leave may be granted without medical certificate provided leave should be in continuation of child care leave, maternity leave and adoption leave subject to the following conditions:

(i) Competent Authority is satisfied that there is reasonable prospect of the Member of Service returning to duty on its expiry;

(ii) Leave Not Due shall be limited to the half pay leave he or she is likely to earn thereafter;

(iii) Leave Not Due shall be debited against the half pay leaves the Member of the Service may earn subsequently.

(b) (i) Where a Member of Service who has been granted Leave Not Due resigns from service or at his request is permitted to retire voluntarily without returning to duty, the Leave Not Due shall be cancelled from the date of his resignation or retirement takes effect on which such leave had commenced, and the leave salary shall be recovered.

(ii) Where a Member of Service who having availed himself of Leave Not Due returns to duty but resigns or retires from service before he has earned such leave, he shall be liable to refund the leave salary to the extent the leave has not been earned subsequently:

Provided that no leave salary shall be recovered under sub-rule (a) or sub-rule (b) if the retirement is by reason of ill-health incapacitating the Member of Service for further service or in the event of his death.

(iii) Where a Member of Service is incapacitated during the continuation of the Leave Not Due or at the end of the period of Leave Not Due, he or she shall be considered to have retired from the date of the expiry of such Leave Not Due.

## **28. Extraordinary Leave:**

(a) Subject to the maximum period of leaves which can be granted under Rule 10, extraordinary leave may be granted to a Member of the Service in the following circumstances, that is to say-

(i) when no other kind of leave is admissible, or

(ii) when any other kind of leave is admissible but the Member of the Service applies in writing for the grant of extraordinary leave.

(b) Competent Authority may retrospectively convert periods of absence without leave into extraordinary leave even when any other kind of leave was admissible at the time when absence without leave commenced;

(c) Extraordinary Leave shall not be debited to the leave account;

(d) Two spells of extraordinary leave, if intervened by any other kind of leave, shall be treated as one continuous spell of extraordinary leave for the purpose of sub-rule

(a)

## **29. Special Disability Leave for injury intentionally inflicted:**

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

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

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

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

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

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

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

(7) Leave salary during such leave shall:-

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

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

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

### **30. Special disability leave for accidental injury:**

(1) The provisions of Rule 29 shall apply also to a Member of Service who is disabled by injury accidentally incurred in, or in consequence of, the due performance of his official duties or in consequence of his official position, or by illness incurred in the performance of any particular duty, which has the effect of increasing his liability to illness or injury beyond the ordinary risk attaching to the civil post which he holds.

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

- (i) That the disability, if due to disease, must be certified by an Authorized Medical Practitioner to be directly due to the performance of the particular duty;
- (ii) that the period of absence recommended by an Authorized Medical Practitioner may be covered in part, by leave under this rule and in part by any other kind of leave, and that the amount of special disability leave granted on leave salary equal to that admissible on earned leave shall not exceed 120 days.

### **31. Maternity Leave:**

(a) Maternity leave may be granted to a woman Member of the Service, with less than two surviving children, on full pay up to a period of 180 days from the date of its commencement. During such period, she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

(b) A female Member of the Service (irrespective of the number of surviving children) may be granted maternity leave in cases of miscarriage, including abortion induced under Medical Termination of Pregnancy Act, 1971 or otherwise, to a maximum period not exceeding 45 days on production of a medical certificate as laid down in Rule 16.

(c) Maternity leave may be combined with the leave of any other kind. Notwithstanding the requirement of production of medical certificate contained in Rule 26 and Rule 27, leave of any kind due and admissible (including commuted leave for a period of not exceeding 60 days and Leave Not Due) up to a maximum of two year may, if applied, be granted in continuation of maternity leave granted under sub-rule(a).

(d) Maternity leave shall not be debited against the leave account.

### **32. Paternity Leave :**

(a) A male Member of the Service with less than two surviving children may be granted paternity leave by the Competent Authority for a period of 15 days during the confinement of his wife for child birth i.e., upto 15 days before, or upto six months from the date of delivery of the child;

(b) During such period of 15 days he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave;

(c) The paternity leave may be combined with leave of any other kind;

(d) The paternity leave shall not be debited against the leave account;

(e) If paternity leave is not availed of within the period specific in sub-rule (a) such leave shall be treated as lapsed.

### **33. Child Adoption Leave:**

(1) A female Member of the Service with less than two surviving children on valid adoption of a child below the age of one year may be granted child adoption leave, by the competent authority for a period of 180 days after the date of valid adoption;

(2) During the period of child adoption leave she shall be paid leave salary equal to the pay drawn immediately before proceeding on leave;

(3) (a) Child adoption leave may be combined with leave of any other kind;

(b) In continuation of the child adoption leave granted under sub-rule (1), a female Member of the Service on valid adoption of a child may also be granted, if applied for, leave of the kind due and admissible (including leave not due and commuted leave not exceeding 60 days without production of medical certificate) for a period up to one year reduced by the age of the adopted child on the date of valid adoption, without taking into account child adoption leave;

Provided that this facility shall not be admissible in case she is already having two surviving children at the time of adoption.

(4) Child adoption leave shall not be debited against the leave account.

(5) A male Member of Service with less than two surviving children, on valid adoption of a child below the age of one year, may be sanctioned paternity leave for a period of 15 days within a period of six months from the date of valid adoption.

### **34. Child Care Leave:**

A female Member of the Service may be granted Child Care Leave having minor children below the age of 18 years for a maximum period of two years (i.e. 730 days) during her entire tenure of service with the following conditions :-

(a) Child Care Leave shall be admissible for two eldest surviving children only.

(b) Child Care Leave may not be granted in more than 3 spells in a calendar year.

(c) Child Care Leave may not be granted for less than 15 days.

(d) Child Care Leave should not ordinarily be granted during the probation period except in case of certain extreme situations where the leave sanctioning authority is fully satisfied about the need of Child Care Leave to the probationer. It may also be ensured that the period for which this leave is sanctioned during probation is minimal.

(e) Child Care Leave cannot be demanded as a matter of right. Under no circumstances a Member of the Service can proceed on Child Care Leave without prior approval of the Competent Authority.

#### ***Explanation:***

(1) The Child Care Leave is to be treated like earned leave and sanctioned as such. Consequently, Saturdays, Sundays, Gazetted holidays etc. falling during the period of leave would also count as Child Care Leave as in the case of earned leave.

(2) Clause (d) above shall have no application to the case of a Member of the Service who has joined upon promotion from Delhi Judicial Service.

### **35. Special Casual Leave :**

(a) The High Court may grant special casual leaves to Members of the Service for a period not exceeding three weeks in the month of June and not exceeding one week in the month of December every year without prejudice to their right to claim earned leaves under these rules.

(b) Special Casual Leaves shall not be debited to the Leave account of the Member of the Service.

### **36. Special Sick Leave :**

(a) Members of the Service may be granted four Special Sick Leaves, in a year, without the production of a medical certificate.

(b) Special Sick Leave shall not be debited to leave account of the Member of the Service.

### **37. Compensatory Leave :**

(a) Compensatory leave may be given to the Members of Service where compulsory attendance on Sundays or other public holidays or during vacations justifies the grant of compensatory leave for the number of days a Member of Service is directed to attend the office/court.

(b) No compensatory leave, however, will be admissible to a Member of Service who has been paid honorarium or suitably compensated in terms of money for the days of such compulsory attendance on Sundays or other public holidays or has been on duty leave on such days.

(c) Compensatory leave may be availed within a period of 1 year from the date of its falling due, otherwise the same shall be treated to have lapsed.

### **38. Leave to probationer, a person on probation:**

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

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

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

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

(2) A person appointed to a post on probation shall be entitled to leave under these rules as a temporary or a permanent Member of Service according as his appointment is against a temporary or a permanent post:

Provided that where such person already holds a lien on a permanent post before such appointment, he shall be entitled to leave under these rules as a permanent Member of Service.

### **39. Persons re-employed after retirement:**

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

#### **40. Leave preparatory to retirement:**

(1) A Member of Service may be permitted by the authority competent to grant leave to take leave preparatory to retirement to the extent of earned leave due, not exceeding 300 days together with half pay leave due, subject to the condition that such leave extends up to and includes the date of retirement.

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

### **Chapter V Study Leave**

#### **41. Conditions for grant of study leave:**

(1) Study leave may be granted to a Member of the Service with due regard to the exigencies of judicial service to enable him to undergo in or out of India, a special course of study consisting of higher studies or specialized training in a professional or a technical subject having a direct and close connection with the sphere of his duty;

(2) Study leave may also be granted for a course of training or study tour in which a Member of the Service may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to government from the point of view of public interest and is related to sphere of duties of the Member of Service subject to the conditions that:-

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

(b) the Member of Service should be required to submit, on his return, a full report on the work done by him while on study leave;

(3) Study leave may also be granted for the studies which may not be closely or directly connected with the work of a Member of the Service, but which are capable of widening his mind in a manner likely to improve his abilities as a Judicial Officer;

(4) Study leave out of India shall not be granted for the prosecution of studies in subjects for which adequate facilities exist in India;

(5) Study leave may be granted to a Member of the Service-

(i) who has satisfactorily completed period of probation and has rendered not less than five years' regular continuous service including the period of probation under the government;

(ii) who is not due to reach the age of superannuation from the government service within three years from the date on which he is expected to return to duty after the expiry of the leave; and

(iii) who executes a Bond as laid down in Rule 44(4) undertaking to serve the government for a period of three years after the expiry of the leave

(6) Study leave shall not be granted to a Member of Service with such frequency as to remove him from contact with his regular work or to cause cadre difficulties owing to his absence on leave.

(7) The High Court shall be the authority competent to grant study leave.

#### **42. Maximum amount of study leave:**

(1) The maximum amount of study leave, which may be granted to a Member of the Service shall be –

- (a) ordinarily twelve months at any one time, and
- (b) during his entire service, twenty-four months in all (inclusive of similar kind of leave for study or training granted under any other rules).

#### **43. Applications for study leave:**

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

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

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

#### **44. Sanction of study leave:**

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

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

(2) Where a Member of Service borne permanently on the cadre of Delhi Higher Judicial Service is serving temporarily in another department or establishment, the grant of study leave to him shall be subject to the condition that the concurrence of the High Court is obtained before the leave is granted.

(3) Where the study leave is granted for prosecution of studies abroad, the Head of the Mission concerned shall be informed of the fact by the authority granting the leave, provided that where such leave has been granted by the Administrator, the intimation shall be sent through the Ministry concerned.

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

(4) (a) Every Member of Service who has been granted study leave or extension of such study leave shall be required to execute a Bond in Form 6 or Form 7, as the case may be, before the study leave or extension of such study leave granted to him commences.

(b) The Authority competent to grant leave shall send to the Accounts Officer a certificate to the effect that the Member of Service referred to in Clause (a) has executed the requisite bond.

(5) (a) On completion of the course of study, the Member of Service shall submit to the authority which granted him the study leave, the certificates of examinations passed or special courses of study undertaken, indicating the

date of commencement and termination of the course with the remarks, if any, of the authority in charge of the course of study.

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

#### **45. Accounting of study leave and combination with leave of other kinds:**

- (1) Study leave shall not be debited against the leave account of the Member of Service.
- (2) 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 Member of Service.

*Explanation:-*the limit of twenty-eight months/thirty six months of absence prescribed in this sub-rule includes the period of vacation.

- (3) A Member of Service granted study leave in combination with any other kind of leave may, if he so desires, undertake or commence a course of study during any other kind of leave and subject to the other conditions laid down in Rule 48 being satisfied, draw study allowance in respect thereof:  
Provided that the period of such leave coinciding with the course of study shall not count as study leave.

#### **46. Regulation of study leave extending beyond course of study:**

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

#### **47. Leave Salary during study leave:**

- (1) Except as provided in sub-rule (6), during Study Leave availed of outside India, a Member of Service shall draw Leave Salary equal to the pay that the Member of Service drew while on duty with government immediately before proceeding on such leave and in addition the Dearness Allowance, House Rent Allowance and Study Allowance as admissible in accordance with the provisions of Rules 48 to 51.
- (2) Except as provided in sub-rule (6), during Study Leave availed of in India, a government servant shall draw Leave Salary equal to the pay that the Member of Service drew while on duty with government immediately before proceeding on such leave and in addition the Dearness Allowance and House Rent Allowance as admissible in accordance with the provisions of Rule 51.
- (3) Payment of leave salary at full rate under Clause (2) shall be subject to furnishing of a certificate by the Member of Service to the effect that he is not in receipt of any scholarship, stipend or remuneration in respect of any part-time employment.

- (4) The amount, if any, received by a Member of Service during the period of Study leave as scholarship or stipend or remuneration in respect any part-time employment as envisaged in sub-rule (2) of Rule 48, shall be adjusted against the Leave Salary payable under this sub-rule subject to the condition that the Leave Salary shall not be reduced to an amount less than that payable as Leave Salary during half-pay leave.
- (5) No study allowance shall be paid during Study Leave for courses of study in India.
- (6) During the currency of Study Leave within or outside India, a Member of Service shall draw benefits of Revised Pay from the date such revision takes place.

#### **48. Conditions for grant of study allowance:**

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

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

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

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

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

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

(4) Study Allowance shall also be allowed for the entire period of vacation during the course of study subject to the conditions that—

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

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

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

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

#### **49. Rates of Study Allowance:**

The rates of Study Allowance admissible to a Member of Service shall be such as may be especially determined by the High Court in each case.

NOTE—The rates of Study Allowance shall in no case be lower than the one prescribed by the government in respect of officers of Indian Administrative Service.

#### **50. Procedure for payment of study allowance**

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

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

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

(b) The certificate of attendance required to be submitted in support of the claims for Study Allowance shall be forwarded at the end of the terms, if the Member of Service is undergoing study in an educational institution, or at intervals not exceeding three months if he is undergoing study at any other institution.

(4) (a) When the programme of study approved does not include, or does not consist entirely of, such a course of study, the Member of Service shall submit to the authority competent to grant leave direct or through the Head of the Mission a diary showing how his time has been spent and a report indicating fully the nature of the methods and operations which have been studied and including suggestions as to the possibility of adapting such methods or operations to conditions obtaining in India.

(b) The authority competent to grant leave shall decide whether the diary and report show that the time of the Member of Service was properly utilized and shall determine accordingly for what periods Study Allowance may be granted.

#### **51. Admissibility of allowances in addition to Study Allowance:**

(1) For the first (180) days of the Study Leave, House Rent allowance shall be paid at the rates admissible to the Member of Service from time to time at the station

from where he proceeded on study leave. The continuance of payment of House Rent Allowance beyond (180) days shall be subject to the production of a certificate as prescribed in Para.8 (d) of Ministry of Finance, O.M. No.2 (37)-E.II (B)/64, dated 27-11-1965, as amended from time to time.

(2) Except for house rent allowance as admissible under sub-rule (1) and the Dearness Allowance, City Compensatory Allowance and the Study Allowance, where admissible, no other allowance shall be paid to a Member of Service in respect of the period of study leave granted to him.

## **52. Travelling Allowance during study leave:**

A Member of Service to whom study leave has been granted shall not ordinarily be paid Travelling Allowance but the President may in exceptional circumstances sanction the payment of such allowance.

## **53. Cost of fees for study:**

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

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

## **54. Resignation or retirement after study leave or non-completion of the course of study:**

(1) If a Member of Service resigns or retires from service or otherwise quits service without returning to duty after a period of study leave or within a period of three years after such return to duty or fails to complete the course of study and is thus unable to furnish the certificates as required under **sub-rule (5) of Rule 44** he shall be required to refund--

- (i) the actual amount of leave salary, Study Allowance, cost of fees, traveling and other expenses, if any, incurred by the Government of India; and
- (ii) the actual amount, if any, of the cost incurred by other agencies such as foreign Government, Foundations and Trusts in connection with the course of study, together with interest thereon at rates for the time being in force on government loans from the date of demand, before his resignation is accepted or permission to retire is granted or his quitting service otherwise:

Provided that except in the case of a Member of Service who fail to complete the course of study nothing in this rule shall apply—

- (a) to a Member of Service who, after return to duty from study leave, is permitted to retire from service on medical grounds; or
- (b) to a Member of Service who, after return to duty from study leave, is deputed to serve in any Statutory or Autonomous Body or Institution under the control of the government and is subsequently permitted to resign from service under the government with a view to his permanent absorption in the said Statutory or Autonomous body or Institution in the public interest.

- (2) (a) The study leave availed of by such Member of Service shall be converted into regular leave standing at his credit on the date on which the study leave commenced, any regular leave taken in continuation of study leave being suitably adjusted for the purpose and the balance of the period of study leave, if any, which cannot be so converted, treated as extraordinary leave.
- (b) In addition to the amount to be refunded by the Member of Service under sub-rule (1), he shall be required to refund any excess of leave salary actually drawn over the leave salary admissible on conversion of the study leave.

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

## Chapter VI Leave Salary and encashment of leave

### **55. Leave Salary :**

(a) A Member of the Service on earned leave is entitled to leave salary equal to the pay drawn immediately before proceeding on earned leave,

(b) A Member of the Service on half pay leave or leave not due is entitled to leave salary equal to half the amount specified in sub-rule (a) .

(c) A Member of the Service on commuted leave is entitled to leave salary equal to the amount admissible under sub-rule (a).

(d) A Member of the Service on extraordinary leave is not entitled to any leave salary.

(e) A Member of the Service on special disability leave shall be entitled, in respect of the initial period of 120 days, to leave salary in accordance with sub-rule (a).

(f) In respect of special disability leave beyond the initial period of 120 days leave salary equal to the amount specified in sub-rule (a), may be granted at the option of the Member of the Service for a further period limited to the number of days of earned leave due to him in which case the earned leave account shall be debited with half the number of days for which leave salary is granted under this sub-rule.

(g) The leave salary during special disability leave in respect of any period not covered by sub-rules (e) and (f) shall be at the rate specified in sub-rule (b).

(h) in the case of a Member of Service who is granted leave earned by him during the period of re-employment, the leave salary shall be based on the pay drawn by him exclusive of pension and pension equivalent of other retirement benefits.

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

### **56. Leave/Cash payment in lieu of leave beyond the date of retirement, compulsory retirement or quitting of service:**

- (1) No leave shall be granted to a Member of Service beyond-
- (a) the date of his retirement, or
  - (b) the date of his final cessation of duties, or
  - (c) the date on which he retires by giving notice to government or he is retired by government by giving him notice or pay and allowances in lieu of such notice, in accordance with the terms and conditions of his service, or
  - (d) the date of his resignation from service.
- (2) (a) Where a Member of Service retires on attaining the age of superannuation under Rule 26-B of Delhi Higher Judicial Services Rules, the authority competent to grant leave shall suo motu issue an order granting cash equivalent of leave salary for earned leave, if any, at the credit of the Member of Service on the date of his retirement, subject to a maximum of 300 days.
- (b) The cash equivalent under Clause (a) shall be calculated as follows and shall be payable in one lump sum as a one-time settlement.

No House Rent Allowance or Compensatory (City) Allowance shall be payable-

$$\text{Cash equivalent} = \frac{\text{Pay admissible on the date of retirement plus dearness allowance admissible on that date.}}{30} \times \text{Number of days of unutilized earned leave at credit on the date of retirement subject to the maximum of 300 days}$$

(3) The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Member of Service who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such 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.

- (4) (a) Where the service of a Member of Service has been extended, in the interest of public service beyond the date of his retirement, he may be granted-
- (i) during the period of extension, any earned leave due in respect of the period of such extension plus the earned leave which was at his credit on the date of his retirement subject to a maximum of 300 days.
  - (ii) after expiry of the period of extension, cash equivalent in the manner provided in sub-rule (2) in respect of earned leave at credit on the date of retirement, plus the earned leave earned during the period of extension, reduced by the earned leave availed of during such period, subject to a maximum of 300 days.
- (b) The cash equivalent payable under sub-clause (ii) of Clause (a) of this sub-rule shall be calculated in the manner indicated in Clause (b) of sub-rule (2) above.

(5) A Member of the Service who retires or is retired from service in the manner mentioned in Clause (c) of sub-rule (1), may be granted *suo motu*, by the authority competent to grant leave, cash equivalent of the leave salary in respect of earned leave at his credit subject to a maximum of 300 days and also in respect of all the half pay leave at his credit, provided this period does not exceed the period between the date on which he so retires or is retired from service and the date on which he would have retired in the normal course after attaining the age prescribed for retirement under the terms and conditions governing his service. The cash equivalent shall be equal to the leave salary as admissible for earned leave and/or equal to the leave salary as admissible for half pay leave plus dearness allowance admissible on the leave salary for the first 300 days at the rates in force on the date the Member of Service so retires or is retired from service. The pension and pension equivalent of other retirement benefits and *ad hoc* relief/graded relief on pension shall be deducted from the leave salary paid for the period of half pay leave, if any, for which the cash equivalent is payable. The amount so calculated shall be paid in one lumpsum as a one-time settlement. No House Rent Allowance or Compensatory (City) Allowance shall be payable:

Provided that if leave salary for the half pay leave component falls short of pension and other pensionary benefits, cash equivalent of half pay leave shall not be granted.

- (6)(a)(i) Where the services of a Member of Service are terminated by notice or by payment of pay and allowances in lieu of notice, or otherwise in accordance with the terms and conditions of his appointment, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date on which he ceases to be in service subject to a maximum of 300 days.
- (ii) If a Member of Service resigns or quits service, he may be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of cessation of service, to the extent of half of such leave at his credit, subject to a maximum of 150 days.
- (iii) A Member of Service, who is re-employed after retirement may, on termination of his re-employment, be granted, *suo motu*, by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of termination of re-employment subject to a maximum of 300 days including the period for which encashment was allowed at the time of retirement.
- (b) The cash equivalent payable under Clause (a) shall be calculated in the manner indicated in Clause (b) of sub-rule (2) and for the purpose of computation of cash equivalent under sub-clause (iii) of Clause (a), the pay on the date of the termination of re-employment shall be the pay fixed in the scale of post of re-employment before adjustment of pension and pension equivalent of other retirement benefits, and the Dearness Allowance appropriate to that pay.

**57. Cash equivalent of leave salary in case of death in service:**

In case a Member of Service dies while in service, the cash equivalent of the leave salary that the deceased employee would have got had he gone on earned leave that would have been due and admissible to him but for the death on the date immediately following the death and in any case, not exceeding leave salary for 300 days, shall be paid to his family in the manner specified in Rule 59 without any reduction on account of pension equivalent of death-cum-retirement gratuity.

**58. Cash equivalent of leave salary in case of invalidation from service:**

A Member of Service who is declared by a Medical Authority to be completely and permanently incapacitated for further service may be granted, suo motu, by the authority competent to grant leave, cash equivalent of leave salary in respect of leave due and admissible, on the date of his invalidation from service, provided that the period of leave for which he is granted cash equivalent does not extend beyond the date on which he would have retired in the normal course after attaining the age prescribed for retirement under the terms and conditions governing his service. The cash equivalent thus payable shall be equal to the leave salary as calculated under sub-rule (5) of Rule 56.

**59. Payment of cash equivalent of leave salary in case of death, etc., of Member of Service:**

In the event of the death of a Member of Service while in service or after retirement or after final cessation of duties but before actual receipt of its cash equivalent of leave salary payable under Rules 56, 57 and 58, such amount shall be payable-

- (i) to the widow, and if there are more widows than one, to the eldest surviving widow if the deceased was a male Member of Service, or to the husband, if the deceased was a female Member of Service;

*EXPLANATION*—The expression “eldest surviving widow” shall be construed with reference to the seniority according to the date of the marriage of the surviving widows and not with reference to their ages;

- (ii) failing a widow or husband, as the case may be, to the eldest surviving son; or an adopted son;
- (iii) failing (i) and (ii) above, to the eldest surviving unmarried daughter;
- (iv) failing (i) to (iii) above, to the eldest surviving widowed daughter;
- (v) failing (i) to (iv) above, to the father;
- (vi) failing (i) to (v) above, to the mother;
- (vii) failing (i) to (vi) above, to the eldest surviving brother below the age of eighteen years;
- (viii) failing (i) to (vii) above, to the eldest surviving unmarried sister;
- (ix) failing (i) to (viii) above, to the eldest surviving widowed sister;
- (x) failing (i) to (ix) above, to the eldest surviving married daughter; and
- (xi) failing (i) to (x) above, to the eldest child of the eldest predeceased son.

**60. Cash equivalent of leave salary in case of permanent absorption in Public Sector Undertaking/Autonomous Body wholly or substantially owned or controlled by the Central/State Government:**

A Member of Service who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or State Government or in or under a body controlled or financed by one or more than one such Government shall be granted *suo motu* by the authority competent to grant leave cash equivalent of leave salary in respect of earned leave at his credit on the date of absorption subject to a maximum of 300 days. This will be calculated in the same manner as indicated in Clause (b) of sub-rule (2) of Rule 56.

**61. Advance of leave salary:**

A Member of the Service, proceeding on leave for a period not less than thirty days, may be allowed an advance in lieu of leave salary up to a month's pay and allowances admissible on that leave salary subject to deductions on account of Income Tax, Provident Fund, House Rent, Recovery of Advances, etc.

**62. Cash equivalent of leave salary at the time of appointment of the Judge of the High Court:**

Where a Member of the Service is appointed as the Judge of the High Court, the government shall *suo moto* sanction to him cash equivalent of the salary in accordance with rule 20, as if he had retired from the service a day prior to such appointment.

**63. Encashment of earned leaves at the time of availing Leave Travel Concession :**

(a) A Member of the Service may be sanctioned encashment of ten days of earned leave out of the total earned leave at his credit while availing leave travel concession if -

(i) The total earned leave encashed under this rule during the entire service of such member does not exceed sixty days;

*Explanation:* Equal number of encashment of leaves can also be availed by the spouse, if working.

(ii) A balance of at least thirty days earned leave remains at the credit of the Member of the Service after availing of the earned leave during leave travel concession.

(b) The amount admissible in case of encashment of earned leave under sub-rule (a) shall be equal to the corresponding leave salary.

*Explanation:* The encashment of earned leave up to 10 days at the time of availing LTC shall be without any linkage to the number of days and the nature of leave availed while proceeding on LTC.

**64. Encashment of Leave During Service :**

(a) A Member of Service shall be entitled to encash salary equivalent to one month after every two years of his or her service;

(b) The amount payable shall be the leave salary equal to the amount payable for the last month of the two year block period;

(c) The earned leave encashed under this rule shall not be deducted from the total earned leave encashable by a Member of the Service at the time of superannuation, resignation or death, as the case may be.

## **Chapter-VII Miscellaneous**

### **65. Relaxation of the provisions of the rules in individual cases :**

Where the High Court is satisfied that the operation of any of these rules causes or is likely to cause undue hardship to a Member of the Service, it may, after recording its reasons for so doing and notwithstanding anything contained in any of these rules, deal with the case of such member in such manner as may appear to it to be just and equitable:

Provided that the case shall not be dealt with in any manner less favourable to such member than that prescribed in these rules.

### **66. Interpretation :**

If any question arises as to the interpretation of these rules, the High Court shall decide the same.

### **67. Residuary matters :**

In respect of all such matters regarding leaves for which no provision or insufficient provision has been made in these rules, the All India Service (Leave) Rules, 1955, as amended from time to time or orders or directions issued and applicable to the officers of comparable status in the Indian Administrative Service serving in connection with the affairs of Union of India shall apply.

## FIRST SCHEDULE

[See Rule 4(c)]

### AUTHORITIES COMPETENT TO GRANT LEAVE

Sl. No. (1)	Kind of leave (2)	Authority competent to grant leave (3)
1.	Earned Leave, Half Pay Leave, Commuted Leave, Leave not Due, Maternity Leave, Paternity Leave, Child Adoption Leave, Child Care Leave, Casual Leave, Special Casual Leave, Special Sick Leave, Compensatory Leave,	District Judge of the concerned District
2.	Special Disability Leave, Study Leave and Extraordinary Leave	High Court

**SECOND SCHEDULE**

[See Rule 4 (g)]

**FORM 1**

[See Rule 12]

**APPLICATION FOR LEAVE OR FOR EXTENSION OF LEAVE**

- 1. Name of applicant ... ..
- 2. Post held ... ..
- 3. Place of posting ... ..
- 4. Nature and period of leave applied for and date from which required ... ..
- 5. Sundays and holidays, if any, proposed to be prefixed/suffixed to leave ... ..
- 6. Grounds on which leave is applied for ... ..
- 7. Address during leave period ... ..

*Signature of Applicant*  
(with date)

- 8. Remarks and/or recommendation of the Controlling Officer

*Signature (with date)*  
Designation

**CERTIFICATE REGARDING ADMISSIBILITY OF LEAVE**

- 9. Certified that .....(*nature of leave*) for .....(*period*) from ..... to ..... is admissible under Rule ..... of the Delhi Higher Judicial Services Rules (Leave).

*Signature (with date)*  
Designation

- 10. Orders of the authority competent to grant leave ...

*Signature (with date)*  
Designation

**FORM 2**

[See Rule 12]

**APPLICATION FOR LEAVE OR FOR EXTENSION OF LEAVE  
WHILE AVAILING LTC**

- 1. Name of applicant ... ..
- 2. Post held ... ..
- 3. Place of Posting ... ..
- 4. Pay ... ..
- 5. Nature and period of leave applied for and date from which  
required ... ..
- 6. Sundays and holidays, if any, proposed to be prefixed/suffixed  
to leave ... ..
- 7. Grounds on which leave is applied for ... ..
- 8. I propose to avail myself of leave travel concession for  
the block years ..... during the  
ensuing leave ... ..
- 9. Address during leave period ... ..

*Signature of Applicant*  
(with date)

- 10. Remarks and/or recommendation of the Controlling Officer

*Signature* (with date)  
Designation

**CERTIFICATE REGARDING ADMISSIBILITY OF LEAVE**

- 11. Certified that .....(*nature of leave*) for .....(*period*)  
from ..... to ..... is admissible under  
Rule ..... of the Central Civil Services (Leave) Rules, 1972.

*Signature* (with date)  
Designation

- 12. Orders of the authority competent to grant leave ...

*Signature* (with date)  
Designation

**FORM 3**  
[ See Rule 13]

FORM OF LEAVE ACCOUNT

Name of government servant.....Date of Birth.....  
Date of commencement of continuous service .....  
Date of Quasi-Permanent / Permanent employment.....Date of retirement / resignation.....

EARNED LEAVE											HALF PAY LEAVE							
Particulars of service in the calendar half-year		Completed months of service in the Calendar half-year	E.L. credited at the beginning of half-year	No. of days of E.O.L. (Col. 36) availed of during the previous calendar half-year	E.L. to be deducted (1/10 <sup>th</sup> of the period in Col. 5)	Total E.L. at credit in days (Col. 4 + 11 - 6)	LEAVE TAKEN			Balance of E.L. on return from leave (Cols. 7 -10 )	Completed month of service in the half-year of a calendar year	H.P.L. credited at the beginning of half-year	No. of days treated as <i>dies non</i> during the previous half-year	H.P.L. to be deducted (1/18 <sup>th</sup> of the period in Col. 14)	Total H.P.L. at credit in days (Cols. 13 + 35 - 15)	LEAVE		
From	To						From	To	No. of days							From	To	No. of days
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19

(On Private Affairs and on Medical Certificates including Commuted Leave and Leave Not due)

TAKEN						Leave Not Due limited to 360 days in entire service										
Commuted leave on Medical Certificate on full pay			Commuted Leave without M.C. for studies certified to be in public interest (limited to 180 days half pay leave converted into 90 days commuted leave in entire service)			26 Commuted leave converted into half pay leave (Twice of Cols. 22 & 25)	On Medical Certificate			Otherwise than on Medical Certificates limited to 180 days			33 Total of Leave Not Due (Cols. 29+32)	34 Total of Half Pay Leave taken (Cols. 19+26+33)	35 Balance of Half Pay Leave on return from leave (Cols. 16-34)	36 Other kinds of Leave taken
From 20	To 21	No. of days 22	From 23	To 24	No. of days 25		From 27	To 28	No. of days 29	From 30	To 31	No. of days 32				

NOTE 1. – The Earned Leave due should be expressed in days.

NOTE 2. – When a government servant is appointed during the course of a particular half-year, E.L. should be credited @ 2½ days for each completed month and the fraction of a day will be rounded off to the nearest day.

NOTE 3. – The entries in col. 11 should be in complete days. Fraction of a day will be rounded off to the nearest day.

NOTE 4.- The period of extraordinary leave should be noted in red ink.

**FORM 4**

[ See Rule 16 ]

**MEDICAL CERTIFICATE FOR MEMBER OF SERVICE  
RECOMMENDED LEAVE OR EXTENSION OF LEAVE OR  
COMMUTATION OF LEAVE**

Signature of the Member of Service .....

I, ..... after careful personal examination of the case hereby certify that Shri/Shrimati/Kumari ..... whose signature is given above, is suffering from ..... and I consider that a period of absence from duty of .....with effect from ..... is absolutely necessary for the restoration of his/her health.

Dated.....

Authorized Medical Practitioner

**FORM 5**

[ See Rule 22 (3) ]

**MEDICAL CERTIFICATE OF FITNESS TO  
RETURN TO DUTY**

Signature of the Member of Service .....

I, ....., Registered Medical Practitioner do hereby certify that I have carefully examined Shri/Shrimati/Kumari.....whose signature is given above, and find that he/she has recovered from his/her illness and is now fit to resume duties in government service. I also certify that before arriving at this decision, I have examined the original medical certificate(s) and [statement(s) of the case (or certified copies thereof) (if any)] on which leave was granted or extended and have taken these into consideration in arriving at my decision.

Dated.....

Authorized Medical Practitioner

NOTE. — The original medical certificate(s) and statement(s) of the case on which the leave was originally granted or extended shall be produced before the authority required to issue the above certificate. For this purpose, the original certificate(s) and statement(s) of the case should be prepared in duplicate, one copy being retained by the Member of Service concerned.

**FORM 6**

[ See Rule 44 ]

**BOND TO BE EXECUTED BY A MEMBER OF SERVICE WHEN  
PROCEEDING ON STUDY LEAVE**

KNOW ALL MEN BY THESE PRESENTS THAT I, ..... resident of ..... in the District of .....at present employed as ..... in Delhi Higher Judicial Service do hereby bind myself and my heirs, executors and administrators to pay to the President of India (hereinafter called the 'Government') on demand the sum of Rs. .... (Rs. ....only) together with interest thereon from the date of demand at government rates for the time being in force on government loans or, if payment is made in a country other than India, the equivalent of the said amount in the currency of that country converted at the official rate of exchange between that country and India AND TOGETHER with all costs between attorney and client and all charges and expenses that shall or may have been incurred by the government.

WHEREAS I, ..... am granted study leave by government.

AND WHEREAS for the better protection of the government I have agreed to execute this Bond with such condition as hereunder is written:

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT in the event of my failing to resume duty, or resignation or retiring from service or otherwise quitting service without returning to duty after the expiry or termination of the period of study leave or failing to complete the course of study or at any time within a period of three years after my return to duty, I shall forthwith pay to the government or as may be directed by the government, on demand the said sum of Rs. .... (Rupees .....only) together with interest thereon from the date of demand at government rates for the time being in force on government loans.

AND upon my making such payment, the above-written obligations shall be void and of no effect, otherwise it shall be and remain in full force and virtue.

The Bond shall in all respects be governed by the laws of India for the time being in force and the rights and liabilities hereunder shall, where necessary, be accordingly determined by the appropriate Courts in India.

Signed and dated this ..... day of ..... two thousand and .....

Signed and delivered by .....

.....  
in the presence of .....

Witnesses : 1 .....

2 .....

**ACCEPTED**  
For and on behalf of the  
**President of India**

**FORM 7**  
[ See Rule 44 ]  
**BOND TO BE EXECUTED BY A MEMBER OF SERVICE WHEN  
GRANTED EXTENSION OF STUDY LEAVE**

KNOW ALL MEN BY THESE PRESENTS THAT I, ..... resident of ..... in the District of ..... at present employed as ..... in the Delhi Higher Judicial Service do hereby bind myself and my heirs, executors and administrators to pay to the President of India (hereinafter called "the Government") on demand the sum of Rs. .... (Rupees .....only) together with interest thereon from the date of demand at government rates for the time being in force on government loans or, if payment is made in a country other than India, the equivalent of the said amount in the currency of that country converted at the official rate of exchange between that country and India AND TOGETHER with all costs between attorney and client and all charges and expenses that shall or may have been incurred by the government.

WHEREAS I, ..... was granted study leave by government for the period from ..... to ..... in consideration of which I executed a Bond, dated....., for Rs..... (Rupees .....only) in favour of the President of India.

AND WHEREAS the extension of study leave has been granted to me at my request until.....

AND WHEREAS for the better protection of the government I have agreed to execute this Bond with such conditions as hereunder are written.

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT in the event of my failing to resume duty, or resigning or retiring from service or otherwise quitting service without returning to duty after the expiry or termination of the period of study leave so extended or failing to complete the course of study or any time within a period of three years after my return to duty, I shall forthwith pay to the government or as may be directed by the government, on demand the said sum of Rs..... (Rupees.....only) together with interest thereon from the date of demand at government rates for the time being in force on government loans.

AND upon my making such payment the above-written obligation shall be void and of no effect, otherwise it shall be and remain in full force and virtue.

The Bond shall in all respects be governed by the laws of India for the time being in force and the rights and liabilities hereunder shall, where necessary, be accordingly determined by the appropriate Courts in India.

Signed and dated this ..... day of ..... two thousand and .....

Signed and delivered by .....

.....  
in the presence of .....

Witnesses : 1 .....

2 .....

ACCEPTED  
for and on behalf of the  
**President of India**

**APPENDIX-I**

**RULES REGARDING GRANT OF CASUAL LEAVE**

Casual leave is not a recognized form of leave and is not subject to any rules made by the Member of Service. An official on casual leave is not treated as absent from duty and his pay is not intermitted.

1. Casual leave can be combined with Special Casual Leave but not with any other kind of leave.
2. It cannot be combined with joining time.
3. Sundays and Holidays falling during a period of casual leave are not counted as part of casual leave.
4. Sundays/public holidays/restricted holidays/weekly offs can be prefixed/suffixed to casual leave.
5. Casual leave can be taken while on tour, but no daily allowance will be admissible for the period.
6. Casual leave can be taken for half-day also.
7. Essentially intended for short periods. It should not normally be granted for more than 5 days at any one time.
8. LTC can be availed during Casual Leave.
9. A Member of the Service shall be entitled to 12 Casual Leaves during the calendar year.
10. Officials joining during the middle of a year may avail casual leave proportionately or the full period at the discretion of the competent authority.

NOTE—The account of casual leave of all the employees shall be maintained in the Annexed proforma.

**ANNEXURE**

**Casual Leave account for the year ..... District.....**

Sl. No.	Name	Casual Leave taken on (dates)												Remarks	
		1	2	3	4	5	6	7	8	9	10	11	12		

**Half day Casual Leave:**

- (i) A half day casual leave either for the forenoon session or for the afternoon session may be granted to a Member of the Service on account of some urgent private work.
- (ii) The lunch interval shall be the dividing line i.e. a person who takes half day's casual leave for forenoon session is required to come to office at 2:00p.m. Similarly if a person takes leave for afternoon session he can be allowed to leave office at 1:30 p.m. (1:30 p.m. to 2:00 p.m. being the lunch time).
- (iii) A half day's leave may be granted in conjunction with full day's casual leave subject to the maximum number of casual leaves that can normally be granted at a time.

**Half-day's casual leave to be debited for late attendance**—In order to enforce punctuality and ensure prompt and efficient transaction of work half a day's casual leave should be debited to the casual leave account of a Member of Service for each late attendance but late attendance up to an hour, on not more than two occasions in a month, may be condoned by the Competent Authority.

**NOTE:** THESE AMENDMENTS SHALL COME INTO FORCE FROM THE DATE OF THEIR PUBLICATION IN THE GAZETTE.

BY ORDER OF THE COURT  
Sd/-  
(V.P. VAISH)  
REGISTRAR GENERAL

