

Copy of Circular letter No. 2122-DSGS-63/38118, dated the 27th November, 1964 from the Chief Secretary to Government, Punjab to all Heads of Departments etc. etc.

**Subject** — Rules relating to the power of the State Government to dispense with or relax the requirements of any rule regulating conditions of service of Government employees for dealing with any case in a just and equitable manner

I am directed to invite a reference to Finance Department's letter No. 2314-FR-55/3478, dated the 26th April, 1955 asking the departments to incorporate a general rule in their service rules empowering the Governor to relax the provisions of various rules contained therein any particular case provided that the case is not dealt with in a manner less favourable than that provided in the rules. This was done with a view to enabling the State Government to dispense with, or, relax the requirements of any rule, regulating the conditions of service of Government employees for the purpose of dealing in a just and equitable manner with particular cases in which the normal operation of the rule may involve undue hardship. As stated in para 2 of that letter, the Finance Department subsequently added a general rule in this regard in the Punjab Civil Services Rules, Volume I, Part I, as note 2 below rule 1.8. In individual cases of Service Rules, this department has also been advising the incorporation of the following general rule of relaxation pending the finalisation of general services rules.

2. A question was recently raised with the Government of India as to whether the aforesaid rule permits relaxation of rules relating to recruitment, promotion, retirement or reemployment etc. for conferring benefit on a particular individual to the exclusion of all other similarly placed persons; and if this could be done, as to whether the rule can be considered to be constitutionally in order? The matter has been examined and after obtaining legal advice the Government of India has reached the conclusion that the rule as promulgated is constitutionally in order. It permits relaxation of those rules only which regulate conditions of service e.g. Travelling Allowance Rules, Leave Rules, etc. It cannot be utilised to relax the requirements of the rules, which cannot be covered by the expression conditions of service, e.g. the rules relating to recruitment promotion, grant of extension of service or re-employment. The Government of India has suggested that such rules, if necessary, should be amended so as to remove hardship from, and confer benefit generally on, all similarly placed individuals: it should not be relaxed to confer benefits on an individuals: to the exclusion of other similarly placed persons. I am to communicate these conclusions to you with the suggestion that the following general rule providing for relaxation etc. may be immediately incorporated in the relevant Service Rules till the publication of General Service Rules.

"Where the State Government is satisfied that the operation of any rule regulating the conditions of service of the State Government employees or any class of such Government employees causes undue hardship in any particular case, it may by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner."

In this rule, the expression 'State Government employees' means all persons whose conditions of service may be regulated by rules made by the Governor of Punjab under the provision to Article 309 of the Constitution of India. Where the general rule of relaxation has already been incorporated in the Service Rules, steps should be taken immediately to substitute it by the above quoted rule.

3. It is also pointed out that, as laid down in the letter of the Finance Department mentioned in para 1, detailed reasons for making the relaxation should be recorded in the file dealing with the case. In case the Audit Department wants any explanation of the exceptional circumstances which led to the relaxation of the rule, they should be provided with the requisite information. A separate register should be maintained to keep this record. This register should contain the details of relaxation of rules relating to conditions of service or of general orders bearing on the subject decided upon from time to time in individual cases. The entries in the register should contain the following details:—

| S. No.<br>(The No. should be running for each calendar | Section<br>Diary<br>Number | Recommendation<br>of sponsoring<br>authority (in brief) | Extent of relaxation<br>and conditions, if<br>any, on which relaxation is made | Record particular (i.e. file No. of the case if recorded in the Section otherwise No. and date of the sanction issued by the sanctioning |
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