

# **The Bihar Lokayukta (Condition of Service) Rules, 1974**

BIHAR

India

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### **Rule**

### **THE-BIHAR-LOKAYUKTA-CONDITION-OF-SERVICE-RULES-1974 of 1974**

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The Bihar Lokayukta (Condition of Service) Rules, 1974

### **Part I – Preliminary**

**1. These Rules may be called the Bihar Lokayukta (Conditions of Service) Rules, 1974.**

### **2. Definitions.**

- In these Rules unless the context otherwise requires-(a)"Actual service" includes-(i)time spent by the Lokayukta on duty;(ii)joining time or transfer to the office of Lokayukta from a post or a office under the Government of India or a State Government;(b)"Family" means-(i)the wife or husband of the Lokayukta; and(ii)the parents, legitimate children and step-children of the Lokayukta, wholly dependent upon him;(c)"Government" means the Government of India or a State Government;(d)"Government Servant" means a person who before his appointment as Lokayukta, was in the service of the Government of India or of a State Government;(e)"Governor" means the Governor of Bihar;(f)"Hospital" means a Government hospital and includes a hospital maintained by a local authority and any other hospital with which arrangements have been made by Government for the treatment of its officers;(g)"Parent service" means in relation to a Government servant appointed as Lokayukta, the service under which he was employed before his appointment as Lokayukta;(h)"Pension" means a pension of any kind payable to the Lokayukta, and includes any gratuity or other sum or sums so payable by way of death or retirement benefits;(i)"Prescribed" means prescribed under these Rules;(j)"Service for pension" includes-(i)actual service;(ii)forty-five

days, or the number of days actually availed of, whichever is less, at each period of leave, or full allowances;(iii)joining time or return from leave outside India; and(iv)any period which may be added to the service for pension of the Lokayukta;(v)"Service pension" means the pension granted to a Government servant appointed as Lokayukta under the Rules of the Parent service and signified the gross amount of such pension prior to communication and includes the pension equivalent of service gratuity.

## **Part II – Retirement of a Government Servant on Appointment as Lokayukta**

### **3.**

A Lokayukta who, immediately before the date of his appointment as such, was a Government Servant, shall be deemed to have retired from parent service with effect from the date of his appointment as Lokayukta.

## **Part III – Leave**

### **4.**

A Government Servant appointed as Lokayukta while in service, may be permitted to carry forward all the leave earned by him in the parent service, to be availed of by him during the tenure of his office as Lokayukta. Subject to this, the calculation of leave admissible to the Lokayukta will be done in accordance with Rule 5.

### **5.**

(1)The Lokayukta may be granted leave as follows:-(a)earned leave, on full allowance, up to 1/11th period spent on duty subject to a maximum of four months at any onetime;(b)leave on medical certificate, on half the allowance admissible on earned leave, subject to maximum of three months at any one time.(c)extraordinary leave without allowance, subject to a maximum of three months at any one time.Explanation. - (1) All or any two of these kinds of leave may be granted in combination, at one time.(2)The Lokayukta may in addition to any leave salary he may be entitled to under sub-rule (1), draw the service pension.(3)The Lokayukta appointed under Section 3 of the Bihar Lokayukta Act, 1973 (Bihar Act VI of 1974), on ceasing to hold office after completing his full term of five years as provided in sub-section (i) of Section 5 of the Act, shall be entitled to the cash equivalent of leave salary in respect of the period of earned leave to his credit on the date he ceases to hold office subject to maximum period of 180 (one hundred eighty) days.\*(4) [Deleted vide G.S.R No. 10, dated 24th March, 1988].

## **6. Notwithstanding anything contained in sub**

- rule (i) of Rule 5, the Lokayukta may be permitted to Commute leave on half allowances into leave on full allowance: on medical certificate upto a maximum of three months during the whole period of his service as Lokayukta.

## **7. Special disability leave.**

- The Rules prescribed in the All-India Service (Special Disability leave) Regulation, 1957, in respect of a member of the All-India Service, who may be disabled by injury caused in, or in consequence of his official duties, or in consequence of his official position, shall apply in relation to the Lokayukta.

## **8. Consequence of over**

- staying leave. - If the Lokayukta overstays his leave, he shall receive no salary for the period of his absence in excess of leave granted to him: Provided that if such leave is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

## **9. Authority competent to grant leave, etc.**

- The Authority competent to grant or refuse leave to the Lokayukta, or revoke or curtail leave granted to him shall be the Governor.

## **Part IV – Pension**

### **10. Pension payable to the Lokayukta.**

- Subject to the provisions of these Rules, the Lokayukta shall, on his retirement or ceasing to hold office, be paid pension: Provided that no such pension shall be payable to the Lokayukta-(a) unless he has completed not less than three years of service for pension, or (b) if he has been removed from service; or (c) if he has resigned, unless he has completed three years of service or more for pension, and such resignation is accepted by the Governor: Provided further that if the Lokayukta, at the time of his appointment is receipt of a service pension (other than a disability or wound pension), the pension payable under those Rules shall be in lieu of and not in addition to, that pension: Provided further that if the Lokayukta, at the time of his appointment, is receipt of a service pension, he shall count his service as Lokayukta for pension and retirement benefits under the Rules applicable to the service to which belonged before such appointment. (Inserted vide G.S.R.No. 10 dated the 24th March 1988)

### **11. Special provision for pension in respect of the Lokayukta who has held any pensionable civil post under Government.**

- The Lokayukta, who immediately before his appointment as such, was in the service of Government, shall at his option, to be exercised within a period of six months from the date of his appointment, or the publication of those rules, be entitled to draw his service pension and other retirement benefits occurring therefrom, if he had not been appointed Lokayukta: Provided that every such person shall count his service as Lokayukta for pension and retirement benefits under the rules applicable to the service to which he belongs immediately before such appointment.

## **12.**

(1) The basic pension to which a Lokayukta who has not held any other pensionable civil post under Government, or, having held any other pensionable civil post under Government has not exercised his option under Rule II to draw his pension and other retirement benefits under the ordinary Rules of his parent service, shall be-(a) [The pension for first three completed years shall be payable @ Rs. 15000/- (Rupees fifteen thousand) per annum; and] [Substituted vide Notification No. 8/Lok-5-07/2005-Ka 1472, dated 9.2.2007.](b) Thereafter, for each succeeding completed year of the service an additional amount of Rs. 3000/- (Rupees three thousand) shall be payable for pension."(2) [The Lokayukta, who is qualified for basic pension under this part, shall be entitled for additional pension Rs. 2220/- (Rupees two thousand two hundred and twenty) per annum for each completed year of the service."] [Substituted vide Notification No. 8/Lok-5-07/2005-Ka 1472, dated 9.2.2007.]

## **13. Power of Governor to add to the service for pension.**

- The Governor may for special reasons direct that any period not exceeding three months, shall be added to the service for pension of a Lokayukta: Provided that the period so added shall be disregarded in calculating any additional pension.

## **14.**

Where a Lokayukta, who has exercised his option to receive service pension, dies, whether before or after retirement, a family pension shall be payable to the person or persons entitled thereto under the ordinary Rules of his parent service, if he had not been appointed Lokayukta, his service, as Lokayukta being treated as service therein for the purpose of calculating that family pension.

## **15.**

The pension payable under Rule 11 shall not be commuted, but the pension under Rule 12 may be commuted.

## **16. Authority competent to grant pension.**

- The authority competent to grant a pension to the Lokayukta shall be the Governor.

## **Part V – Miscellaneous**

### **17. Facilities for medical treatment and other conditions of service.**

- The Lokayukta and the members of his family shall be entitled to the facilities for medical treatment and for accommodation in hospital, as admissible to a member of the Indian Administrative Service holding the rank of Secretary to Government under the All India Services (Medical Attendance) Rules, 1954.

#### **17A. Allowance admissible to Lokayukta.**

- With effect from 1st December 1978, there shall be paid to the Lokayukta in respect of time spent on actual service dearness allowance and additional dearness allowance at the rates admissible to the Chief Justice of the Patna High Court.(Inserted vide OM/L2-011/82/284-O/dated Patna 27th August 1982)

#### **17B.**

All other allowances and interim relief payable to, and all other conditions of service of Lokayukta for which there is no specific provision in these Rules or any other rules, shall be the same as sanctioned by the Governor from time to time under this provision.(Inserted vide G.S.R. No-10,dated the 24th March 1988)

### **18. Provident Fund.**

- The Lokayukta shall be entitled to subscribe to the General Provident fund, in accordance with the Rules regulating that fund:Provided that a Lokayukta, who immediately before appointment as such, has held any pensionable civil post under the Government of India or a State Government, shall continue to subscribe to the Provident Fund to which he was subscribing before his appointment as Lokayukta.

### **19. House building advance and motor car advance.**

- The grant of a house building advance and advance for purchase of motor car to the Loakyukta shall be regulated by the appropriate Rules in force, applicable to the Government servants drawing comparable emoluments.

## **Part VI – 20. Composition of establishment.**

- There shall be a separate establishment of the Lokayukta, with separate budget allotments, in which there shall be a Secretary to Lokayukta, and such other Gazetted and Non-Gazetted staff as the Governor may, from time to time determine in consultation with the Lokayukata.

## **21. Secretary to Lokayukta.**

(1)The Secretary to Lokayukta shall be appointed by Lokayukta.(2)The Secretary shall be drawn from the Indian Administrative Service permanently allotted to the State Cadre, drawing pay in the senior scale or the super time scale of the service, or the State Superior judicial Service, and shall receive the pay which he would have drawn but for his appointment as Secretary.(3)The Secretary shall hold office for a period as may be decided by the Government in consultation with he Lokayukta and may be recalled earlier if need be, after consultation with the Lokayukata.

## **22. Other conditions of service of the Secretary.**

- In respect of all other matters the conditions of service of the Secretary shall be as are applicable either to a member of the Indian Administrative Service or the State Superior Judicial Sen/ice according as the incumbent withdrawn from either to these services.

## **23. Other Gazetted Officer, Ministerial Officers and inferior servants.**

- The other Gazetted Officers, the Ministerial Officers and the class IV staff in the Establishment shall be appointed by the Lokayukta:Provided that the Lokayukta may, by general or special order, delegate to the Secretary or any other officer or the establishment the power to make appointment to a post or a class of posts in class III or class IV specified in such order.

## **24. Method of recruitment of the subordinate staff.**

(1)Subject to the provisions of sub-rules (1) and (2) of Rule 21, recruitment to a post or a class of posts in the establishment may be made by any one of following methods, namely:-(a)by promotion of a person employed in the establishment; or(b)by permanent transfer or deputation of a person serving outside the establishment in connection with the affairs of the Union or this State; or(c)by direct recruitment for ad-hoc purposes.(2)Subject to the provisions of sub-rule (2) of Rule 21, the Lokayukta may by order from time to time-(a)specify the method or methods by which a post or a class of posts may be filled;(b)determine the proportion of vacancies to be filled by each method, and(c)in case of recruitment by promotion specify the class of officers whom and the conditions subject to which they shall be eligible for such promotion:Provided that appointments to the posts in class I, except that of Secretary and class II of the establishment by promotion or transfer or direct recruitment shall be made only after consultation with the Bihar Public Service Commission:Provided further in the case of a temporary or officiating appointment by promotion or transfer or direct recruitment to a post in classes I and II for a period not exceeding six months consultation with the Commission shall not be necessary, unless the appointment is likely to continue for a period exceeding six months:Provided further that for appointment to a post of Section Officer or Senior Personal Assistant it shall not be necessary to consult the Commission.

## **25. Head of Office.**

- The Secretary shall be the head of the office of the Lokayukta and he shall properly maintain all the proceedings and records of the office and secrecy relating thereto.

## **26. Powers to utilize the Services of any officers or investigation agency of the State Government.**

(1)The Lokayukta may, for the purpose of conducting investigation under the Act, send requisition for the services of any officer or investigation agency of the State Government to the Head of the Department or office concerned and it shall be complied with unless the Governor decided that the services of the said officer or agency can not be placed under the disposal of the Lokayukta without detriment to the affairs of the State.(2)If the Lokayukta consider it necessary or expedient he may consult an expert or any other agency for examination of a specific case or category of cases.

## **27. Remuneration, honorarium and special pay.**

- There shall be paid to the officer or officers, whose services are utilized under Rule 26, such remuneration, honorarium or special pay as the Lokayukta may deem proper and reasonable:Provided that no order sanctioning such remuneration, honorarium or special pay shall be issued except after consultation with the Finance Department:Provided further that sanction of remuneration and honorarium up to a limit of Rs. 100 per individual and total expenditure up to a limit of Rs. 1,500 per year on this account will not require prior consultation with the Finance Department.

## **28. Probation.**

- Every, person appointed to a permanent post in any class, other than class I, by direct recruitment with a view to his eventual substantive appointment to that post shall be on probation for a period of two years:Provided that the Lokayukta or Secretary or any other officer to whom powers is delegated under Rule 23 may, by order, extend or reduce the period of probation in the case of any person appointed to any post specified in such order.

## **29. Pay.**

- The scales of pay of the Gazetted Officers, other than Secretary, the Ministerial Officers and the class IV staff of the establishment shall be the same as those prescribed for the corresponding personnel in the State Secretariat and if they are drawn from the State Secretariat, they shall receive the pay which they would have drawn but for their appointment on the staff of the Lokayukta.

### **30. Other conditions of service.**

- In respect of other matters regulating the conditions of service of the members of the establishment for which no specific provision has been made in these Rules, the members of the establishment shall be governed by such Rules, orders or directions as are applicable to the officers of the corresponding rank in the Bihar Civil Secretariat, subject to such modifications, variations or exceptions if any in such Rules, orders or directions as may, after consultation with the Finance Department, by order from time to time, be specified.

### **31. Control and discipline.**

- All officers and staff in the establishment shall be subject to the superintendence and control of the Lokayukta.

### **32. Penalties.**

- The following penalties may, for good and sufficient reasons, be imposed on any member of the establishment, namely:-(1)censure;(2)withholding of increments or promotion;(3)reduction to a lower post on time-scale or lower stage in a time-scale;(4)recovery from pay of the whole or part of any pecuniary loss caused to the Union or State by negligence or breach of orders;(5)compulsory retirement;(6)removal from service in the establishment which shall not disqualify from future employment under the Government;(7)dismissal from service in the establishment which shall ordinarily disqualify from future employment under the Government, and(8)fine.Explanation. - (1) The termination of employment of a member of the establishment during or at the end of the period of probation does not amount to removal or dismissal within the meaning of this Rule.(2)The stoppage of a member of the establishment at the efficiency bar in the time-scale of his pay on the ground of his unfitness to cross the bar does not amount to withholding of increment of promotion within the meaning of this Rules.(3)A refusal to promote a member of the establishment after due consideration of his case, to a post or grade to which promotions are made by selection, does not amount to withholding of promotion within the meaning of this Rule.(4)The reversion to a lower post of a member of the establishment who is officiating in a higher post, after a trial in the higher post or for administrative reasons (such as the return of the permanent incumbent from leave or deputation, availability of a more suitable person, and the like does not amount to reduction in rank within the meaning of this Rule.(5)Compulsory retirement of a member of the establishment in accordance with the provisions relating to his superannuation or retirement does not amount of penalty within the meaning of this Rule.(6)The withholding of increment for failure to pass departmental examinations does not amount to withholding of increment within the meaning of this Rule.(7)Punishment of fine may be inflicted only on a member of class IV staff.Note. - (1) Before an order imposing the following penalties can be passed, the procedure laid down under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules shall be followed:-(i)Dismissal;(ii)Removal;(iii)Compulsory retirement, or(iv)Reduction in rank.Note. - (2) For the procedure to be followed before an order imposing the following penalties can be passed [See Rule 35A of the Civil Services (Classification, Control and Appeal) Rules:(i)Censure;(ii)Withholding of increment or promotion including stoppage at efficiency



bar;(iii)Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of order.

### **33. Punishing authority.**

- Subject to the provisions of Article 311 of the Constitution, the Lokayukta shall have the power to impose any of the penalties specified in Rule 32 on any member of the establishment in respect of whom he is the appointing authority:Provided that the Lokayukta may subject to the delegation of power that he may make in regard to appointments under Rule 23, delegate to the Secretary or any other officer of the establishment, the power to impose any of the said penalties on any member of class III or class IV staff of the establishment.

### **34. Disciplinary action against an officer on deputation to establishment.**

- If in the case of an officer or any other member of the establishment on deputation to it, the Lokayukta or any other officer to whom power to impose penalty has been delegated under Rule 33 is, without prejudice to the provisions of the foregoing Rules of opinion that any of the penalties referred to in Rule 32 should be imposed upon the said officer, all the relevant papers connected with the disciplinary case shall be sent to the Parent Department office. Final orders in the matter shall be passed in the parent department/office and a copy thereof shall be forwarded to the Lokayukta office.

### **35. Appeal.**

(1)Every member of the establishment shall have a right to appeal to the Lokayukta against any order passed originally or on appeal by the Secretary imposing or confirming any penalty specified in Rule 32:Provided that where an order is passed originally by any officer subordinate to the Secretary on appeal against such an order shall lie to the Secretary.(2)The order of the Lokayukta whether passed original or an appeal shall be final:Provided that the Lokayukta may on his own motion or an application, received rescind any order passed by him under this Rule.Note. - In regard to construction on appeals or disposal thereof, the provisions of Rules 59, 61, 62, 63, 64 and 65 of the Civil Services (Classification, Control and Appeal) Rules and Rule 6, 7, 8, 9, 10 and 11 of the Bihar and Orissa Subordinate Service Discipline and Appeal Rules, 1935 shall be followed.