

DISMISSAL, REMOVAL AND SUSPENSION

Dismissal from Service: -

Means disqualification from present as well as future service.

Removal from Service: -

Means disqualification only from present service and not future service;

Suspension: -

To "Suspend" means to debar, usually for a time, from the exercise of a function or a privilege especially to deprive temporarily of one's office or again to interdict.

Payment and Amenities Admissible To a Suspended Govt. Servant

- i) Subsistence grant equal to half month pay and full allowances.
- ii) Line rent of official telephone will be paid by Govt. and payment on account of local and Trunk calls shall be made by the officer himself.
- iii) Residence orderly will be withdrawn.
- iv) No official transport will be provided.
- v) Cost of stationery and postage stamps required by him in connection with his reference has to be paid by the accused Govt. servant himself.

Govt. Servants To Be Placed Under Suspension When Really Necessary:

No Govt. servant should be placed under "Suspension" except when this is really necessary and that the following factors should guide an officer in deciding whether or not to issue orders of suspension: -

- a. There must be a strong prima-facie cases against the delinquent;
- b. If the offence is of such a serious nature that dismissal will be the probable punishment, or such that it is inadvisable that the offender should be allowed to continue to perform the duties on the case, suspension is justifiable;
- c. Unless there is some very strong reason why the offender should not be allowed to continue to work until the case has been decided, suspension should not be resorted to;
- d. No one should be suspended for petty breaches of discipline and for minor departmental offence;
- e. No one should be suspended unless: -
 - i) he willfully and obstinately refuses to carry out an order;
 - ii) During the course of an inquiry his appointment would be hampered or frustrated such inquiry.
 - iii) he is in police custody.
 - iv) he is charged with an offence of a nature which, if proved against him results in his dismissal.
- f. A government servant committed to prison either for debt or on a criminal charge should be considered as under suspension from the date of his arrest and until the termination of the proceedings against him, i.e. his suspension is automatic from the date of arrest till termination of proceedings against him.

- g. A government servant against whom a criminal charge or a proceeding for arrest or debt is pending should also be placed under suspension when he is not actually detained in custody or imprisoned (e.g. whilst released on bail) if the charge made or proceedings taken against him is connected with his position as a Govt. servant or is likely to embarrass him on discharge of his duties as such or involves moral turpitude.

Pay & Allowances on Reinstatement after Being Dismissed, Removed From Service or Suspended: -

- a. If Honorably Acquitted: He may be given full pay to which he would have been entitled but for his dismissal, removal or suspension. The period of absence will be treated as duty.
- b. If Not Honorably Acquitted: He may be granted such portion of pay as may be prescribed. The period of absence is not treated as duty unless the revision or appellate authority directs that it should be treated as duty. The competent authority may also direct that the period spent under suspension may be regarded as leave and the Government servant paid leave salary. An appellate authority can convert such period into one of leave including extra ordinary Leave.

GENERAL ORDERS

- No leave may be granted to a Government servant under suspension.
- If a suspended Government servant attains the age of superannuation before the completion of the inquiry, the disciplinary proceedings will abate and he will retire with full pension benefits and the absence period will be treated as duty.
- On reinstatement, the amount of arrears payable to a Government servant will be reduced by the amount earned by way of salary or as a profit on account of his having accepted some employment or been engaged in some profitable business during the period he remained dismissed, removed or suspended and for determination of this, a committee will be constituted.
- The posts vacated by dismissed government servant may be filled substantively, but such arrangements have to be reversed if the dismissed government servant is reinstated on appeal.
- If the government servant is reinstated honorably, there should be raised no question as to whether there was a post or not against which he could be adjusted for the period of his absence or that he had no longer any lien and another government servant was appointed substantively in his place FR. 54 should be treated as absolute and unconditional.
- A government servant ceases to draw the pay & allowances of his post from the date of his dismissal or removal from service.
- If the period of suspension is converted into E.O.L., no recovery will be made for the subsistence grant and allowances already paid to the suspended government servant.
- The period of suspension followed by reinstatement or superannuation counts towards qualifying service for pension.
- Removal from Service Rules.

ESTABLISHMENT & ADMN: DEPARTMENT
No.SORII (E&AD: DEPTT.)5(29)2001/V-IV
Dated Peshawar the 12th June, 2001

Subject: - THE NWFP REMOVAL FROM SERVICE (SPECIAL POWERS (AMENDMENT) ORDINANCE 2001.

I am directed to refer to the subject noted above and to forward herewith a copy of the NWFP Removal from Service (Special Powers) (Amendment) Ordinance -2001 duly published in extra-ordinary Gazette of the Government of NWFP for your information and further necessary action.

- N.W.F.P. Civil Servants (Amendment) Ord, 2001.

NOTIFICATION

23rd May, 2001

No.Legis: 1(4)/2000/273.

THE NORTH-WEST FRONTIER PROVINCE

REMOVAL FROM SERVICE (SPECIAL POWERS) (AMENDMENT)

ORDINANCE, 2001

N.W.F.P. ORDINANCE NO.V OF 2001 AN ORDINANCE

To amend the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000.

WHEREAS it is expected to amend the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 (N.W.F.P. Ord. No.V of 2000), for the purposes hereinafter appearing;

AND WHEREAS the Provincial Assembly of the North-West Frontier Province is in abeyance and the Governor is satisfied that the circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the proclamation of the fourteenth day of October, 1999, and the Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers

enabling him in that behalf, Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance.

Short title and commencement,

1. This Ordinance may be called the North-West Frontier Province Removal from Service (Special Powers (Amendment) Ordinance, 2001.
2. It shall come into force at once; provided that sub-clause (iv) of clause (c) of sub-section (1) of section 3 and sub-section (5) of section 5 of the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 200 (N.W.F.P Ord. No. V of 2000), as amended, substituted or inserted by or under this Ordinance, shall be deemed to have taken effect on and from the 15th day of August, 2000.

Amendment of section 3 of N.W.F.P. Ord. No. V of 2000. ---In the North West Frontier Removal from Service (Special Powers) Ordinance, 2000 (N.W.F.P Ord. No.V of 2000), hereinafter referred to as the said Ordinance, for section 3, the following shall be substituted, namely

3. Dismissal, removal and compulsory retirement, etc. of certain persons in Government or corporation service, etc.---(1) Where, in the opinion of the competent authority, a person in Government or corporation service is,
 - a. Inefficient, or has ceased to be efficient for any reason, or is guilty of habitually absenting himself from duty without prior approval of leave; or
 - b. Guilty of misconduct; or
 - c. Corrupt, or may reasonably be considered as corrupt because,
 - i. He, or any of his dependants or any other person, through him or on his behalf, is in possession of pecuniary sources or of property, for which he cannot reasonably account for, and which are disproportionate to his known sources of income; or
 - ii. He has assumed a style of living beyond his known sources of income; or
 - iii. He has a persistent reputation of being corrupt; or
 - iv. He has entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; or
 - d. Engaged, or is reasonably believed to be engaged, in subversive activities and his retention in service is prejudicial to national security or he is guilty of disclosure of official secrets to any unauthorized persons; or
- N.W.F.P GOVT: GAZTTE, EXTRAORDINARY, 23RD MAY, 2001.866.

- e. Found to have been appointed or promoted on extraneous considerations in violation of law and the relevant rules, the competent authority may, notwithstanding anything contained in any law, or the terms and conditions of service of such person, but subject to the provisions herein contained and the provisions contained in section 5, by order in writing, dismiss or remove such a person from service, compulsory retire him from service or reduce him to lower post or pay scale, or impose upon him one or more minor penalties as prescribed in the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973.
4. Before passing an order under sub-section (1), the competent authority shall,
- a. By order in writing, inform the accused of the action proposed to be taken with regard to him and the grounds of the action; and
 - b. Give him a reasonable opportunity of showing cause against that action within seven days or within such extended period as the competent authority may determine:
Provided that no such opportunity shall be given where,
 - i. The competent authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity; or
 - ii. The accused is dismissed or removed from service or reduces in rank on the ground of conduct has a sentence of fine or of imprisonment or where the competent authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to give the accused an opportunity of showing cause.
5. The dismissal or removal or premature retirement from service or reduction to lower to lower post or pay scale of a person under sub-section (1) shall not absolve such person from liability to any punishment to which he may be liable for an offence committed by him under any law, while in service.

AMENDMENTS OF SECTION 5 OF N.-W.F.P. ORD.NO. V OF 2000.
In the said Ordinance, for section 5 the following shall be substituted, namely: -

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Power to appoint an Inquiry Officer or Inquiry Committee,

6. Subject to the provisions of sub-section (2), the competent authority shall, before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee to scrutinize the conduct of a person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions specified in section 3. The Inquiry Officer or, as the case may be, the Inquiry Committee, shall---

- a. Communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority;
 - b. Require the accused within seven days from the day the charge is communicated to him to put in a written defense;
 - c. Enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him; and
 - d. Hear the case from day to day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.
7. Where the Inquiry Officer or, as the case may be, the Inquiry Committee, is satisfied that the accused is hampering, or attempting to hamper, the progress of the Inquiry, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner s he or it deems proper in the interest of justice.
 8. The Inquiry officer or, as the case may be, the inquiry Committees, shall submit his or its findings and recommendations to the competent authority within twenty-five days of the initiation of inquiry.
 9. The competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing; it is satisfied that there is no need of holding an inquiry.
 10. Where a person who has entered into plea-bargaining under any law for the time being in force, and has returned the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered:
 Provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit."

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2001.868

In the said Ordinance, ---

- a. For the words "inquiry committee", wherever occurring, except in the marginal heading of sections 6 and 7, the words and commas "Inquiry Officer or, as the case may be, the Inquiry Committee" shall be substituted; and
- b. In the marginal heading of section 6 and 7, for the words "inquiry committee" the words "Inquiry Officer or Inquiry Committee" shall be substituted.

REMOVAL FROM SERVICE

NOTIFICATION

Dated Peshawar the 28th September, 2000

No.SOR-II(S&GAD) 5(29)/2000.Vol.III :- In pursuance of the provisions contained in clause (a) of section 2 of the North-West Frontier Province Removal From Service (Special Powers) Ordinance ,2000 (NWFP Ordinance No.V of 2000), the Government of the North-West Frontier Province is pleased to authorized the officers shown in column 3 of the Table below to exercise the powers the Competent under the said Ordinance in respect of class persons shown against each such officer in column 2 of the table:-

TABLE NO.1

**FOR PERSONS EMPLOYED IN THE PROVINCIAL GOVERNMENT
ADMINISTRATION DEPARTMENTS ATTACHED DEPARTMENTS AND
SUBORDINATES FORMATION /OFFICERS OF THE ADMINISTRATIVE
DEPARTMENTS.**

S.No	Class of Persons	Officer authorized to exercise the powers of competent authority
1	2	3
1	Holders of posts in BPS-17 other than Those born on- a. The former Provincial Civil Service (Executive Branch) and b. The Provincial Civil Secretariat Service.	Chief Secretary

2.	<p>Holders of posts in BPS-16</p> <p>i. In the case of Secretary of Govt: of the North West Frontier Province</p> <p>ii. In the Attached Departments.</p> <p>iii. In any other case.</p>	<p>Chief Secretary</p> <p>Head of the Attached Deptt: concerned</p> <p>Secretary of the Administrative Deptt:</p> <p>Concerned.</p>
3.	Holders of posts in BPS-1 to 15.	Appointing Authority concerned.

TABLE NO.2

FOR PERSONS IN CORPORATION SERVICE

S.No	Class of Persons	Officer authorized to exercise the competent authority.
1	Holders of posts in BPS-18-19 and equivalent	Chief Secretary
2	Holders of posts in BPS-17 and equivalent	Administrative Secretary concerned
3	Holders of posts in BPS-16 and equivalent	Managing Director /Chief Executive Officer of the Organization by whatever name called.
4	Holders of posts in BPS-1 to 15 and equivalent	Appointing Authority concerned

2. It is hereby clarified that for those holders of posts for which not Competent Authority has been specified in this notification, the Governor himself would be the Competent Authority , as already provided inSection2 (a) of the NWFP Removal from Service (Special Powers) Ordinance . 2000(NWFP Ord.No V of 2000).