

**The Orissa State Election Commissioner
(Appointment, Conditions of Service and
Miscellaneous Provisions) Rules, 1994**

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**ORISSA STATE ELECTION COMMISSIONER
(APPOINTMENT, CONDITIONS OF SERVICE &
MISCELLANEOUS PROVISIONS)
RULES 1994 ***

S.R.O. No. 442/94—In exercise of the powers conferred by clause(2) of Article 243-K of the Constitution of India and in cancellation of the notification of the Governor of Orissa in the Panchayati Raj Department No. 1685, dated the 29th January, 1994 published in the Extraordinary issue No. 120 of the *Orissa Gazette*, dated the 31st January, 1994, the Governor of Orissa has been pleased to make the following rules, namely :—

Short title and
commencement.

1. (1) These rules may be called the Orissa State Election Commissioner (Appointment, Conditions of Service and Miscellaneous Provisions) Rules, 1994.

(2) They shall come into force on the date of their publication in the official Gazette.

Definition

2. Unless the context otherwise require :—

(a) "Chairman" means the Chairman of the Orissa Public Service Commission ;

(b) "Commissioner" means the State Election Commissioner, appointed under Article 243-K of the Constitution ;

(c) "Civil Servant" means and includes a member of the All-India Service or State Civil Service ;

* Published in Extraordinary *Orissa Gazette*, No. 566 bearing S. R. O. No. 442/94, dated 19-5-1994.

***(d) 'Pay last drawn' means the pay drawn last by the person concerned while in Government service or the minimum of the corresponding revised scales of pay, if any, of the post last held by him¹, whichever is higher ;**

***(e) 'Pension' means the pension as defined in rule 34 of the Orissa Service Code.**

**Qualification for
appointment as
the Election
Commissioner.**

3. (1) No person shall be qualified for being appointed as the Commissioner, if he is not –

(a) a retired Judge of the High Court ; or

(b) a retired District Judge ; or

(c) a retired Civil Servant ; or

(d) a serving Civil Servant.

(2) If a person, immediately before his appointment, was under employment as a civil servant under the State or Central Government, he shall be deemed to have demitted his office as such with effect from the date of his appointment as Commissioner.

Term of Office

4. (1) The tenure of the office of the Commissioner shall be ** Five years² or till the Commissioner attains the age of sixty-five years, whichever is earlier.

*** Added vide P. R. (G.P.) Deptt. Notification No. 23731, dated 8-12-1998**

**** Substituted vide P. R. (G.P.) Deptt. Notification No. 10095/GP., dated 31-5-1996**

(2) Notwithstanding anything contained in sub-rule (1), the Commissioner may, by writing under his hand, addressed to the Governor, resign from his office at any time.

Oath of
allegiance.

5. The Commissioner shall, before entering upon his office ; make an oath or affirmation of his allegiance to the Constitution in the following form, namely :-

"I having been appointed as the State Election Commissioner, swear in the name of God/Solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter".

Salary and
allowances.

6. *“(1) The Commissioner shall be entitled to a pay of Rs. 20,450/- (Rupees twenty thousand four hundred and fifty) only per month minus pension, if any, including the commuted amount :

Provided that where the pay last drawn by the person concerned, while in Government service prior to appointment as the Commissioner, was higher than the pay specified under this sub-rule, such person on appointment as the Commissioner shall be entitled to receive the pay last drawn by him minus pension, if any, including the commuted amount".

(2) Perquisite of the office of the Commissioner shall be the same as that of the Chairman.

* Substituted Vide P.R (GP) Deptt. Notification No. 23731/GP., dt. 08-12-1998.

(3) The Commissioner shall be entitled to Travelling Allowances or Daily Allowances for his journeys on tour at par with the Chairman.

(4) The Commissioner shall be entitled to leave and pension at the same scale, rate and in the same manner as that of the Chairman .

**Provided that the Commissioner shall be entitled to pension if he has completed two years of service as such.

Explanation – The expression "leave" appearing in this sub-rule shall include encashment of accumulated leave at credit at the time of completion of the tenure".

Filling of casual
vacancy.

7. The casual vacancy in the office of the Commissioner due to death, resignation, removal or otherwise shall be filled up by the Governor by fresh appointment in accordance with the provisions of these rules.

Filling of leave
vacancy.

** 7A. (1) Whenever the Commissioner proceeds on leave, other than casual leave, the Governor shall, by notification, direct a civil servant not below the rank of Principal Secretary under the State Govt. to remain in charge of the office of the Commissioner till the Commissioner on leave returns and joins on duty.

(2) The provisions of sub-rule (2) of rule 3 shall not apply to the Civil Servant while functioning as the Commissioner under sub-rule (1)".

* Inserted vide P.R.(GP) Deptt. Notification No. 23731/GP., dt. 08-12-1998.

* * Inserted vide P.R.(GP) Deptt. Notification No. 9170/GP., dt. 10-05-2001.

Interim period
to be within
the term of
office.

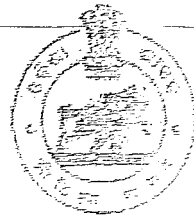
8. The term of office of the Commissioner shall be deemed to include any period which may elapse between the date on which the Commissioner ceases to be in office and the date from which the succeeding Commissioner enters upon office.

Power to
remove
difficulties.

9. (1) If any doubt or difficulty arises in implementing these rules the Governor may, subject to the proviso to clause (2) of Article 243-K, by order, published in the official Gazette, make orders, as may be necessary, for removing the doubt or difficulty.

(2) Every order made under this rule shall be laid before the State Legislature as soon as may be after it is made.

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PANCHAYATI RAJ DEPARTMENT

NOTIFICATION

The 10th April, 2014

S.R.O.No.167/2014—In exercise of the powers conferred by clause (2) of Article 243-K of the Constitution of India, the Governor of Odisha has been pleased to make the following rules, further to amend the Odisha State Election Commissioner (Appointment, Conditions of Service and Miscellaneous Provisions) Rules, 1994, namely:—

1. (1) The rules may be called the Odisha State Election Commissioner (Appointment, Conditions of Service and Miscellaneous Provisions) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Odisha State Election Commissioner (Appointment, Conditions of Service and Miscellaneous Provisions) Rules, 1994 (hereinafter referred to as the said rules in rule 2, clause (a) shall be omitted.

3. In the said Rule, for rule 6 the following rule shall be substituted, namely:—

“Salary & Allowances and Leave etc. 6 (1) There shall be paid to the Commissioner, the salary and allowances of a Judge of a High Court: Provided that if the Commissioner at the time of his appointment is in receipt of or being eligible to receive any pension and had elected to draw or receive the pension (other than disability or wound pension) in respect of any previous service under the Government of the Union or of a State, his salary in respect of service as a Commissioner, shall be reduced—

- (i) by the amount of that pension;
- (ii) if he had, before assuming office, received in lieu of a pension due to him in respect of such previous service, the commuted value of that portion of the pension; and
- (iii) by any other form of retirement benefits, including Temporary Increase being drawn or availed of by him.

(2) A person who on the date of appointment as a Commissioner of the Commission, was in the service of the Government of India or the Government of Odisha or a District Judge or any officer, shall be deemed to have retired from Service with effect from the date on which he enters upon his office as a Commissioner of the Commission.

(3) A person, on appointment as Commissioner shall be entitled to the following leave namely:—

- (i) earned leave of fifteen days for every completed calendar year of service or a proportionate number of days for a part thereof and the leave salary for earned leave shall be equivalent to his salary drawn prior to proceeding on leave;
- (ii) half pay leave on medical certificate or on private affairs of twenty days in respect of each completed calendar year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave;
- (iii) leave on half pay can be computed to full pay leave if it is taken on self Medical ground and is supported by a Medical Certificate from the competent medical authority;
- (iv) extraordinary leave without pay and allowances up to a maximum of one hundred eighty days in one term of office; however, there shall be no break in the term of office due to such leave if availed on the ground of self illness;

(4) On the expiry of a term in the Commission, the Commissioner shall be entitled to received cash equivalent of leave salary in

respect of earned leave standing to his credit subject to condition that the maximum of leave encashed under this sub-rule or at the time of retirement from previous service, as the case may be or taken together shall not in any case exceed 300 days.

- (5) The Commissioner shall be entitled to receive dearness allowance as admissible on the leave salary under sub-rule (4) at the rates in force on the date of the relinquishment of their office in the Commission.

Provided that he shall not be entitled to city compensatory allowance or any other allowance on such leave.

- (6) If a sitting Judge of the High Court is appointed as a Commissioner, then, notwithstanding anything contained in sub-rules (3), (4) or (5) the provision of chapter-II of the High Court Judges (Conditions of Service) Act, 1954 shall apply to him up to the date of his superannuation as a sitting Judge of a High Court and thereafter he shall be entitled to leave in accordance with the provisions of sub-rules (3) to (5) of this rule.

- ✓ (7) Casual Leave is admissible to the Commissioner up to 15 days in a calendar year. Casual Leave for the Commissioner shall be sanctioned by the Governor.

- (8) Casual leave combined with Sunday and other authorized holidays should not exceed 10 days at a time.

- ✓ (9) The Commissioner shall be entitled to leave travel concession at the same rate and at the same scale and on the same conditions as are applicable to a judge of a High Court.

- (10) The power to grant or refuse leave to the Commissioner and to revoke or curtail leave granted to him, shall vest with the Governor.

- (11) The Commissioner, while on tour (including the journey undertaken to join the Commission or on the expiry of his term with the Commission to proceed to his home town) shall be entitled to travel allowances, allowances for transportation of personal effects and other similar matters and daily allowances

at the same rates as are admissible to a Judge of a High Court.

(12) The conditions of service relating to provision for rent free accommodation, conveyance facilities, medical facilities and such other conditions of service as are, for the time being, applicable to a Judge of a High Court under Chapter IV of the High Court Judges (Conditions of Service) Act, 1954 and the rules made thereunder shall, so far as may, apply to the Commissioner.

(13) The conditions of service of the Commissioner for which no express provisions are made in these rules shall be determined by the rules and orders for the time being applicable to the highest civil servant of the Government of Odisha.

(14) Person appointed to the Commission as the Commissioner shall be entitled to pension calculated at the rate of rupees four thousand seven hundred sixteen per annum, provided that no such pension shall be payable, if he has put in less than two years of service with the Commission:

Provided that the aggregate amount of pension payable under this rule together with the amount of any pension including commuted portion of pension, if any, drawn or entitled to be drawn while holding office in the Commission shall not exceed the maximum amount of pension prescribed for a Judge of the High Court.

[No.6184-17-SEC-18-1030/PR.]

By Order of the Governor

D. K. SINGH

Commissioner-cum-Secretary to Government