

# Rules for resignation and reinstatement of an officer

May 2, 2022

**In news**– Recently, Indian Administrative Service (IAS) officer Shah Faesal, who resigned from the service in protest against the “unabated” killings in Kashmir in 2019, has been reinstated.

## **What are the rules for resignation & reinstatement of an officer?**

- **A resignation is a formal intimation in writing by an officer of his/her intention or a proposal to leave the IAS**, either immediately or at a specified date in the future.
- Guidelines of the Department of Personnel, the cadre controlling department for the IAS, say that a resignation has to be clear and unconditional.
- **An officer serving in a cadre (state) must submit his/her resignation to the chief secretary** of the state.
- **An officer who is on central deputation** is required to submit his/her resignation **to the secretary of the concerned Ministry or Department**.
- **The Ministry/Department then forwards the officer's resignation to the concerned state cadre**, along with its comments or recommendations.
- **The resignation of an officer of any of the three All-India Services** – IAS, the Indian Police Service (IPS) and Indian Forest Service – is **governed by Rules 5(1) and 5(1)(A) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958**.
- There are similar rules for resignation of officers belonging to the other central services as well.
- **Resignation from service is entirely different from accepting the government's Voluntary Retirement Scheme**

### **(VRS).**

- Those who take VRS are entitled to pension, whereas those who resign are not.
- Rule 5 of the DCRB Rules say, “No retirement benefits may be granted to a person who has been dismissed or removed from the Service or who has resigned from the Service.

### **Process after submitting the resignation-**

- **The state (cadre of the officer) checks to see if any dues are outstanding against the officer, as well as the vigilance status of the officer** or whether any cases of corruption etc. are pending against him/her.
- In case there is such a case, the resignation is normally rejected.
- **The resignation of the officer is considered by the competent authority**, i.e., the central government, only after the recommendation of the concerned cadre has been received.
- **The competent authorities are:** Minister of State at the Department of Personnel & Training (DoPT) in respect of the IAS, the Minister for Home Affairs in respect of the IPS, and the Minister for Environment, Forest and Climate Change in respect of the Forest Service.
- **Being the minister in charge of the DoPT, the Prime Minister himself takes decisions currently** in respect of the IAS.

### **What are the conditions for the resignation to be accepted or rejected?**

- A circular issued by the DoPT on February 15, 1988 regarding resignation says that it is not in the interest of the government to retain an officer who is unwilling to serve.
- The general rule, therefore, is that the **resignation of an officer should be accepted – except in certain**

**circumstances.**

- The circular says that **where a Government servant who is under suspension submits a resignation the competent authority should examine**, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation.
- In **some cases, resignations have been rejected because disciplinary cases were pending against officers**. In such cases, **concurrence of the Central Vigilance Commission (CVC) is obtained**.
- The **government also checks whether the concerned officer had executed any bond to serve the government** for a specified number of years on account of having received specialised training, a fellowship, or scholarship for studies.
- **The circular also says that where the Government servant concerned is engaged in work of importance** and it would take time to make alternative arrangements for filling the post, the resignation should not be accepted straightway but only when alternative arrangements for filling the post have been made.

**Is an officer allowed to withdraw a resignation that has already been submitted?**

- **Rule 5(1A)(i) of the amended DCRB Rules says the central government may permit an officer to withdraw his/her resignation “in the public interest”.**
- **An amendment in the Rules in 2011 states “that the period of absence from duty between the date on which the resignation became effective and the date on which the member is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days”.**
- The same amendment in the Rules said, **“Request for withdrawal of resignation shall not be accepted by the**

**Central Government where a member of the Service resigns from his/her service or post with a view to be associated with any political parties** or any organisation which takes part in politics, or to take part in, or subscribe in aid of, or assist in any other manner, any political movement or political activity or to canvass or otherwise interfere with, or use his/her influence in connection with, or take part in, an election to any legislature or local authority.”

- The guidelines say that if an officer who has submitted his/her resignation sends an intimation in writing withdrawing it before its acceptance by the competent authority, the resignation will be deemed to have been automatically withdrawn.
- Shah Faesal’s resignation, in January 2019, had not been accepted by the government pending investigation into some of his posts on social media. However, since his resignation itself was not accepted, his request for the withdrawal of resignation was accepted.