

# PUNJAB CIVIL SERVICES (PUNISHMENT AND APPEAL) RULES, 1952

(Published with the Punjab Government Notification No 7123-C-52/ 8525, dated the 11th February, 1953)

(As amended upto 31st March, 1982)

In supersession of the rules published with Punjab Government notification No. 6693-G-40/47845, dated the 26th November, 1940 as amended from time to time, and in exercise of the powers conferred by the proviso, to Article 309 of the Constitution of India, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules to regulate the conduct and discipline affecting persons serving in a civil capacity in connection with the affairs of the State of Punjab until provision in that behalf is made by an Act of the State legislature.

(1) *Short title and extent* :— These rules may be called the Punjab Civil Services (Punishment and Appeal) Rules, 1952.

(2) Except as expressly provided by or under any law for the time being in force as respects disciplinary matters or rights similar there to applicable to the case of any person holding a civil post under the State, these rules shall apply to all persons belonging to the services and posts in connection with the affairs of the State of \*Haryana whether in service before or after the commencement of the Constitution but they shall not apply to:—

(a) persons appointed to All-India Services ;

(b) persons having been appointed by the Secretary of a State or the Secretary of State-in-Council to a Civil Service of the Crown in India who continue to serve under the Government of India or of a State on or after the commencement of the Constitution;

(c) persons in respect of whose conditions of Service and disciplinary matters and the conduct there of special provision has been made by agreement entered into before or after those rules come into force.

2. *Definitions*—In these rules, unless there is anything repugnant in subject or Context.—

(a) "Government" means the \*\*Haryana Government ; and

(b) "Head of the Department" means the authority prescribed as the Head of Department in Appendix 'D' to the Punjab Budget Manual in the case of each Department under the Administrative control of Government.

\*Substituted vide Haryana Govt. notification No. G.S.R. 23 Const./Art.-309/Amd. (1)/69, dated 21-1-69.

\*\*Substituted vide Haryana Govt. notification No. G.S.R.-24/Const./Art-309/Amd. (1)/63, dated 21-1-69.

3. *Saving clauses* :—All powers, rights and remedies provided by these rules shall be in addition to and not in derogation of the provisions of such rules as may be made by the Governor of \*Haryana in exercise of the powers conferred by proviso to Article 309 of the Constitution of India to regular the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the State of Punjab.

4. *Penalties*—The following penalties may, for good and sufficient reasons as hereinafter provided, be imposed upon members of services to whom these rules are applicable, namely:—

(i) censure;

\*(i) (a) warning with a copy of the personal file.

(ii) with holding of increments or promotion, including stoppage at an efficiency bar, if any;—

(iii) reduction to a lower post or time-scale or to a lower stage in a time-scale ;

\*(iv) recovery from pay of the whole or part of any pecuniary loss, caused by negligence or breach of orders, to Central Government or a State Government or to a Company

or substantially owned or Controlled by Government or to a Local Authority set up by an Act of Parliament or of the legislature of a State."

- (v) suspension;
- (vi) removal from the Civil Service of the Government which does not disqualify from future employment;
- (vii) Dismissal from the Civil Service of the Government which ordinary disqualifies from future employment.

*Explanation:—*(i) The termination of employment:—

- (a) of a person appointed on probation, during or at the end of the period of probation, in accordance with the terms of the appointment and the rules governing the probationary service; or
- (b) of a temporary Government servant appointed, otherwise than under contract, on the expiration of the period of the appointment on the abolition of the post or before the due time in accordance with terms of the appointment; or
- (c) of a person engaged under a contract, in accordance with the terms of his contract, does not amount to removal or dismissal within the meaning of this rule; or rule 7.

\*Inserted vide Haryana Govt. Notification No. G.S.R. 76/Const./Art. 187, 309 and 318/Amd. (I) 76 dated 2 April, 1976. (Published & Gazetted dated 6-4-76)

\*\*Substituted vide Haryana Govt. Notification No. G.S.R. 27/Const./Arts. 187, 309 and 398/Amd. dated 10th March, 1973.

*Explanation (ii):—*

- \*(ii) Stoppage at an efficiency bar of an employee under the provisions of Rule 4.8 of Civil Service Rules, Volume I, Part I or analogous provision of any other rules applicable to the employee on ground of unfitness to cross the bar does not amount to punishment under these Rules".

\*Notes:—(i) Punishing authorities have full discretion to publish in the \*\*Haryana Government Gazette reasons for dismissal where such publication is considered desirable in the public interest.

(2) In order to guard against the inadvertent re-employment of persons dismissed from Government service, the authority passing an order of dismissal shall intimate to the Deputy Inspector-General Police, \*\*Haryana, Criminal Investigation Department, Deputy Commissioner, and the Superintendent of Police of the district of which the person concerned is a permanent resident, the name of such a person and any other particulars required for purposes of identification, unless the dismissal has been notified in the \*\*Haryana Government Gazette. Similarly, if a person happens to be a resident of another State the afore said officer of that State should be informed accordingly.

(3) The provisions of this rule shall not be construed to derogate from the provisions of section 36 of the Punjab Courts Act 1948, the payment of Wages Act, 1936, or any other law authorising the imposing of fines on the ministerial establishment governed by these laws and the authority competent to award the punishment of the fine may do so in addition to the punishments aforesaid.

(4) The discharge of a person appointed to hold a temporary appointment, other-wise than in accordance with the provisions of Explanation (b) amounts to removal or dismissal and is, therefore, appealable under these rules.

(5) The distinction between censure, the withholding of promotion and non-selection to a selection post, is of considerable importance. Both censure and the withholding of promotion are appealable under these rules. On the other hand, non-selection for a selection post is not appealable.

If an officer, because of an unsatisfactory record and unfavourable confidential reports, is not selected for a selection post and some other officer junior to him is selected in preference, this does not amount to the withholding of promotion. If any inquiry is held against an officer and an order of censure is passed on him, it is open to him to appeal; if he does not appeal or his appeal is rejected, and if subsequently because of the existence of this censure in his record, he is not selected for a selection post, and some other officer junior to him is selected in preference, this also does not amount to the withholding of promotion. If, however an enquiry is held against an officer, and an order is passed that he should not be promoted to a selection post for a

definite period or until he has obtained good reports, this order would amount to the infliction of the penalty of withholding promotion. This distinction between non-selection for a selection post and the withholding of a promotion may be summed up as being, that in the former case the officer in question is considered for selection but some other officer is preferred on his merits, while in the later case the officer in question has been declared before hand, as a disciplinary measure, to be ineligible for selection, irrespective of the merits of the other officers available.

(6) (i) While reduction of seniority as an independent penalty is not provided for in rule 4, and cannot be imposed as such, the loss of seniority as a result of an order of reduction to a lower post or time scale, being inherent in the order of reduction cannot be avoided.

(ii) The seniority, on re-promotion of an officer reduced to a lower post or time scale, should be determined by the date of such re-promotion in accordance with the orders issued by the competent authority on the subject of seniority. Such an officer should not be restored to his original position unless this is specifically laid down at the time of punishment is passed, or revised on appeal.

(iii) An officer in respect of whom one of the penalties included in rule 4 (iii) was imposed, will on re-promotion count previous service in the higher grade under rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I, unless the order of punishment or the order passed on appeal directs otherwise.

(iv) An order debarring an officer from counting his past service in the grade from which he is reduced, if and when re-appointed to it, amounts to an order of reduction to a stage of that grade lower than that admissible under rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I, and does not, therefore, fall outside the scope of rule 4.

(7) Unauthorised desertion of his post by a public servant in the face of enemy action, or threat of enemy action clearly amount to grave misconduct and would, therefore, constitute a "good and sufficient" reasons within the meaning of rule 4, for removal or dismissal in addition to any penalty provided in the East Punjab Essential Services (Maintenance) Act, 1947. Loss of pension would then follow automatically in virtue of the provisions of rule 2.5 of the Punjab Civil Services Rules, Volume II, and it would also be possible to forfeit the Government contribution, if any, to the individuals provident fund.

"4-A, suspension. If having regard to the nature of the charges and the circumstances of any case, the competent authority, which initiates disciplinary proceedings is satisfied that it is necessary or desirable in public interest to place under suspension of a Government employee to whom these rules are applicable, and against whom such proceedings have been started or are contemplated under these rules, it may place such a Government employee under suspension till the conclusion of the inquiry and passing of the final orders in the case".

5. *Withholding of payment of emoluments of a Government servant suspected of embezzlement:*—When a Government servant is suspected of being concerned in the embezzlement of Government money, and is placed under suspension, the authority by competent to order his dismissal may, direct, that, unless he furnishes security for the reimbursement of the said money to the satisfaction of his immediate superiors, official the payment of any sums due to him by Government on the date of his suspension, shall be deferred until such time as the said authority passes final orders on the charges framed against him.

Provided that such Government servant shall be entitled to the payment of a subsistence allowance in respect of the period for which, the admissible emoluments, if any are withheld.

6. *Authority to impose punishment:*—Subject to the provisions of clause (1) of Article 311 of the Constitution of India, the authorities competent to impose any of the penalties specified in rule 4 upon the persons to whom these rules apply, shall be such as may be prescribed by Government in the rules regulating the appointment and conditions of service of such persons.

7. *Inquiry before imposition of certain penalties:*—(1) Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850; no order of dismissal, removal or reduction, shall be passed against a person to whom these rules are applicable, unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(2) The grounds on which it is proposed to take such action, shall be reduced to the form of definite charge or charges which shall be communicated in writing to the persons charged, together with a statement of allegations on which each charge is based and of any other circumstances which it is proposed to take up into consideration in passing orders on the case and he shall be required within a reasonable time to state in writing whether he admits the truth of all or any, of the charges, what explanation of defence, if any, he has to offer and whether he desires to be heard in person. If he so desires, or if the authority empowered to dismiss, remove, or reduce him so directs, an or all enquiry shall be held at which all evidence shall be heard as to such of the charges as are not admitted. The persons charged shall, subject to the conditions described in sub-rule (3), be entitled to cross examine the witnesses, to give evidence in person and to have such witness called, as he may wish, provided that the Officer conducting the enquiry may, for reasons to be recorded in writing, refuse to call any witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds thereof:—

Provided that :—

- (a) it shall not be necessary to frame any additional charge when it is proposed to take action in respect of any statement or allegation made by the persons charged, in the course of his defence; and
- (b) the provisions of the foregoing Sub-rule shall not apply where a person is dismissed, or removed or reduced on the ground of conduct which has led to his conviction on a criminal charge; or where an authority empowered to dismiss or remove him, or reduce him in rank is satisfied that, for some reasons to be recorded by him in writing, it is not reasonably practicable to give him an opportunity of showing cause against the action proposed to be taken/against him, or where in the interest of the security of the State, it is considered not expedient to give to that person such an opportunity.

(3) If any question arise whether it is reasonably practicable to give to any person an opportunity to defend himself under sub-rule (2), the decision thereon of the punishing authority shall be final.

(4) (a) Where any person has made a statement on oath, in evidence before any criminal or Civil court, in any case, in which the Government servant charged was party and had full opportunity to cross-examine such persons and where it is intended to prove the same facts as Aposed to by such persons in such statement in any inquiry under the public servants (Inquiries) Act 1850. It shall not be necessary to call such persons to give oral evidence in corroboration of that statement. The certified copy of the statement previously made by him in any such case may be read as part of the evidence;

Provided that the Officer conducting the inquiry may, in the interest of justice order the production of witness in persons either for further examination or for further cross-examination by persons charged.

(b) The Government servant charged shall not be allowed, except at discretion of the Enquiring Officer, to be exercised in the interest of justice, to call as a witness in his defence any persons whose statement has already been recorded and whom he has had opportunity to cross examine, or whose previous statement has been admitted in the manner herein provided.

“(5) Where the punishing authority itself enquires into any charge or charges or appoints an enquiry officer for holding enquiry against a person in the Service of the Government, it may, by an order, appoint a Government servant or a legal practitioner to be known as a “presenting Officer” to present on its behalf the case, in support of the charge or charges.

The person against whom a charge are being enquired into, shall be allowed to obtain the assistance of a Government servant, if he so desires, in order to produce his defence before the enquiring officer. If the charge or charges are likely to result in the dismissal of the person from the service of the Government. Such person may, with the sanction of the enquiring Officer, be represented by counsel.

Provided that, if in any enquiry, counsel is engaged on behalf of any department of Government the person against whom the charge or charges are being enquired into, shall also be entitled to engage counsel.