

No. 6987-5GS-69/30299.

From

The Chief Secretary to Government, Haryana.

To

All Heads of Departments, the Commissioner
Ambala Division and all Deputy Commissioners
and Sub-Divisional Officers in Haryana.
The Registrar, Punjab and Haryana High Court and all
District & Sessions Judges in Haryana.
Dated Chandigarh, the 16th December, 1969.

Subject :—Procedure for imposing penalties under Rule 8 of Punjab Civil Services (Punishment & Appeal) Rules, 1952.

Sir,

I am directed to address you about the interpretation to be placed on Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 which is to the effect that no order imposing any of the following minor penalties on a Government employees shall be passed, unless he has been given an adequate opportunity of making any representation that he may desire to make, and such representation had been taken into consideration—

- (i) Censure;
- (ii) with-holding of increments or promotion, including stoppage at an efficiency bar, if any and
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders.

In this connection attention is invited to the observations made by the Punjab and Haryana High Court in the case Kalyan Singh Vs. the State of Punjab (Civil Writ No. 2523 of 1965) an extract of which is given below :—

"The difference between rules 7 and 8 is this whereas under rule 7 Alike Article 311(2) of the Constitution, two opportunities have to be afforded to a delinquent officer the requirement of the first opportunity is not mandatory in case of imposition of penalties referred to in rule 8. The enquiry envisaged in the first part of clause (2) of Article 311 in which the delinquent Officer has to be given a reasonable opportunity of being heard in respect of those charges is not made obligatory under rule 8. In the Constitutional provision, the imposition of the relevant penalties is prohibited without giving a reasonable opportunity of making representation against the penalty proposed. This requirement has been interpreted as to entitle the delinquent official to represent not only against the quantum of punishment, but also against alleged guilt, irrespective of the earlier opportunity which the official may have availed of. The very language of rule 8 of the disciplinary rules shows that the 'adequate opportunity' of making any representation envisaged by that rule has in the nature of things to be a real opportunity to represent against the alleged guilt of the official as well as against the quantum of the punishment proposed, if any, such proposal has been made in the Show Cause Notice."

2. The position is that in cases involving the imposition of minor penalties under rule 8 of the rules ibid it is sufficient if a statement of allegations is forwarded to the Government employee concerned along with intimation as to the penalty proposed to be imposed on him, and after considering the representation submitted by the Government employee, the punishing authority passes final orders in the case. The issue of a separate second show cause notice about the proposed penalty is thus not necessary as in the case of the imposition of a major penalty. If however the proposed penalty is not for any reason intimated to the Government employee when the statement of allegations is sent to him then a further show cause notice indicating the proposed penalty must also be issued to him before final orders are passed against him.

3. It is requested that these instructions may be noted for careful compliance.

Yours faithfully,

Sd./-

Deputy Secretary Political & Services,
for Chief Secretary to Government, Haryana.

A copy each is forwarded to :—

The Financial Commissioner, Revenue, Haryana All Administrative Secretaries to Government, Haryana, for information and guidance.

Sd./-

Deputy Secretary Political & Services,
for Chief Secretary to Government, Haryana.

To

1. The Financial Commissioner, Revenue, Haryana & All Administrative Secretaries to Government, Haryana.