

Copy of Punjab Government Circular Letter No. 4819-G-II-57/11919, dated 8th July, 1957 from the Chief Secretary to Government, Punjab addressed to all Heads of Departments etc., etc.

Subject :—Dismissal of Government servants on conviction.

I am directed to address you on the subject noted above and to say that an instance has come to the notice of the State Government in which a Government servant who had been convicted by a court on a charge involving moral turpitude was dismissed from service nearly a year after the date of his conviction. Consequently Government had to pay him subsistence allowance for the whole of the intervening period. The instructions already issued in Punjab Government letters No. 1048-ACC-51/940, dated the 6th August, 1951 and No. 8789-51/1/8129, dated the 6th November, 1951 on the subject are clear enough. If these had been carefully followed, this unnecessary expenditure would have been avoided. For the sake of clarification, I am to issue detailed instructions on the subject.

2. Rule 7.6 of the Punjab Civil Services Rules, Volume I, Part I, requires that a Government servant against whom a criminal charge is pending should be placed under suspension, if (i) the charge is connected with his position as a Government servant or (ii) is likely to prove embarrassing in the discharge of his duties as such, or (iii) involves moral turpitude. The implication of this rule is that if the criminal charge does not fall under any of these three categories, it will not be necessary to suspend the Government servant. It follows that on conviction in the case of such a charge, it will also not be necessary that the Government servant should be dismissed or removed from service. Thus rule 7.6 of the Punjab Civil Services Rules, Volume I, Part I had the effect of dividing cases in which Government servants have been convicted of criminal charges into two classes :—

(i) Cases in which dismissal or removal from service should follow automatically :

(ii) cases in which it need not so follow.

3. In cases falling under class (i) under proviso (b) to sub rule (2) of Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, read with rule 7.6 of the Punjab Civil Services Rules, Volume I, Part I, the convicted Government servants should be dismissed or removed from service immediately on receipt of intimation of conviction without waiting for appeal or revision. It will not be necessary in such cases to follow the procedure laid down in Rule 7(1) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, regarding the holding of departmental enquiries. All that the Administrative Department need examine is whether the order passed should be one of dismissal or removal. If, however, on appeal or revision, the conviction of the Government servant, is set aside, he should be immediately reinstated. In case it is decided to subject him to departmental proceedings after his acquittal or discharge by the appellate court, such action could as well be taken after reinstating him. The mere fact that an appeal has been filed by the Government servant against his conviction should not deter the punishing authority from inflicting a suitable punishment on him as provided in proviso (b) to sub-rule (2) of Rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952.

In cases falling under class (ii) action should be taken on the merits of each case. In some cases, it may not be necessary to take any departmental action at all.

4. Under Rules 1 to 3 of Chapter VI-A of the High Court Rules and Orders, a Magistrate taking cognizance of an alleged offence against a Government servant is bound to report without delay to the District Magistrate about the commencement of such proceedings together with brief details of the case. On receipt of such a report the District Magistrate is required to forward a copy thereof to the local Head of the Department to which the accused officer belongs. A further report is required to be sent in the same way on the termination of the proceedings stating whether they have terminated in conviction, discharge or acquittal. In cases of conviction a copy of the judgement must also be forwarded to the Head of the Department concerned. Further, in Punjab Government letter No. 8689-G-51/1/8/189, dated the 6th November, 1951, instructions were issued to all Heads of Departments etc. that the prosecuting officers conducting cases against Government officers in courts should be directed to ensure that prompt intimation was sent to the Administrative authorities concerned wherever orders convicting any Government servant of a criminal offence were passed in cases handled by them. It seems that these instructions are not being carefully observed by courts prosecuting officers and District Magistrate and I am to request that the Head of Departments concerned to ensure their compliance for the future. Prompt intimation of conviction to the authority empowered to dismiss the Government servant is an obvious and essential pre-requisite to the prompt dismissal or removal of that Government servant.

5. I am directed to emphasize that the instructions contained in this letter should be strictly followed in future. They supersede all previous instructions issued on the subject.