

Copy of Punjab Government Circular Letter No. 5222-GIII-59/15305, dated the 17th September, 1959, from the Chief Secretary to Government, Punjab, addressed to all Heads of Departments, etc., etc.

Subject :—Reimbursement to Government servants of the cost of investigation into their conduct.

I am directed to say that Government have reviewed the procedure detailed in—

- (1) Mr. Emerson's letter No. 5881(H-Gaz.), dated February, 1928;
- (2) Punjab Government letter No. 1202-G-56/21150, dated the 20th/22nd March, 1956; and
- (3) Punjab Government letter No. 4319-GI-58/16255, dated the 30th May, 1958,

regarding reimbursement to Government servants of the cost of investigation when their conduct has been the subject of inquiry either by an authority appointed under the Public Servants (Inquiries) Act (XXXVII of 1850) or by a departmental agency (including that of the Vigilance Department) under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, and the Departmental Enquiries (Powers) Act, 1955.

2. Government consider that in this matter of reimbursement there should be no discrimination between Government servants whose conduct is the subject of investigation under the Public Servants (Inquiries) Act, 1850, and those whose conduct is being investigated under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, and the Department Enquiries (Powers) Act, 1955.

According to the existing instructions the cost of defence witnesses is to be met by the Government in the case of investigation only under the Public Servants (Inquiries) Act, 1850, whether the officer or official under suspicion succeeds in clearing himself or not, provided that the charges of those witnesses only are to be paid whom the commission declares to be necessary witnesses. But in the case of enquiries under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, Government have the discretion of granting or withholding sanction to these charges. In this connection, it is observed that when an Inquiry Officer is appointed, his duties are, as an agent of Government to assist them in arriving at the truth regarding various allegations. The rules do not necessarily require an Inquiry Officer to be appointed. It is only a convenience and has to be resorted to in complicated cases. Moreover, the Inquiry Officer has discretion to refuse the summoning of a particular defence witness though he has to record his reasons for doing so. In other words, the control rests with him and he can exercise it to prevent wasteful evidence. In these circumstances, it seems only fair that Government should bear the cost of defence witnesses in the case of investigation under the Punjab Civil Services (Punishment and Appeal) Rules, 1952, also.

Keeping these factors in view Government hereby prescribe the following procedure in the matter :

(1) Expenses of defence witnesses whether in connection with investigation by an authority under the Public Servants (Inquiries) Act, 1850 or an inquiry under the Punjab Civil Services (Punishment and Appeal) Rules, 1952. The expenses of defence witnesses should be met by Government in accordance with the prescribed scales as explained in clauses (a) and (b) of sub-paragraph 3 below whether the Government servant under suspicion succeeds in clearing himself or not, provided that the charges of those witnesses only should be paid whom the Commission or the Inquiry Officer declares to be necessary witnesses. Further the witnesses should be directly paid by the Commission/Enquiry Officer.

(2) Request for reimbursement of the fees of the counsel whether in the matter of investigation by an authority under the Public Servants (Inquiries) Act, 1850, or in the matter of an inquiry under the Punjab Civil Services (Punishment and Appeal) Rules, 1952. When the officer or official is allowed to be represented by a counsel, reimbursement of the fees of the counsel should be allowed in cases where the officer or official under suspicion is successful in clearing himself. In other cases the request for the reimbursement of the fees of the counsel should be considered on its merits. Reimbursement of fees of the counsel should be done at the rates laid down in chapter II of the Punjab Law Department Manual for payment of fees to counsel in criminal cases.

(3) (a) Payment of expenses to non-official witnesses, summoned for the prosecution or Defence should be made according to the rates specified in Chapter 5-C of Volume I of the High Court Rules and Orders in respect of witnesses attending Civil Courts.

(b) Government servants summoned as witnesses should be given the usual certificates of attendance to enable them to draw their normal Travelling Allowance and the Daily Allowance to which they are entitled in accordance with the provisions of the Punjab Civil Services Rules, Volume III, Travelling Allowance Rules.

(c) The expenditure on non-official witnesses should be debited to the same head of account to which the pay of the officer/official concerned is debitable when an enquiry is proceeding against him.

(d) Payment to non-official witnesses should be made out of the contingent grants of the offices/departments concerned.

3. The three letters quoted in the first paragraph of this communication are hereby cancelled.