

HARYANA GOVERNMENT
General Administration Department

Notification

The 19th July, 2016

No. 62/4/2016-6GS-I.— In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Haryana hereby makes the following rules regulating the terms and conditions of service of Government employees of the State of Haryana, namely:-

1. (1) These rules may be called the Haryana Civil Services (Punishment and Appeal) Rules, 2016. Short title and commencement
- (2) These rules shall be deemed to have come into force from 19th July, 2016.
2. (1) These rules shall apply to every Government employee, but shall not apply to— Application.
- (a) any member of the All India Services;
- (b) any person in casual employment;
- (c) any person subject to discharge from service on less than one month's notice;
- (d) any person for whom special provision is made in respect of matters covered by these rules or by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the Governor before or after the commencement of these rules, in regard to matters covered by special provisions;
- (e) any employee appointed on deputation from Central Government or any other State Government.
- (2) Notwithstanding anything contained in sub-rule (1), these rules shall apply to every Government employee temporarily transferred to a service or post coming within clause (d) of sub-rule (1) to whom, but for such transfer, these rules shall apply;
- Note 1.**— The Speaker of the Legislative Assembly has agreed under clause (3) article 187 of the Constitution that until a law is made by the Legislature of the State under clause (2) of article 187 of the Constitution or rules are framed by the Governor in consultation with the Speaker of the Legislative Assembly under clause (3) of article 187 of the Constitution of India, these rules and amendments thereof, if any, after prior consent of the Speaker, shall apply to the secretarial staff of the Haryana Legislative Assembly.
- Note 2.**— The Chairman, Haryana Public Service Commission, has agreed to the application of these rules as amended from time to time, in the case of officers and employees of the Haryana Public Service Commission.
- Note 3.**— If any doubt arises as to whether these rules apply to any person or not, the decision shall lie with the General Administration.
3. (1) In these rules, unless the context otherwise requires,- Definitions.
- (a) **"appointing authority"** means,-
- (i) the authority empowered to make appointments to the service of which the Government employee is for the time being a member ; or
- (ii) the authority empowered to make appointments to the post which the Government employee for the time being holds ; or
- (iii) the authority which appointed the Government employee to such service, pay structure or post, as the case may be; or
- (iv) where the Government employee having been a permanent member of any other service or having held any other post, has been in continuous employment of the Government, the authority which appointed him to that service or to that post whichever authority is the highest authority;

- (b) "**Commission**" means the Haryana Public Service Commission;
- (c) "**Government**" means the Government of the State of Haryana in the administrative department;
- (d) "**Government employee**" means any person appointed to any Civil Service or post in connection with the affairs of the State of Haryana.

Explanation.— A Government employee whose services are placed at the disposal of a company, corporation, organization or a local authority by the Government shall, for the purpose of these rules be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than the consolidated fund of the State;

- (e) "**Governor**" means the Governor of Haryana;
- (f) "**punishing authority**" means the authority competent under these rules or respective service rules to impose any of the penalties specified in rule 4 on a Government employee;
- (g) "**services**" means the civil services under the administrative control of the Haryana Government classified as under:-
 1. the State Civil Services, Group A;
 2. the State Civil Services, Group B;
 3. the State Civil Services, Group C;
 4. the State Civil Services, Group D.
- (h) "**dismissal**" means removal from service of a Government employee by way of punishment on account of any grave misconduct on his part or serious criminal charge against him. The dismissal shall be a disqualification for future employment under the Government.
- (i) "**removal**" means removal of a Government employee from service. It is one of the major punishments awarded under these rules. However, the removed person is not debarred for future employment under the Government.
- (j) "**censure**" means expression of severe displeasure. It is one of the minor penalties imposed under rule 4;
- (k) "**charged person**" means a Government employee against whom disciplinary proceedings under these rules have been instituted;
- (l) "**compulsory retirement**" means retirement from service of a Government employee as a measure of punishment under these rules, irrespective of age or length of service of such employee;
- (m) "**termination**" means discharge from service on whatsoever reason by the competent authority but not by way of removal or dismissal from service;

(2) The words and expressions not defined in these rules but defined in the Haryana Civil Services (General) Rules, 2016 shall have the same meaning respectively for the purpose of these rules.

Penalties.

4. The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government employee, namely—

(a) Minor Penalties:—

- (i) warning with a copy in the personal file;
- (ii) censure;
- (iii) withholding of promotion for a specified period upto one year;
- (iv) recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders, to the Central Government or a State Government or to a Company and association or a body of individuals whether incorporated or not, which is wholly or substantially owned or controlled by the Government or to a local authority set up by an Act of Parliament or of the legislature of a State ; and
- (v) withholding of increment(s) without cumulative effect.

(b) Major Penalties :-

- (i) withholding of increment(s) with cumulative effect;
- (ii) withholding of promotion for a specified period more than one year;
- (iii) reduction to a lower stage in the pay band or pay scale for a specified period, with the specific directions as to whether normal increment shall be admissible or not during the currency of the specified period of reduction, and further, whether on the expiry of the period of reduction his pay is to be restored or not.
- (iv) reduction to a lower pay structure, post or service for a period of more than one year from which he has been promoted which shall ordinarily be a bar to the promotion of the Government employee to the pay structure, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the pay structure, post or service from which the Government employee was reduced and his seniority and pay on such restoration to that pay structure, post or service;
- (v) compulsory retirement;
- (vi) removal from service;
- (vii) dismissal from service.

Explanation.— The following shall not amount to a penalty within the meaning of this rule, namely:-

- (i) withholding of increments of a Government employee for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;
- (ii) non-promotion of a Government employee, whether in a substantive or officiating capacity, after consideration of his case, to a service, pay structure or post for promotion to which he is eligible;
- (iii) withdrawal or non-grant of ACP Pay structure on foregoing promotion;
- (iv) reversion of a Government employee officiating in higher pay structure, post or service to a lower pay structure, post or service on the ground that he is considered to be unsuitable for such higher pay structure, post or service on any administrative grounds but not connected with his conduct;
- (v) reversion of a Government employee, promoted or appointed to any service, post or pay structure during or at the end of the period of probation, in accordance with the terms of his appointment or the rules and orders governing such probation;
- (vi) retirement on superannuation on attaining the maximum age of retirement;
- (vii) termination of the service—
 - (a) of a Government employee appointed on probation, during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probations; or
 - (b) of a temporary Government employee appointed otherwise than under contract, on the expiration of the period of the appointment, or on the abolition of the post or before the due time in accordance with the terms of appointment; or
 - (c) of a Government employee employed under an agreement in accordance with the terms of such agreement.

Note 1.— Punishing authorities shall publish in the Haryana Government Gazette reasons for dismissal where such publication is considered desirable in the public interest.

Note 2.— In order to guard against the inadvertent re-employment of person dismissed, from the Government service, the authority passing an order of dismissal shall intimate to the Head of Criminal Investigation Department in the Police Department, Haryana, 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 aforesaid officers of that State shall be informed accordingly.

Note 3.— The provisions of this rule shall not be construed to derogate from the provisions of section 36 of the Punjab Courts Act, 1918, the Payment of Wages Act, 1936, or any other law authorizing 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 punishment aforesaid.

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

Note 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 a Government employee because of unsatisfactory record and unfavourable confidential reports, is not selected for a selection post and some other Government employee junior to him is selected in preference, this does not amount to the withholding of promotion. If any inquiry is held against a Government employee 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 Government employee junior to him is selected in preference, this also does not amount to the withholding of promotion. If, however, an enquiry is held against a Government employee, and an order is passed that he shall not be promoted to a selection post for a definite period or until he has obtained good reports, this order shall 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 Government employee in question is considered for selection but some other Government employee is preferred on his merits, while in the latter case the Government employee in question has been declared before hand, as a disciplinary measure, to be ineligible for selection, irrespective of the merits of the other Government employees available.

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

(ii) The seniority, on re-promotion of a Government employee reduced to a lower post or pay structure, shall be determined by the date of such re-promotion in accordance with the orders issued by the competent authority. Such Government employee shall not be re-stored to his original position unless this is specifically laid down at the time of order of punishment is passed, or revised on appeal.

Note 7.— Unauthorized desertion of post by a public employee in the face of enemy action, or threat of enemy action clearly amounts to grave misconduct and shall, therefore, constitute a good and sufficient reason within the meaning of rule 4, for removal or dismissal in addition to any penalty provided in the Haryana Essential Service (Maintenance) Act, 1974. Forfeiture of past service towards pension shall then follow automatically by virtue of the provisions in Haryana Civil Services (Pension) Rules, 2016 or forfeiture of Government contribution in the account of Government employee who are covered under the New Defined Contributory Pension Scheme, 2008.

Suspension and withholding of emoluments.

5. (1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor, by general or special order, may place a Government employee under suspension where—

- (a) a disciplinary proceeding against him is contemplated or is pending, or
- (b) a case against him in respect of any criminal offence is under investigation, inquiry or trial: or

- (c) in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State;

Provided that where a Government employee against whom disciplinary proceedings are contemplated is suspended, such suspension shall not be valid, where the disciplinary proceedings are not initiated against him before the expiry of a period of ninety days from the date from which the employee was suspended.

Provided further that the competent authority in the matter may, at any time before the expiry of the said period of ninety days and after considering the special circumstances for not initiating disciplinary proceedings, to be recorded in writing and after seeking the approval of next higher authority allow continuance of the suspension beyond ninety days but not beyond one hundred eighty days without the disciplinary proceedings being initiated;

Note 1.— The order of suspension shall stand revoked, being invalid, unless the punishing authority obtains the approval of next higher authority and informs the Government employee under suspension the specific period of extension of suspension before the expiry of period of ninety days or extended period of another ninety days, as the case may be.

Note 2.— Where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Government employee shall be deemed to have been placed under suspension by an order of the appointing authority—

(a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation.— The period of forty-eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government employee under suspension is set aside on appeal or review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government employee is set aside or declared or rendered void in consequence of or by a decision of a Court of law, and the punishing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

(5) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the competent authority.

(6) Where a Government employee is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by it in writing, direct that the Government employee shall continue to be under suspension until the termination of all or any of such proceedings.

(7) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority, which made or is deemed to have made the order or by any authority to which that authority is subordinate.

(8) When a Government employee is suspected of being concerned in the embezzlement of Government money, and is placed under suspension, the authority 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, the payment of any sum due to him by the 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 Government employee shall be entitled to the payment of a subsistence allowance in respect of the period for which the admissible emoluments, if any, are withheld.

Authority to
impose
punishment.

6. 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 the Government in the rules regulating the appointment and conditions of service of such persons.

Procedure for
imposing major
penalty.

7. (A) Inquiry before imposition of major penalty—

(1) No order of imposing a major penalty 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) Whenever the punishing authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government employee, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof:

Provided that where there is a complaint of sexual harassment within the meaning of rule 6 of the Haryana Civil Services (Government Employees' Conduct) Rules, 2016, the complaints committee established in each Department or Officer for inquiring into such complaints shall be deemed to be the Inquiry Officer appointed by the punishing authority for the purpose of these rules and the complaints committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

(3) Where it is proposed to hold an inquiry against a Government employee under this rule, the punishing authority shall draw up or cause to be drawn up—

- (i) the substance of imputation of misconduct or misbehaviour into definite and distinct statement of charges;
- (ii) a statement of imputation of misconduct or misbehaviour in support of each statement of charge, which shall contain—
 - (a) a statement of all relative facts including any admission or confession made by the Government employee;
 - (b) a list of documents by which and a list of witnesses by whom, the statement of charges are proposed to be sustained.

(4) The punishing authority shall deliver or cause to be delivered to the Government employee, a copy of the statement of charges, the statement of the imputations of misconduct or misbehaviour and a list of document and witness by which each statement of charge is proposed to be sustained and shall require the Government employee to submit, within such time as may be specified (not more than 45 days), a written statement of his defence and to state whether he desires to be heard in person.

(5) In case the competent authority is satisfied with the written statement of defence given by the charged person, it may drop the charge-sheet without resorting to the procedure of conducting enquiry. Similarly, if the competent authority after considering the written statement of defence of the charged person is of the opinion that awarding of minor punishment shall meet the end of justice, then the authority competent may award minor punishment without following the procedure of conducting the enquiry.

(6) Subject to the provisions of sub-rule (5), on receipt of the written statement of defence, the punishing authority may—

- (i) itself inquire into such of the statement of charges as are not admitted; or,
- (ii) if it considers it necessary so to do, appoint under sub-rule (2), an Inquiry Officer for the purpose; and
- (iii) where all the statement of charges have been admitted by the Government employee in his written statement of defence, the punishing authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 7(C);

(7) If no written statement of defence is submitted by the charged person within the specified period or extended period, if any, allowed by the punishing authority after due consideration, the punishing authority may itself inquire into the statement of charges or may, if it considers it necessary to do so, appoint under sub-rule (2), Inquiry Officer for the purpose.

(8) Where the punishing authority itself inquires into any articles of charge(s) or appoints an Inquiry Officer for holding an inquiry into such charge(s), it shall by an order appoint a Government employee or a legal practitioner, to be known as the 'Presenting Officer' to present on its behalf the case in support of the statement of charges.

(9) The punishing authority shall, where it is not itself the Inquiry Officer, forward to the Inquiry Officer—

- (i) a copy of the articles of charge(s) and the statement of the imputation of misconduct or misbehaviour;
- (ii) a copy of written statement of defence, if any submitted by the charged person;
- (iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3);
- (iv) evidence proving the delivery of the documents required to be delivered to the charged person under sub-rule (4);
- (v) a copy of the order appointing the Presenting Officer.

(10) The charged person shall appear in person before the Inquiry Officer on such day and at such time within ten working days from date of receipt by him of the statement of charges and the statement of the imputations of misconduct or misbehaviour as the Inquiry Officer may, by a notice in writing, specify in this behalf, or within such further time not exceeding ten days, as the Inquiry Officer may allow.

(11) The Inquiry Officer appointed to conduct enquiry shall serve maximum two notices to the charged person to appear before him for presenting his case. In case the charged person does not appear after the service of two notices, the Inquiry Officer shall be competent to proceed ex-parte in the matter. However, after considering the circumstances to be recorded, the Inquiry Officer may serve third notice also.

(12) If the charged person refuses or omits to plead, the Inquiry Officer shall require the Presenting Officer to produce the evidence by which he proposes to prove the statement of charges, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the charged person may for the purpose of preparing his defence—

- (i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3);
- (ii) submit a list of witnesses to be examined on his behalf;
- (iii) apply orally or in writing for the supply of copies of the statements, if any recorded, of witness mentioned in the list referred to in sub-rule (3), in which case the inquiring authority shall furnish to him such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the punishing authority; and
- (iv) give a notice within ten days of the order or within such further time not exceeding ten days, as the inquiring authority may allow for the discovery or production of any documents which is in the possession of Government, but not mentioned in the list referred to in sub-rule (3) and the Government employee shall also indicate the relevance of the document required by him to be discovered or produced by the Government.

(13) The person against whom a charge is being enquired into, shall be allowed to obtain the assistance of a Government employee or a retired Government employee if he so desires, in order to produce his defence before the Inquiry 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 Inquiry 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:

Provided further that the assistance of a particular Government employee shall be allowed only if the Inquiry Officer is satisfied that he is of such rank as is appropriate in the circumstances of the case and that he may be spared by the department concerned for that purpose.

(14) If the charged person, who has not admitted any of the statement of charges in his written statement of defence, or has not submitted any written statement of the defence, appears before the Inquiry Officer, such officer shall ask him whether he is guilty or has any defence to make. If he pleads guilty to any of the articles of charge(s), the Inquiry Officer shall record the plea, sign the record and obtain the signature of the charged person thereon.

(15) The Inquiry Officer shall give to the charged person a finding of guilt in respect of those statement(s) of charges to which the charged person pleads guilty.

(16) The persons charged shall, subject to the conditions described in sub-rule (3) be entitled to cross examine the witness, 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 it shall not be necessary to frame any additional charge when it is proposed to take action in respect of any statement of allegation made by person charged in the course of his defence:

Provided further that the provisions of the foregoing sub-rule shall not apply where any major penalty is proposed to be imposed upon a person 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 wherein the interest of the security of the State it is considered not expedient to give to that person such an opportunity.

(17) As per the provisions of the Punjab Departmental Enquiries (Powers) Act, 1955 (Punjab Act 8 of 1955), the officer conducting enquiry under these rules shall be competent to exercise the same powers for summoning of witnesses and for compelling the production of documents as are exercisable by a commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act 37 of 1850);

(18) If any question arises 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.

(19) Where any person has made a statement on oath, in evidence before any criminal or civil Court, in any case, in which charged person was party and had full opportunity to cross-examine such person and where it is intended to prove the same facts as deposed to by such person in such statement in any inquiry under the Public Servants (Inquiries) Acts, 1850, shall not be necessary to call such person 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 shall, in interest of justice order the production of witness in person either for further examination or for further cross-examination by persons charged.

(20) The charged person shall not be allowed, except at discretion of the Inquiry Officer, to be exercised in the interest of justice to call as a witness in his defence any person 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.

Note 1.— Charges need not necessarily be framed in relation only to specific incidents or acts of misconduct. When reports received against an officer or a preliminary enquiry show that his general behaviour has been such as to be unfitting to his position, or that he has failed to reach or maintain a reasonable standard of efficiency he may be charged accordingly, and a finding of such a charge may be valid ground for the infliction of any authorized punishment, which may be considered suitable in the circumstances of the case. It shall be necessary to communicate the charges of misbehaviour or of inefficiency or of both as the case may be, to the officer/official concerned but statement which is to be communicated to the officer/official in support of the charges need not specify particular acts of misconduct. It shall be sufficient in the statement to give the list of the report on the basis of which misbehaviour or inefficiency is alleged.

Note 2.— Any person compulsorily retired from service in accordance with the procedure prescribed by this rule shall be granted such compensation, pension gratuity, or Provident Fund benefits as may have been admissible to him had he been discharged from service due to the abolition of his post without any alternative suitable employment being provided, under the rules applicable to his service or post on the date of such retirement.

(B) Submission of Inquiry Report—

(1) After the close of the enquiry, the Inquiry Officer shall prepare his report which inter-alia indicate the following:-

- (a) statement of charges and the allegations framed against the Government employees;
- (b) his explanation, if any;
- (c) oral and documentary evidence produced in support of the charges;
- (d) oral and documentary evidence led in defence;
- (e) findings on the charges.

(2) The Inquiry Officer shall give clear findings on each of the charges so that the Government employee shall know from the findings on what ground he has been found guilty. Each finding shall be supported by evidence and reasons thereof. The findings are in the nature of a report to the competent authority to enable it to pass final orders. Such findings are to assist but do not bind him. He himself alone has to come to a final decision. Moreover, the Inquiry Officer shall not in any case recommend or propose any penalty.

(3) The Inquiry Officer, where it is not itself the punishing authority, shall forward to the punishing authority the records of inquiry which shall include—

- (a) the report prepared by it under rule 7(B)(1);
- (b) the written statement of defence, if any, submitted by the charged person;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written briefs, if any, filed by the presenting officer or the charged person or both during the course of the inquiry; and
- (e) the orders, if any, made by the punishing authority and the Inquiry Officer in regard to the inquiry.

(C) Action on Inquiry Report—

(1) After the enquiry against a charged person has been completed, the punishing authority shall forward or cause to be forwarded a copy of the enquiry report, and where the punishing authority does not agree with the enquiry report or any part thereof, the reasons for such disagreement shall be communicated alongwith the enquiry report, to the charged person who may submit, if he so desires, a written representation to the punishing authority within a period of one month from the date of such communication.

(2) The punishing authority shall consider the representation, if any, submitted by the charged person and record its findings before proceeding further in the matter as specified in rule 4.

8. Without prejudice to the provisions of rule 7, no order for imposing a minor penalty shall be passed on a Government employee unless he has been given an adequate opportunity of making any representation, that he may desire to make, and such representation has been taken into consideration:

Procedure for
Imposing minor
penalties.

Provided that this condition shall not apply in a case where an order—

- (i) based on facts has led to his conviction in a criminal court; or
- (ii) has been passed superseding him for promotion to a higher post on the grounds of his unfitness for that post on account of the existence of unsatisfactory record:

Provided further that the requirements of this rule may, for sufficient reasons to be recorded in writing, be waived where it is not practicable to observe them and where they can be waived without injustice to the Government employee concerned.

Right of appeal.

9. Every person to whom these rules apply, shall be entitled to appeal, as hereinafter provided, to such superior authority as may be prescribed by Government in the rules regulating his conditions of services against an order, not being an order of Government—

- (a) imposing upon him any of the penalties specified in rule 4;
- (b) discharging him in accordance with the term of his contract, if he has been engaged on a contract for a definite, or for an indefinite periods and has rendered, under either form of contract, continuous service for a period exceeding five years at the time when his services are terminated;
- (c) reducing or withholding the amount of pension admissible under the rules governing pension;
- (d) termination of service;
- (e) an order which denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement.
- (f) premature retirement from service in public interest before attaining the age of superannuation.

Period of limitation of appeal.

10. No appeal preferred under this rule shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that the appellate authority may entertain the appeal within next forty five days, if it satisfied that the appellant had sufficient cause for not preferring the appeal in time.

Order which may be passed by the Appellate Authority.

11. (1) In the case of appeal against an order under rule 9 or any penalty specified in rule 4, the appellate authority shall consider whether the—

- (a) facts on which the order was based have been established;
- (b) facts established afford sufficient ground for taking action; and
- (c) penalty is excessive or adequate and after such consideration, shall pass such order as it thinks proper:

Provided that no penalty shall be increased unless opportunity is given to the person concerned to show cause why such penalty may not be increased.

(2) An Authority, against whose order an appeal is preferred, shall give effect to any order passed by the appellate authority.

Second appeal where penalty is increased.

12. In every case in which an appellate authority, other than Government, increases the penalty inflicted by an authority subordinate to it upon a person to whom these rules apply, such person shall be entitled to submit a second appeal within sixty days to the authority prescribed in the rules regulating his conditions of service.

Right of Revision.

13. After an appeal or the second appeal provided in rule 12 has been rejected, a person to whom these rules apply, may apply for revision to such superior authority as may be prescribed in the rules regulating his condition of service:

Provided that the powers of revision shall be exercised only—

- (a) if the appellate authority is one other than Government; and
- (b) on the ground of material irregularity in the proceedings of the Inquiry Officer or appellate authority, or on the discovery of new and important matter of evidence, which after the exercise of diligence was not within the knowledge of the petitioner, or could not be produced by him when the orders were passed against him or on account of some mistake or error on the face of the record.

14. (1) The Government or the Head of Department may call for and examine the records of any case in which a subordinate authority passed any order under rule 9 or has inflicted any of the penalties specified in rule 4 or in which no order has been passed or penalty inflicted and after making further investigation, if any, may confirm, remit, reduce to any or subject to provisions of sub-rule (1) of rule 11, increase the penalty or subject to provisions of rule 7 and 8 inflict any of the penalties specified in Rule 4.

Power of superior authority to revise the proceeding of an inferior authority.

(2) The Government may, at the time of consideration of Memorial, submitted under its general or special instructions published from time to time, by the Government employee on whom a penalty is imposed, review any order passed by the Government under these rules:

Provided that the penalty already imposed shall not be enhanced unless an opportunity has been given to the Government employee who has submitted Memorial to show cause why it may not be enhanced.

15. Every person preferring an appeal shall do so separately and in his own name.

Prohibition as to collective appeal.

16. (1) Where two or more Government employees are concerned in any case, the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government employees may make an order directing that disciplinary action against all of them may be taken in a common proceedings.

Common proceedings.

(2) If the authorities competent to impose the penalty of dismissal on such Government employees are different, an order for taking disciplinary action in a common proceeding shall be made by the highest of such authorities.

(3) Any order under sub-rule (1) shall specify the authority competent to do so under the relevant service rules, which may function as the punishing authority for the purpose of such common proceedings.

17. Every appeal or application for revision preferred under these rules, shall contain material statements and arguments relied upon by the appellant or applicant, shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal or application for revision shall be submitted through the Head of the office to which the appellant or applicant belong or belonged.

Manner of the presentation of appeal or application for revision.

18. (1) An appeal or application for revision may be withheld by the Head of the office, if—

Withholding of appeals and applications for revision.

- (a) it is an appeal or application for revision in a case in which under these rules, no appeal or application for revision lies; or
- (b) it does not comply with the provisions of rule 17; or
- (c) it is an appeal and is not preferred within the prescribed period; or
- (d) it is a repetition of a previous appeal or application for revision and is made to the same appellate or revisionary authority by which such appeal or application for revision has been decided and no new facts or circumstances are adduced which afford ground for a reconsideration of the case:

Provided that in every case in which an appeal or application for revision is withheld, the appellant or applicant shall be informed of the fact and the reasons for it and a copy thereof forwarded to the appellate authority, if any together with a copy of the appeal or application for revision so withheld:

Provided further that an appeal or application for revision withheld on account only of failure to comply with the provisions of rule 17 may be resubmitted at any time within one month of the date on which the appellant or applicant has been informed of the withholding of the appeal or application and if resubmitted in a form which complies with those provisions, shall not be withheld.

(2) Any appellant or revisional authority may call for the record of any appeal or application for revision withheld by an authority subordinate to it, which under these rules may be made to it and may pass such order thereon as it considers fit.

19. Nothing in these rules shall be deemed to affect the functions of the Haryana Public Service Commission as specified in article 320 of the Constitution India, and as limited by the Haryana Public Service Commission (Limitation of Functions) Regulations, 1973 or other regulations made in that behalf.

Saving of the function of Haryana Public Service Commission.

Repeal and
Saving.

20. (1) The Haryana Civil Services (Punishment and Appeal) Rules, 1987 are hereby repealed. Anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules: Provided that—

- (a) such repeal shall not affect the provisions of the said rules or any notification or order made or anything done, or any action taken, there under; and
- (b) any proceedings under the said rules, pending at the commencement of these rules, shall be continued and disposed of, as far may be, in accordance with the provisions of these rules as if such proceedings were proceedings under these rules.

(2) Nothing in these rules shall be construed as depriving any person, to whom these rules apply, of any right of appeal which had accrued to him under the rules, notifications or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be made in accordance with these rules, as if such orders were made and the appeal was preferred under these rules.

(4) As from the commencement of these rules, any appeal or application for revision against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules:

Provided that nothing in these rules, shall be construed as reducing any period of limitation for any appeal or revision provided by any rule in force before the commencement of these rules.

(5) 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 regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the State.

Power to
interpret, amend
and relax these
rules.

21. The power to interpret, amend and relax these rules shall vest in the General Administration Department, whose decision thereon shall be final.

Note.— Communications regarding the interpretation and alteration of these rules shall be addressed to the General Administration Department through the Administrative Department concerned.

D. S. DHESI,
Chief Secretary to Government, Haryana,
Chandigarh.