

The West Bengal Services (Classification, Control & Appeal) Rules, 1971

WEST BENGAL SERVICES (Classification, Control and Appeal) RULES, 1971

FINANCE DEPARTMENT AUDIT

NOTIFICATION

No. 1440 – F. –20th February, 2008. – In exercise of the power conferred by the proviso to Article 309 of the Constitution of India; the Governor is pleased hereby to make the following amendments to the West Bengal Services (Classification, Control and Appeal) Rules, 1971 as subsequently amended (hereinafter referred to as the said rules):-

No. 2018-F, the 16th April, 1971—In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor is pleased hereby to make the following rules, namely:

RULES Part I - GENERAL

1. Short title and commencement -

- (1) These rules may be called the West Bengal Services (Classification, Control and Appeal) Rules, 1971.
- (2) They shall come into force on the 1st May, 1971.

2. Application -

- (1) These rules shall apply to all the Government employees except:
 - (i) persons paid at daily rates
 - (ii) persons against whom action is taken or proposed to be taken under the West Bengal Civil Services (Safeguarding of National Security) Rules, 1949, reproduced in Appendix-I in respect of matters covered by the provisions of those rules ;
 - (iii) members of All India Services
 - (iv) inspectors of Police and members of the Subordinate Police Force and
 - (v) members of the West Bengal Higher Judicial Service and the West Bengal Civil Service (Judicial) and they shall also apply to persons for whose appointment and other matters covered by these rules, special provision is made:
 - (i) by or under any law for the time-being in force, or
 - (ii) by an agreement made with them, in respect of matters not covered by the provisions of such law or agreement.
- (2) Notwithstanding anything contained in sub-rule (1), the Governor may, by order, exclude from the operation of all or any of the provisions of these rules any Government employee or class or classes of the Government employees.

(3) If any doubt arises as to (a) whether these rules or any of them apply to a Government employee, or (b) whether any person to whom these rules apply belongs to a particular service, the matter shall be referred to Governor whose decision thereon shall be final.

3. Definitions-In these rules, unless the context otherwise requires:

- (I) "appendix" means an appendix appended to these rules;
- (II) "appointing authority" in relation to a Government employee means—
- (i) the authority empowered to make appointments to the services of which the Government employee is for the time-being a member or to the grade of the service in which the Government employee is for the time-being included, 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, grade or post as the case may be, or
 - (iv) where the Government employee having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that service or to any grade in that service or to that post, whichever authority is the highest authority;
- (III) "Commission" means the Public Service Commission, West Bengal;
- (IV) "disciplinary authority" in relation to the imposition of a penalty on a Government employee means the authority competent under these rules to impose on him that penalty;
- (V) "Government" means the Government of the State of West Bengal;
- (VI) "Government employee" means a person who is a member of any of the services specified in Rule 4 and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Government of India or any other State Government or a local or other authority and also any person in service of the Government of India or any other State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of West Bengal;
- (VII) "Schedule" means a Schedule appended to those rules; and
- (VIII) "Service or post" means any service or post in connection with the affairs of the State of West Bengal.

Under Notification. 1440 – F. –20th February, 2008.

(i)

4. Classification of Services-(1) All the services and posts under the Government shall be classified as follows :

- (i) West Bengal State Service, Group A;
- (ii) West Bengal State Service, Group B;
- (iii) West Bengal State Service, Group C;
- (iv) West Bengal State Service, Group D;

(2) If a service consists of more than one grade, different grades of such service may be included in different groups.

Under Notification. 1440 – F. –20th February, 2008.

(ii)

5. Constitution of State Services and Classification thereof or posts held by Government employees; -

The West Bengal State Services, Group a, Group B, Group C and Group D shall consist of the services or grades or posts carrying a pay or a scale of pay as detailed in the Table below:-

The Table

Sl.	Description of services and posts	Classification of posts and services
1.	All services and posts carrying a pay or a scale of pay with the maximum above Rs.10,175/-	Group A
2.	All services and posts carrying a pay or a scale of pay with the maximum of Rs.10,175/- or below but above Rs.7050/-	Group B
3.	All services and posts carrying a pay or a scale of pay with the maximum of Rs. 7050/- or below but above Rs.4400/-	Group C
4.	All services and posts carrying a pay or a scale of pay with the maximum of Rs. Rs.4400/-	Group D

Provided that the Government may, by special order, include any class or classes of Government employee in a service higher than that prescribed in the above Table and may, by order issued from time to time, change the maximum of the above pay or scale of pay for the purpose of classification of services and posts.

Provided further that the classification of an employee shall not undergo any change on the ground of eventual movement to higher scale of pay owing to operation of the Career Advancement Scheme or any other non-functional elevation.

Explanation - For the purpose of this rule, -

(a) the word 'pay' has the same meaning as in sub-clause (i) of clause (28) of rule 5 of the West Bengal Services Rules, Part I; and

(b) the expression 'scale of pay' includes the revised scale of pay mentioned in the West Bengal Services (Revision of Pay and Allowance) Rules, 1998 or any subsequent rules to be made in this regard.

Part III—APPOINTING AUTHORITY

Under Notification. 1440 – F. –20th February, 2008.

(iii)

6. **Appointments to Group A services and posts**-All appointments to the West Bengal State Services, and posts belonging to Group A, shall be made by the Governor:

Provided that the Governor may, by a general or special order and subject to such conditions as he may specify in the order, delegate to any authority subordinate to him the power to make such appointments.

6A. Appointments to other services and posts – All appointments to the West Bengal State Services and posts belonging to Group B, Group C and Group D, shall be made –

- by the authority specified in that behalf by a general or a special order of the Governor ; or
- where no such order has been made, by the authorities specified in this behalf in the Schedule."

Part IV - SUSPENSION

7. (1) (a) The appointing authority or (b) any authority to which it is subordinate or (c) any authority empowered by the Governor in that behalf may place a Government employee under suspension:

- where a disciplinary proceeding or departmental enquiry against him is contemplated or is pending; or
- where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or
- where a case against him in respect of any criminal offense is under investigation or trial.

Provided that 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 against whom a proceeding has been commenced on a criminal charge but who is not actually detained in custody (e.g., a person released on bail) may be placed under suspension under clause (c) of sub-rule (1) by an order made by any of the authorities mentioned in that sub-rule. If the criminal charge is related to the official position of the Government employee or involves any moral turpitude on his part, suspension shall be ordered under this sub-rule, unless there are exceptional reasons for not adopting such a course.
- (3) A Government employee who is detained in custody for a period exceeding 48 hours under any law providing for preventive detention or as a result of a proceeding either on a criminal charge or otherwise, shall be deemed to have been suspended, by an order of the appointing authority, with effect from the date of his detention and shall remain under suspension until further orders. A Government employee who is undergoing a sentence of imprisonment shall also be dealt with in the same manner, pending a decision on the disciplinary action to be taken against him.
- (4) (1) Where a penalty of dismissal, removal or compulsory retirement from service imposed on a Government employee under suspension or (2) a disciplinary proceeding pending against a Government employee under suspension, is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any directions, the order of his suspension shall be deemed to have continued in force:
- (a) in the case where the penalty of dismissal, removal or compulsory retirement from service had been imposed, on and from the date of the order imposing such penalty ; and
- (b) in the case where the disciplinary proceeding was pending, on and from the date of the order placing the Government employee under suspension; and in either case, the order of suspension shall remain in force until further orders.
- (5) Where a penalty of dismissal, removal or compulsory retirement from service imposed on a Government employee under suspension or a disciplinary proceeding pending against a Government employee under suspension is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on a consideration of the circumstances of the case decides to hold a further inquiry against the Government employee on the allegations on which the penalty was originally imposed or the disciplinary proceeding was originally started, the Government employee shall be deemed to have been placed under suspension by the appointing authority or any other authority empowered by the Governor to place a Government employee under suspension, with effect from the date on which the order imposing the penalty or dismissal, removal or compulsory retirement from service was made or where the disciplinary proceeding was pending, from the date on which the Government employee was originally placed under suspension.

An order of the suspension made or deemed to have been made under this sub-rule shall continue in force until it is modified or revoked by the authority competent to do so.

Note 1- (vide the Explanation below Note 1 to rule 9)

Note 2- A Government employee who is placed under suspension or be deemed to be under suspension in the circumstances mentioned in this rule shall, irrespective of the circumstances which lead to or result in the suspension, be entitled to subsistence allowance during the period of suspension and to pay and allowances, on reinstatement, in respect of the period of suspension under rules 71 and 72 of the West Bengal Service Rules, Part I, respectively. Provided that in a case where a Government employee is detained in custody under any law providing for preventive detention, the subsistence allowance, admissible under this rule shall be reduced by the amount of allowance or any paid to the under the relevant laws or rules for the time-being in force.

Part V-DISCIPLINE

8. Penalties - The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government employee, namely:

- (i) censure;
- (ii) with holding of increments or promotions;

- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;
- (iv) reduction to a lower stage in the time-scale of pay for a specified period with further direction as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;
- (v) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of the restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service
- (vi) compulsory retirement
- (vii) removal from service which shall not be a disqualification for future employment;
- (viii) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

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 failure to pass a departmental examination in accordance with the rules or orders governing the service or post or the terms of his appointment;
- (ii) stoppage of a Government employee at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion, whether in a substantive or officiating capacity, of a Government employee, after consideration of his case to a service, grade or post for promotion to which he is eligible;
- (iv) reversion to a lower service, grade or post of a Government employee officiating in a higher service, grade or post on the ground that he is considered, after trial, to be unsuitable for such higher service, grade or post or on administrative grounds unconnected with his conduct;
- (v) reversion to his permanent service, grade or post of a Government employee appointed on probation to another service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing the probation;
- (vi) replacement of the service of a person borrowed from the Govt. of India or any other State Government or a local or other authority at the disposal of the authority which had lent his services;
- (vii) compulsory retirement of a Government employee in accordance with the provisions relating to his superannuation or retirement;
- (viii) termination of services:
 - (a) of a Government employee appointed on probation 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 ; or
 - (b) of a Government employee having no lien or suspended lien on a permanent post under Government on the expiration of the terms of his appointment or where the appointment is for an unspecified period, after a month's notice or after payment of month's salary or wages in lieu of such notice ; or
 - (c) of a seasonal employee (e.g., a Punkha-puller) at the end of the season for which he is employed, expressly or impliedly: or
 - (d) of a Government employee employed under an agreement in accordance with the terms of such agreement.

Note 1- If as a result of disciplinary proceedings, any of the penalties specified in this rule is imposed on a Government employee, a record of the same shall invariably be kept in the Confidential Character Roll.

A written warning given without any disciplinary proceedings, admonition or reprimand for offenses of occasional and minor nature (such as delays in submitting cases, irregular attendance, etc.) does not amount to the imposition of the penalty of "Censure" and may not go into the Confidential Character Roll.

Note 2- Failure on the part of a Government employee to intimate to his official superiors the fact of his arrest and the circumstances connected therewith, shall be regarded as suppression of material information and will render him liable to disciplinary action on that ground alone, apart from the action that may be called for on the outcome of the police case against him:

Under Notification 1440 – F. –20th February, 2008.

(iv)

9. Disciplinary Authorities - (1) The Governor may impose any of the penalties mentioned in rule 8 on any Government employee.

(2) Without prejudice to the provisions of sub-rule (1), any of the penalties specified in rule 8 may be imposed on -

(a) a member of the West Bengal State Service, Group A, by the Governor, or by any other authority empowered in this behalf by a general or special order of the Governor; and

a member of the West Bengal State Service, Group B, Group C or Group D, by the respective appointing authorities or any other authorities specified in the Schedule, where applicable :

Provided that in a case where two or more Government employees are concerned, 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 proceeding. The order so made shall specify:

- (i) the authority which may function as the disciplinary authority for the purpose of such common proceedings;
- (ii) the penalties in rule 8 which such disciplinary authority shall be competent to impose; and
- (iii) whether the procedure prescribed in rule 10 or rule 11 shall be followed in the proceedings.

Note 1- In all cases of fraud, embezzlement, or similar offenses, the disciplinary authority shall take steps to institute departmental proceedings against all the delinquents and conduct them with strict adherence to the rules upto the point at which prosecution of any of the delinquents beings. At that stage it must be specifically considered whether further conduct of the departmental proceedings, against any of the remaining delinquents is practicable, and if so, it shall continue as far as possible (which will not, as a rule, include finding and sentence). If the accused is convicted, the departmental proceedings against him shall be resumed and formally completed either by the dismissing or removing the person from the Government service or by the reducing him in rank on the ground of his conviction. If the accused is not convicted, the departmental proceedings against him should be dropped unless the authority competent to take disciplinary action is of opinion that the facts of the case disclose adequate grounds for taking departmental action against him. In either case the proceedings against the remaining delinquents shall be resumed and completed as soon as possible after the termination of the proceedings in court.

Explanation - Departmental proceedings shall not as a rule be initiated on the same charges or on charges substantially similar to those of which a Government employee is acquitted in consequence of or by a decision of a court of law. There is, however, no bar to further inquiries being undertaken in cases where it is held by the Court that the safeguards imposed by article 311 of the Constitution of India have not been properly followed and a subsequent inquiry may be made on the same charges or on charges substantially similar to those on which the penalties were originally imposed.

Discharge by the Court on the submission of final report by the police does not, however, amount to acquittal and there is no bar to departmental proceedings being initiated after such

discharge either on the same charges or on charges substantially similar to those leading to the discharge.

Note 2- Where a Government employee (other than one to whom rule 12 or rule 13 applies) is transferred from the disciplinary control of one officer (hereinafter in this rule referred to as the first officer) to that of another officer (hereinafter in this rule referred to as the second officer), the first officer after such transfer, ceases to be competent to draw up proceedings against the said the Government employee although the proposed charges relate to things done while he was under the disciplinary control of the first officer. In such a case, the second officer shall draw up proceedings at first and then ask the first officer to conduct the enquiry and submit the case to him for orders. One receipt of the report of the enquiry, the second officer may impose the penalty after observing the procedure detailed in rule 10 or otherwise dispose of the proceedings.

10. Procedure for imposing penalties -

- (1) No order imposing any of the penalties specified in rule 8 shall be made except after an enquiry held in the manner provided in this rule.
- (2) The disciplinary authority shall draw up or cause to be drawn up:
 - (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
 - (ii) a statement of imputations of misconduct or misbehaviour in support of each article of charge which shall contain:
 - (a) a statement of relevant 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 articles of charge are proposed to be sustained.
- (3) The disciplinary authority shall deliver or cause to be delivered to the Government employee a copy of articles of charge and the statement of imputations of misconduct or misbehaviour prepared under clause (ii) of sub-rule (2) and shall require the Government employee to submit to the inquiring authority within such time as may be specified a written statement of his defence and to state whether he desires to be heard in person.
- (4) The disciplinary authority shall in all cases for the purpose of enquiry appoint an inquiring authority and forward to it:
 - (a) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
 - (b) a copy of statement of witness, if any;
 - (c) evidence proving the delivery of the documents referred to in sub-rule (2) to the Government employee.
- (5)
 - (i) The Government employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charges and the statements of imputations of misconduct or misbehaviour as the inquiring authority may, by a notice in writing specify in this behalf of within such further time not exceeding ten days, as the inquiring authority may allow.
 - (ii) The Government employee against whom departmental proceedings have been instituted may take the assistance of any other Government employee to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, permits to do so.
- (6) If the Government employee who has not admitted any of the articles of charge in his written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Government employee thereon. The inquiring authority shall return a finding to guilt in respect of those articles of charge to which the Government employee pleads guilty. The inquiring authority shall, if the Government employee fails to appear within the specified time or refuses or omits to plead or claims to be tried require the disciplinary

authority or his representative to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding 30 days, after recording an order that the Government employee may for the purpose of preparing his defence:

- (a) 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 (2);
 - (b) submit a list of witnesses to be examined on his behalf;
 - (c) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow asking for the discovery or production of any documents which are in the possession of the Government but not mentioned in the list mentioned in sub-rule (2).
- (7) The inquiring authority shall, on receipt of the notice for the discovery or production of documents forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition. Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.
- (8) On receipt of the requisition referred to in sub-rule (7) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the Government employee and withdraw the requisition made by it for the production or discovery of such documents.

- (9) After the completion of the enquiry, a report shall be prepared and it shall contain :
- (a) the articles of charge and the statement or imputations of misconduct or misbehaviour;
 - (b) the defence of the Government employee in respect of each article of charge ;
 - (c) an assessment of the evidence in respect of each article of charge;
 - (d) the finding on each article of charge and the reasons therefore.
- (10) The disciplinary authority shall consider the record of the enquiry and record its findings on each charge.
- (11) If the disciplinary authority, having regard to its findings on the charges, is of opinion that any of the penalties specified in clauses (i) to (iii) of rule 8 should be imposed, it shall pass appropriate orders on the case.

Provided that in every case in which it is necessary to consult the Commission, the record of the enquiry shall be forwarded by the disciplinary authority to the Commission for advice and such advice taken into consideration before passing the orders.

- (12) If the disciplinary authority, having regard to its finding on the charges, is of opinion that any of the penalties specified in clauses (iv) to (viii) of Rule 8 should be imposed or where the Commission recommends, in any of the cases referred to it under sub-rule (11) one or other of the penalties specified in clauses (iv) to (viii) of rule 8 and the disciplinary authority agrees with the views, it shall:
- (a) furnish to the Government employee a copy of the report of the inquiring authority and a statement of its findings together with brief reasons for disagreement, if any, with findings of the inquiring authority ; and
 - (b) give him a notice stating the punishment proposed and the grounds therefore and calling upon him to submit within a specified time such representation as he may wish to make on the punishment proposed but only on the basis of the evidence adduced during the enquiry.
- (13) In every case in which it is necessary to consult the Commission, the record of the inquiry together with a copy of the notice given under clause (b) of sub-rule (12) and the

representation made in response to such notice, if any, shall be forwarded by the disciplinary authority to the Commission for its advice.

- 14) On receipt of the advice of the Commission the disciplinary authority shall consider the representation, if any, made by the Government employee as aforesaid and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government employee and pass appropriate orders on the case.
- 15) In any case in which it is not necessary to consult the Commission, the disciplinary authority shall consider the representation, if any, made by the Government employee in response to the notice under clause (b) of sub-rule (12) and determine what penalty, if any, should be imposed on the Government employee and pass appropriate orders on the case.
- 16) Orders passed by the disciplinary authority under sub-rule (9) or sub-rule (10) shall be communicated to the Government employee who shall also be supplied with a copy of the report of the enquiring authority and a statement of its findings together with brief reasons for disagreement, if any, with the findings of the enquiring authority, unless they have already been supplied to him and also a copy of the advice, if any, given by the Commission and where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

11. Special procedure in certain cases -

(1) Nothing in rule 10 shall apply in a case where :

- (i) a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ; or
 - (ii) the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for reasons to be recorded in writing, it is not reasonably practicable to hold such inquiry; or
 - (iii) the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.
- (2) If any question arises whether it is reasonable practicable to give any person an opportunity of showing cause under clause (ii) of sub-rule (1) the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

12. Provisions regarding officers whose services are lent to the Government of India, etc. -

(1) Where the services of a Government employee are lent to the Government of India or any other State Government or to an authority sub-ordinate thereto or to a local or other authority (hereinafter in this rule referred to as the borrowing authority), the borrowing authority shall have the power of the appointing authority for the purpose of placing the Government employee under suspension and of the disciplinary authority for the purpose of taking disciplinary proceedings against him.

Provided that the borrowing authority shall forthwith inform the authority which lent his services (hereinafter in this rule and in rule 13 referred to as the lending authority) of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceedings, as the case may be.

(2) In the light of the findings in the disciplinary proceedings taken against the Government employee:

- (i) if the borrowing authority is of opinion that any of the penalties specified in clauses (i), (ii) and (iv) of rule 8 should be imposed on him, it may, in consultation with the lending authority, pass such orders in the case as it deems necessary.

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the Government employee shall be replaced at the disposal of the lending authority and the borrowing authority shall transmit to it the proceedings of the inquiry and thereupon the lending authority may, if it is the disciplinary authority, pass such orders thereon including an order to commence the proceedings de novo as it deems necessary, or if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass such orders in the case including an order to commence the proceedings de novo as it deems necessary:

(v) an order -

(a) reverting him while officiating a higher service, grade or post, to a lower service, grade or post, otherwise than as a penalty;

(b) reducing or withholding the pension or denying the maximum pension admissible to him under the rules ;

(c) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;

(d) determining his pay and allowances -

(i) for the period of suspension, or

(ii) for the period from the date of his dismissal, removal or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post; or

(e) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation. - In this rule,-

(i) the expression 'Government employee' includes a person who has ceased to be in Government service;

(ii) the expression 'pension' includes additional pension, gratuity and any other retirement benefit".

Under Notification. 1440 - F. -20th February, 2008.

(vii)

16. Appellate Authority.-(1) A Government employee including a person who has ceased to be in Government service, may prefer an appeal against all or any of the orders specified in rule 15 to the authority specified in this behalf either in the Schedule or by a general or special order of the Governor or, where no such authority is specified -

(a) where such Government employee is or has been a member of the West Bengal State Service, Group A, to the Governor, where the order appealed against is made by any other authority;

(b) where such Government employee is or has been a member of the State Service, Group B, Group C or Group D, to the authority to which the authority making the order appealed against is immediately subordinate.

(2) Notwithstanding anything contained in sub-rule (1),-

(a) an appeal against an order in a common proceeding held under proviso to sub-rule (2) of rule 9, shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of the proceeding is immediately subordinate :

Provided that where such authority is subordinate to the Governor in respect of a Government employee for whom Governor is the Appellate Authority in terms of sub-clause (ii) of clause (a) of sub-rule (1), the appeal shall lie to the Governor;

(b) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the Appellate Authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate;

Under Notification. 1440 - F. -20th February, 2008.

(viii)

17. Period of limitation of appeals, - No appeal preferred under this part 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 after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time

Under Notification. 1440 – F. –20th February, 2008.

(ix)

18. Form and contents of appeal. – (1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall, on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the Appellate Authority without any avoidable delay, and without waiting for any directions from the Appellate Authority.

Under Notification. 1440 – F. –20th February, 2008.

(x)

19. Consideration of appeal, - (1) In the case of an appeal against an order of suspension, the Appellate Authority shall consider whether in the light of the provisions of rule 7 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 8 or enhancing any penalty imposed under the said rule, the Appellate Authority shall consider -

(a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe; and pass orders -

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case of the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case;

Provided that -

(a) the Commission shall be consulted in all cases where such consultation is necessary;

(b) if such enhanced penalty which the Appellate Authority proposes to impose is one of the penalties specified in clauses (iv) to (viii) of rule 8 and an inquiry under rule 10 has not already been held in the case, the appellate Authority shall, subject to the provisions of rule 11, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 10 and thereafter on a consideration of proceedings of such inquiry, make such orders as it may deem fit;

(c) if the enhanced penalty which the Appellate Authority proposes to impose is one of the penalties specified in clauses (iv) to (viii) of rule 8 and an enquiry under rule 10 has been held in the case, the Appellate Authority shall make such orders as it may deem fit after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty; and

(d) on order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions rule 10 of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in rule 15, the Appellate Authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

Under Notification. 1440 – F. –20th February, 2008.

(xi)

20. **Implementation or orders in appeal**-The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority. ”;

Part VII - MISCELLANEOUS PROVISIONS

Under Notification. 1440 – F. –20th February, 2008.

(xii)

21. Revision. (1) Notwithstanding anything contained in these rules,—(i) the Governor, or (ii) the head of a department directly under the State Government in the case of a Government employee serving in a department or office (not being the Secretariat), under the control of such head of a department, or (iii) the appellate authority, within six months or the date of the order proposed to be revised, or (iv) any other authority specified in this behalf by the Governor, by a general or special order, in such general or special order,

may, at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revise any order made under these rules from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed, after consultation with the Commission where such consultation is necessary, and may –

- (a) confirm, modify or set aside the order, or
- (b) confirm, reduce enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such inquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as it may deem fit;

Provided that no order imposing or enhancing any penalty shall be made by any revisional authority unless the Government employee concerned has been given a reasonable opportunity of making representation against the penalty proposed, and where it is proposed to impose any of the penalties specified in clauses (iv) to (viii) of rule 8 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses and if an inquiry under rule 10 has not already been held in the case, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 10, subject to the provisions of rule 11, and except after consultation with the Commission where such consultation is necessary:

Provided further that no power of revision shall be exercised by the head of department unless –
(i) the authority which made the order in appeal; or (ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for revision shall be commenced until after –

- (a) the expiry of the period of limitation of an appeal; or
- (b) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these rules.

Under Notification. 1440 – F. –20th February, 2008.

(xiii)

22. Review. - The governor may, at any time, either on his own motion or otherwise, review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought to his notice:

Provided that no order imposing or enhancing any penalty shall be made by the Governor unless the Government employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose or enhance any of the penalties specified in the rule 8 sought to be reviewed to any of other penalties and if an inquiry under rule 10 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in rule 10 subject to the provisions of rule 11 and except after consultation with the Commission where such consultation is necessary."

2. This notification shall come into force with effect from the 20th February, 2008

23. Interpretation - If any question arises relating to the interpretation of these rules, it shall be referred to the State Government whose decision thereon shall be final.

24. Repeal and Savings -

- (1) Any rules, orders or notifications concerning matters covered by these rules including :
 - (i) those contained in Parts XII and XIII of the Civil Services (Classification, Control and Appeal) Rules issued with the Government of India, Home Department Notification No. 9-3-30-Ests., dated the 19th June 1930 and adopted by the State Government for application to the Gazetted services under their rule-making control and
 - (ii) the Bengal Subordinate Services (Discipline and Appeal) Rules, 1936, which were in force immediately before the commencement of these rules and applicable to the Government employees to whom these rules apply are hereby repealed.

Provided that -

- (a) such repeal shall not affect the previous operation of the said rules, notifications and orders or anything done or any action taken there under;
 - (b) any proceedings under the said rules, notifications or orders pending at the commencement of these rules shall be continued and disposed of as far as may be in accordance with the provisions of 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 repealed by sub-rule (1) in respect of any order passed before the commencement of these rules
 - (3) An appeal pending at or preferred after the commencement of these rules against an order made before such commencement shall be disposed of in accordance with these rules.

By order of the Governor
J. L. KUNDU
Financial Commissioner and Secretary
(Finance Department)

STANDARD FORM OF CHARGE SHEET

The Governor/undersigned proposes to hold an inquiry under ruleof the against Shri

The substance of imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the articles of charge (Annexure I).

- 1. A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).
2. Shriis directed to submit within 7 days of the receipt of this Memorandum a written statement of his defence to inquiring authority and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.
4. Shriis further informed that if he does not submit his written statement of defence on or before the date specified in paragraph 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the rules/orders/directions issued in pursuance of rule of West Bengal Services (Classification, Control and Appeal) Rules, 1971, the inquiring authority may hold the inquiry against him exparte.
5. Attention of Shriis invited to rule 22 of West Bengal Government Employees' Conduct Rules, 1959, under which no Government employee shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shriis aware of such a representation and, that it has been made at his instance and action will be taken against him for violation of rule 22 of the West Bengal Government Employees' Conduct Rules, 1959.

The receipt of this Memorandum may be acknowledged.

By order and in the name of Governor, D. D. O. M. 54 Name and designation of Competent Authority

ANNEXURE I

Statement of articles of charge framed against Shri (name and designation of Government employee)

Article of Charge I

That the said Shri while functioning as during the period

Article of Charge II

That during the aforesaid period and while functioning in the afore said office, the said Shri That during the aforesaid period and while functioning in the afore said office the said Shri

ANNEXURE II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri (name and designation of the Government Employee)

Article of Charge I
Article of Charge II
Article of Charge III

ANNEXURE III

List of documents by which the articles of charge framed against Shri (name and designation of Government employee) are proposed to be sustained.

ANNEXURE IV

List of witnesses by whom the articles of charge framed against Shri (name and designation of the Government employee) are proposed to be sustained.

Order

In exercise of the power conferred by sub-rule (4) of rule of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, the Governor/undersigned hereby appoints Shri(name and designation) as inquiring authority to enquire into charges framed against the said Shri *By order of the Governor, Competent Authority*

SCHEDULE I

FINANCE (AUDIT) DEPARTMENT

List of appointing disciplinary and appellate authorities in Class IV Services

[Vide Rules 6(2), 9(b) and 15 (2)]

Authority empowered to impose penalties and the penalty which it impose with reference to the items nos. (i) to (viii) of rule 8,