

The Punjab civil services (Punishment and Appeal) Rules, 1970

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Annexure – I

The Punjab civil services (Punishment and Appeal) Rules, 1970

Notified vide No. GSR-87/ConstArt-187, 309 and 318/70 dated 3rd September 1970

1. Short Title and Commencement – (1) These rules may be called the Punjab Civil services (punishment and Appeal) Rules, 1970.

(2) They shall come into force at once.

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

(a) “ Appointing authority “ in relation to a Government employee means: -

(i) The authority empowered to make appointments to the service of post 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 ;

(b) “ *Commission* “ means the Punjab public service commission :

(c) “ *Government* “ means the Government of the state of Punjab :

(d) “ *Government employee* “ means any person appointed to any civil service or post in connection with the affairs of the state of Punjab.

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 Punjab :

(f) “ *Punishing Authority* “ means the authority competent under these rules to impose on a Government employee any of the penalties specified in rule 5 :

(g) “ *service* “ means a civil service of the state of Punjab :

3. Application- (1) These rules shall apply to every Government employee, but shall not apply to: -

(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 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 Government before or after the commencement of these rules, in regard to matters covered by such special provisions;

(2) Notwithstanding anything contained in sub – rules (1) , the Governor may by order exclude any class of Government employees from the operation of all or any of these rules :

(3) 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 would apply ;

(4) If any doubt arises whether these rules or any of them apply to any person, the matter shall be referred to the Governor , who shall decide the same .

PART II

4. Suspension- (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 –

(a) where a disciplinary proceeding against him is contemplated or is pending ; or

(b) where a case against him in respect of any criminal offence is under investigation , inquiry or trial ;

provided where the order of suspension is made by an authority lower than 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 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 the 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 in appeal or on 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 allegations 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 .

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

(b) 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 him in writing , direct that the Government employee shall continue to be under suspension until the termination of all or any of such proceedings .

(c) 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 by any authority to which that authority is subordinate.

PART III

(5) **Penalties:** - Following penalties may for good and as hereinafter, be imposed on a Government employee namely: -

Minor Penalties

- (i) censure;
- (ii) Withholding of his promotion;
- (iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- (iv) withholding increment of pay without cumulative effect.

Major Penalties

- (v) withholding of increments of pay with cumulative effect or 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 employed will earn increments of pay during the period of such reduction and whether on the expiry of such period reduction will or will not have the effect of postponing the future increments of his pay*;

* (Substituted vide Notification No. G.S.R.5/Const./Art.187.309 and 318 Amd(2)/93 dated 5-1- 1993)

- (vi) reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employed to the time-scale of pay, grade, post or service from which he was reduced. With or without further directions regarding condition of restoration to the grade or post or service form which the Government employed was reduced and his seniority and pay on such restoration to that grade, post or service;
- (vii) compulsory retirement;
- (viii) removal form service which shall not be a disqualification for further employment under the Government;
- (ix) dismissal form 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 increment of pay of a Government employed for his failure to pass any departmental examination in accordance with the rules and orders governing the service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a Government employed at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of a Government employee. whether in a substantive or officiating capacity. After consideration of his case. To a Service, grade or post for promotion to which he is eligible;
- (iv) reversion of a Government employee officiating in a higher Service, grade, or post to a lower Service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post on any administration ground unconnected with his conduct;
- (v) reversion of a Government employee appointed on probation to any other Service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the term of his appointment or the rules and order governing such probation;
- (vi) compulsory retirement of a Government employee in a accordance with the provision relating to his superannuation or retirement;
- (vii) termination of the service-
 - (a) of a Government employee appointed on probation, during or at the end of the period of his probation in according with the term of his appointment or the rules and orders governing such probation; 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 according with the term of his appointment; or

(c) of a Government employee under an agreement with the terms of such agreement.

Notes: - (1) punishment authorities have full discretion to publish in the Punjab Government Gazette reason for dismissal where such publication is considered desirable in public interest.

(2) In order to guard against the inadvertent re-employment of persons dismissed from service, the authority passing an order of dismissal shall to the Deputy Inspector General of Police, Punjab, Criminal Investigation Department, the Deputy Commissioner and the Superintendent of Police of the district of which the person concerned is a permanent resident, the name of such a persons and other particular required for purpose of identification. Unless the dismissal has been notified in the Punjab Government Gazette. Similarly, if a person happens to be a resident of another state, the aforesaid officers of that state should be informed accordingly.

3. The provision of this rule shall not be construed to derogate from the provision 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 fine may do so in addition to the punishments mentioned in this rule.

4. The discharge of a person appointed to hold a temporary appointment, otherwise than in accordance with the provision of explanation (vii) (b) amounts to removal or dismissal and is, therefore, appear label under these rules.

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 appear label under these rules. On the other hand, non-selection for a selection post is not appear label. If a Government employee, because of an unsatisfactory record and unfavourable confidential report, 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 enquiry 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 is 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 inquiry is held against a Government employee and an order is passed that he should not be promoted to a selection post for a definite period or until he has obtained good report this order would amount to the infliction of the penalty of withholding promotion. This distinction between non-selection post and 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 beforehand, as a disciplinary measure, to be ineligible for selection irrespective of the merits of the other Government employees available.

6. (i) While reduction of seniority as an independent penalty is not provide for in Rule 5 and cannot be imposed as such, the loss of seniority as a result of an order of reduction to a lower post or time-scale being inherent in the order of reduction cannot be avoided.

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

(iii) A Government employee in respect of whom one of the penalties included in Rule 5 (vi) was imposed, will on re-promotion count previous service in the higher grade under Rule 4.4 of the Punjab Civil Service Rules, Volume I, Part I, unless the order of punishment or the order passed on appeal direct otherwise.

(iv) An order debaring a Government employee from counting his past service in the grade from which he is reduced if and when reappointed to it, amounts to an order of reduction to a stage of the grade lower than admissible under Rules 4.4 of the Punjab Civil Service Rules, Volume I, Part I, and does not, therefore, fall outside the scope of Rule 5.

7. Unauthorized desertion of his post by a Government employee in face of enemy action, or threat of enemy action clearly amounts to grave misconduct and would, therefore, constitute a 'good and sufficient' reason with the meaning of Rules 5, for removal or dismissal in addition to any penalty provided in the East Punjab Essential Service (Maintenance) Act, 1947. Loss of pension would then follow automatically by virtue of the provision of Rule 2.5 of Punjab Civil Service Rules, Volume II and it would also be possible to forfeit the Government contribution, if any, to the individual's Provident Fund.

6. Punishing Authorities. - Subject to the provision of clause (l) of Article 311 of the Constitution of India, the punishing authority shall be such as may be specified in the rules regulating the appointment and condition of service of the employee concerned.

7. Authority to institute proceeding – (1) The Governor or any other authority empowered by him by general or special order may-

(a) institute disciplinary proceedings against any Government employee;

(b) direct a punishing authority to institute disciplinary proceeding against any Government employee on whom that punishing authority is competent to impose under these rules any of the penalties specified in Rule 5.

(2) A punishment authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of rule 5 may institute disciplinary proceeding against any Government employee for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule 5 notwithstanding that such punishing authority is not competent under these rules to impose any of the latter penalties.

PART IV

8. Procedure for imposing major penalties – (1) -No order imposing any of the penalties specified in clauses (v) to (ix) of rule 5 shall be made except after an inquiry held, as far as may be in the manner provided in this rule and Rule 9 or the manner provided by the Public Servants (Inquiries) Act 1850 (37 of 1850), where such inquiry is held under that Act.

(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 the provision of the Public (Inquiries) Act 1850, as the case may be, an authority to inquire into the truth thereof.

Explanation: -- Where the punishment authority itself holds the inquiry, any reference in sub-rules (7) to (20) and in sub-rule (22) to the inquiring authority shall be construed as a reference to the punishing authority.

(3) Where it is proposed to hold an inquiry against a Government employee under this rule and rule 9, the punishing authority shall draw up cause to be drawn up:

(i) the substance of imputation of misconduct or misbehaviour into definite and distinct articles of charges;

(ii) a statement of imputation of misconduct or misbehaviour in support of each article 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 articles of charge are proposed to be sustained.

(4) The punishing authority shall deliver or cause to be delivered to the Government employee, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of document and witness by which each article of charge is proposed to be sustained and shall require the Government employee to submit, within such time as may be specified, a written statements of his de fence and to state whether he desries to be heard in person.

(4-A) If on receipt of written statement of de fence, the punishing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 5 should be imposed on the Government employee and for that reason the punishing authority does not consider it necessary to enquire into the articles of charges for imposing any of the penalties specified in clauses (v0 to (ix) of rule 5, it shall, after following the procedure specified in rule 10, make an order imposing any of the penalties specified in clauses (i) to (iv) of rule 5*.

*** [Inserted vide Notification No. G.S.R.5/Const./Art.187.309 and 318 Amd(2)/93 dated 5-1- 1993]**

(5) (a) Subject to the provision of sub rule (4-A)* on receipt of the written statement of de fence, the punishment authority may itself inquire into such of the articles of change as are not admitted or, if it consider it necessary so to do, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of change have been admitted by the Government employee in his written statement of charge have been admitted by the Government employee in his written statement of de fence, the punishing authority shall records its finding on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 9;

***[Substituted vide Notification No. G.S.R.5/Const./Art.187.309 and 318 Amd(2)/93 dated 5-1-1993]**

(b) If no written statement of de fence is submitted by the Government employee, the punishing authority may itself inquire into the article of charge or may, if it considers it necessary to do so, appoint under sub-rule (2), inquiring authority for the purpose.

(c) Where the punishment authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry into such charge, it may 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 articles of charge.

(6) The punishing authority shall, where it is not the inquiring authority, forwards to the inquiry authority-

- (i) a copy of the article of charges and the statement of the imputation of misconduct or misbehaviour;
- (ii) a copy of written statements of de fence, if any submitted by the Government employee;
- (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 Government employee under sub-rule (4);
- (v) a copy of the order appointed the "Presenting Officer".

(7) The Government employee shall appear in person before the inquiring authority on such day and at such time within ten within ten working days form date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour as the inquiring authority may, be a notice in writing, specify in this behalf, or with in such further time not exceeding ten days, as the inquiry authority may allow.

(8) The Government employee may take the assistance of any other Government employee **[or a retired Government employee]*** to present the case on his behalf, but may not

engage a legal practitioner, or the punishing authority having regard to the circumstances of the case, so permits.

***[Added vide Notification No. G.S.R.30/Const./Art.187.309 and 318 Amd(2)/82 dated 10-02-1982]**

(9) If the Government employee who has not admitted any of the articles any of the articles of charge in his written statements of de fence or has not submitted any written statement of the de fence, appears before the inquiring authority shall ask him whether he is guilty or has any de fence to make and if he pleads guilty to any of the articles of the charge*. The inquiring authority shall records the plan, sign the record and obtain the signature of the Government employee thereon.

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1-1985]**

(10) The inquiring authority shall return a finding of guilt in respect of these articles of charges to which the Government employee pleads guilty.

(11) The inquiring authority shall if the Government employee fails to appear within the specified time or refuses or omits to plead, require the Officer to produce the evidence by which he proposes to prove the articles of charges, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government employee may for the purpose of preparing his de fence-

- (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*.

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1-1985]**

(12) 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 documents by such date as may be specified in such requisition;

Provided that the inquiring authority may, for reason to be recorded by it in writing; refuse to requisition such of the documents as are in its opinion not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12) 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 reason to be recorded by it in writing that the production of all or any or

such document would be against the public interest or security of the state, if shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the Government's employee and withdraw the requisition made by it for the production or discovery of such documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be on behalf of the punishing authority. The witnesses shall be examined by or on behalf of the Government employee. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such question to the witnesses as it thinks fit.

(15) If it shall appear necessary before the close of the case on behalf of the punishing authority, the inquiring authority may, in its discretion, allow the presenting officer to produce evidence not included in the list given to the Government employee or may itself call for new evidence or recall and re-examine any witness and in such case the Government employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the date of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government employee an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Government employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.

Provided that new evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally*;

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1-1985]**

(16) when the case for the punishing authority is closed . the government employee shall be required to state his defence orally or in writing as he may prefer. If the defence is made orally it shall be recorded and the Government employee shall then be examined and shall be liable to cross – examination, re – examination and examination by the inquiring authority according to the provision applicable to the witness for the punishing authority.

(17) The evidence on behalf of the Government employee shall then be produced . The Government employee may examine himself on his own behalf, if he so prefers either at the outset or after the conclusion of examination of the witnesses produced by him*. The witnesses produced by the Government employee shall then be examined and shall be liable to cross – examination, re – examination and examination by the inquiring authority according to the provision applicable to the witness for the punishing authority.

***[Added vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1- 1985]**

(18) The inquiring authority may, after the Government employee closes his case, and shall, if the Government employee has not examined himself, generally question him on the circumstances, appearing against him in the evidence for the purpose of enabling the Government employee to explain any circumstances appearing in the evidence against him .

(19) The inquiring authority may, after the completion of the production of evidence hear the presenting officer, if any appointed and the government employee or permit them to file written brief of their respective cases, if they so desire.

(20) If the Government employee to whom a copy of the articles of charge has been de-livered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex – parte .

(21) (a) Where a punishing authority competent to impose any of the penalties specified in clauses (I) to (iv) of rule 5 but not competent to impose any of the penalties specified in clauses (v) to (ix) of rule 5 has itself inquired into or caused to be inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it , is of opinion that the penalties specified in clauses (v) to (ix) of rule 5 should be imposed on the Government employee , that authority shall forward the records of the inquiry to such punishing authority as is competent to impose the last mentioned penalties .

(b) The punishing authority to which the records are so forwarded may act on the evidence on the record or may , if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice , recall the witness and examine , cross-examine and re – examine and re – examine the witnesses and may impose on the Government employee such penalty as it may deem fit in accordance with these rules .

(22) Whenever any inquiring authority after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has and which exercises such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor and partly recorded by itself .

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross – examine and re – examine any such witnesses as herein before provided.

(23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain

(a) the articles of charge and the statement of the 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 findings on each article of charge and the reasons therefore .

Explanation: - If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its finding on such article of charge .

(ii) The inquiring authority 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 clause (i);
- (b) the written statements of defence, if any submitted by the Government employee;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written brief, if any filed by the Presenting Officer, or the Government employee or both during the course of the inquiry; and
- (e) the others, if any, made by the punishing authority and the inquiring authority in regard to the inquiry.

9. Action on the inquiry report - (1) The punishing authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provision of rule 8 as far as may be.

(2) The punishing authority shall, if it disagrees with the finding of the inquiring authority on any article of charge, record its reasons for each disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the punishing authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (iv) of Rule 5 should be imposed on the Government employee, it shall, notwithstanding anything contained in rule 10, make an order imposing such penalty;

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the punishing authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government employee.

(4) If the punishing authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry, is of opinion that any of the penalties specified in clauses (v) to (ix) of Rule 5 should be imposed on the Government employee, it shall make an order imposing such penalty and it shall not be necessary to give the Government employee any opportunity of making representation on the penalty proposed to be imposed ;

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the punishing authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Government employee*.

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1-1985]**

10. Procedure for imposing minor penalties—(1) Subject to the provisions of sub-rule (4 – A) of rule 8 sub – rule 3 of rule 9, no order imposing on a Government employee any of the penalties specified in clauses (I) and (iv) of rule 5 shall be made except after-

- (a) informing the Government employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken , and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal ;
 - (b) holding an inquiry in the manner laid down in sub – rules (3) to (23) of rule 8, in every case in which the punishing authority is of the opinion that such inquiry is necessary;
 - (c) taking the representation , if any submitted by the Government employee under clause (a) and the record of inquiry , if any , held under clause (b) into consideration :
 - (d) recording a finding on each imputation of misconduct or misbehaviour; and
 - (e) consulting the Commission where such consultation is necessary .
- (2) The record of the proceeding in such cases shall include –
- (i) a copy of the intimation to the Government employee of the proposal to take action against him ;
 - (ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him ;
 - (iii) his representation , if any;
 - (iv) the advice of the commission, if any ;
 - (v) the findings of the punishing authority and also the report of the inquiring authority in case an inquiry has been held under clause (b) of sub – rule (1) ; and*

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1- 1985]**

- (vii) the orders on the case together with the reasons therefore.

11. Communication of orders - Order made by the punishment authority shall be communicate to the Government employee who shall also be supplied with a copy of the report of the inquiry, if any,

help by the punishment authority and a copy of its findings on each article of charge, or where the punishment authority is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the punishing authority together with brief reasons of any, with the findings of the inquiring authority (unless they have already been supplied to him) and also a copy of the advice, if any given by the Commissioner and where the punishing authority has not accepted the advice of the Commissioner, a brief statement of the reason for such non acceptance.

12. Common Proceeding- (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 on be taken in a common proceeding and if the authority competent to impose the penalty of dismissal on such Government employees are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authority with the consent of the other*.

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1- 1985]**

(2) Any order under sub-rule (1) shall specify -

- (i) the authority which may function as the punishing authority for the purpose of such common proceedings;
- (ii) the penalties specified in Rule 5 which such punishing authority shall be competent to impose;
- (iii) whether the procedure laid down in Rule 8 and 9 or Rule 10 shall be followed in the proceeding.

13. Special procedure in certain cases - Notwithstanding anything contained in Rule 8,9,10,11 and 12-

- (i) where any penalty is imposed on a Government employee on the ground of conduct which has led to his conviction on a criminal charge; or
- (ii) where the punishing authority is satisfied for recorded by it in writing that it is not reasonable practicable to hold an inquiry in the manner provided in these rules; or
- (iii) where the Government is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, the punishing authority may consider the circumstances of the case and make such orders thereon as it deems fit;

Provided that the Commissioner shall be consulted, where such consultation is necessary, before any orders are made in any under this rule.

PART V **Appeals**

14. Order against which no appeal lies - Notwithstanding anything contained in this part, no appeal shall lie against-

- (i) any order made by the Governor.
- (ii) any order of an interlocutory nature or the nature to step-in-aid of the final disposal of a disciplinary proceeding other than an order of suspension;
- (iii) any order passed by an inquiring authority in the course of an inquiring under Rule 8.

15. Order against which appeal lies- Subject to the provision of Rule 14 a Government employee may prefer an appeal against all or any of the following orders, namely-

- (i) an order imposing any of the penalties specified in Rule 5 whether made by the punishing authority or deemed to have been made under Rule 4;
- (ii) an order imposing any of the penalties specified in Rule 5 whether made by the punishing authority or by any appellate or reviewing authority;
- (iii) an order enhancing any penalty imposed under Rule 5;
- (iv) an order which;
 - (a) denies or varies to his disadvantage his pay, allowances, pension or other condition of service as regulating by rules or by agreement;
 - (b) an order to his disadvantage the provision of any such rule or agreement;
- (v) an order-
 - (a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;
 - (b) reverting him while officiating in a higher service, grade or post to a lower service, grade or post otherwise than as a penalty;
 - (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;
 - (d) determining the subsistence and other allowances to be paid to him for the period of suspension or for any the rules;
 - (e) determined his pay and allowances-
 - (i) for the period of suspension; or
 - (ii) for the period form the date of his dismissal, removal, or compulsory retirement form service, or form 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
 - (f) determining whether or not the period form the date of his suspension or form 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 a duty for any purpose.

Explanation: In the rule-

- (i) the expression 'Government employee' includes a person who has ceased to be in Government service;
- (ii) the expression 'Pension' include additional pension, gratuity and any other retirement benefit.

16. Appellate authorities- A Government employee, including a person who has ceased to be a Government employee, may prefer an appeal against all or any of the orders specified in Rule 15 to the authority specified in this rules regulating his appointment and condition of service.

17. Period of limitation of appeal- No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty- five days form the date on which a copy of order appealed is delivery to the appelland;

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appelland had sufficient cause for not preferring the appeal in time.

18. Form and content of a 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 forwards by the appelland to the authority which made the order appealed against. It shall contain material statement and arguments on which the appelland relies but 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, forwards the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without waiting for any direction form the appellate authority.

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 4 and having regards 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 imposed any of the penalties specified in Rule 5 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 provision of the Constitution of India or in the failure of justice;
- b. Whether the finding of the punishing authority are warranted by the evidence on the record; and
- c. Whether the penalty or the enhanced penalty imposed is adequate, inadequate or serve;

and pass orders-

- (i) confirming, enhancing, reducing or setting aside the penalty; or
- (iii) remitting the case to 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-

- (i) the Commissioner shall be consulted in all cases where such consultation is necessary;
- (ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of rule 5 and an inquiry under Rule 8 has not already been held in the case, the appellate authority shall, subject to the provision of rule 13, itself hold such inquiry or direct that such inquiry be help in accordance with the provision of Rule 8 and thereafter, on a consideration of the proceeding of such inquiry make such orders as it may deem fit;
- (iii) if the enhanced penalty which the appellate authority propose to impose is one of the penalties specified in clauses (v) to (ix) of Rule 5 and an inquiry under Rule 8 has not already been help in the case, the appellate authority shall make such orders as it may deem fit; and
- (iv) no orders imposing an enhanced penalty shall be made in any other case unless the appelland has been given a reasonable opportunity as far as may be in accordance with the provision of Rule 10 of making a representation against such enhanced penalty.

20. Implementation of orders in appeal - The authority which made the orders appealed against shall give effect to the orders passed by the appellate authority.

PART VI

21. Review - (1) Notwithstanding anything contained in these Rule-

- (i) the Governor; or
- (ii) the appellate authority, within six months of the orders proposed to be reviewed; or
- (iii) any other authority, specified in this behalf by the Governor by a general or special orders, and within such time as may be prescribed in such general or special orders;

may at any time, either on his or its own motion or otherwise call for the records of any inquiry and review any orders made under these rules or under the rule repealed by Rule 25 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 co-missioner 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 other authority directing such authority to make such further inquiry as it may consider proper in the circumstance of the case; or
- (c) remit the case to authority which made the order or to any other authority directing such authority to make such further 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 reviewing authority unless the Government employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 5 or to enhance the penalty imposed by the order sought to be reviewed to any to enhance the penalty specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 8 and except after consultation with the Commission, where such consultation is necessary.

22 Service of orders, notices, etc.- Every order, notice and other process made or issued under these rules shall be served in person on the Government employee concerned or communicated to him by registered post;

Provided that if there is reason to believe that the Government employee is keeping out of the way for the purpose of avoiding service, or that for any other reason. The order, notice and other process cannot be served upon him in the manner aforesaid, the same shall be got published in any of the leading newspapers of the region giving last known address of the employee concerned and thereupon the same shall be deemed to have been served upon him*.

***[Substituted vide Notification No. G.S.R.4/Const./Art.187.309 and 318 Amd(2)/85 dated 9-1-1985]**

23 Power to relax time – limit and to condone delay – Save as otherwise expressly provided in these Rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

24 Supply of copy of commission's advice- Whenever the commission is consulted as provided in these rules, a copy of the advice by the Commission and where such advice has not been accepted, also a brief statement of the reasons for such non-acceptance, shall be furnished to Government employee concerned with a copy of the order passed in the case, by the authority making the order

25 Repeal and saving - (1) The Punjab civil services (Punishment and Appeal) Rules, 1952 and any notifications or orders issued in so far as they are inconsistent with these rules, are hereby repealed :

Provided that : -

- (a) such repeal shall not affect the previous operation 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 disposal 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, notification 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 review 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 review provided by any rule in force before the commencement of these rules.

26 Removal of doubts - If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Governor or such other authority , as may be specified by the Governor by a general or special order; and the Governor or such other authority shall decide the same