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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
MINISTRY OF ESTABLISHMENT

Regulation Branch

Section V

NOTIFICATION

Dhaka, the 19th July, 1984

No. S.R.O. 344-L/84.—In pursuance of the Proclamation of the 24th March 1982, and in exercise of all powers enabling him in that behalf, the President, after consultation with the Bangladesh Public Service Commission, is pleased to make the following rules:—

PART I—GENERAL

1. Short title and application.—(1) These rules may be called the Government Servants (Discipline and Appeal) Rules, 1984.

(2) They shall apply to all Government servants, except—

- (a) persons to whom the Railway Establishment Code applies;
- (b) subordinate officers of the Dhaka Metropolitan Police and Chittagong Metropolitan Police;
- (c) members of any other police-force below the rank of Inspector of Police;
- (d) subordinate officers, Riflemen and Signalmen of the Bangladesh Rifles;
- (e) subordinate jail officers below the rank of Jailor of Bangladesh Jails;

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- (f) members of such services and holders of such posts as may be specified by the Government by notification in the Official Gazette;
- (g) persons in respect of whose conditions of service, pay, allowances, pensions, discipline and conduct, or any one of them, special provisions have been made by any contract entered into or by any other legal instrument before the commencement of these rules or by any agreement entered into under sub-rule (4):

Provided that these rules shall apply to such persons in relation to any matter relating to their posts or service which is not covered by such special provisions.

(3) If any doubt arises as to whether these rules apply to any person the matter shall be referred to the appointing authority and the decision of that authority shall be final.

(4) Where, in the opinion of the Government, it is necessary to make any special provision relating to the conditions of service of any person subject to these rules, it shall be lawful for the Government to make such provision in an agreement entered into with such person.

2. Definitions.—In these rules unless there is anything repugnant in the subject or context,—

- (a) “accused” means a Government servant against whom any action is taken under these rules;
- (b) “authority” means the appointing authority or an officer designated by it, subject to such general or specific guideline as may be issued by the Government from time to time, to exercise the powers of the authority under these rules and shall include a superior officer, if any, of the appointing authority in the chain of command and a superior officer designated to exercise the powers of the authority;
- (c) “appointing authority” means the authority mentioned as such in the recruitment rules of the Government servant concerned;
- (d) “desertion” means quitting of service by a Government servant without permission or remaining absent from duty for a period of sixty days or more, or remaining absent from duty in continuation of absence from duty with permission, for a period of sixty days or more without further permission or leaving the country by a Government servant without permission and remaining abroad for thirty days or more or overstaying abroad, after leaving the country with permission, for sixty days or more without further permission;
- (e) “Government servant” means a person in the service of the Republic and includes any such person on foreign service or whose services are temporarily placed at the disposal of a local authority or other authority or of a foreign Government or agency;
- (f) “misconduct” means conduct prejudicial to good order or service discipline or contrary to any provision of the Government Servants (Conduct) Rules, 1979 or unbecoming of an officer or gentleman and includes submission of petitions containing wild and false accusation; and
- (g) “penalty” means a penalty which may be imposed under these rules.

PART II—DISCIPLINE

3. **Grounds for penalty.**—Where a Government servant, in the opinion of the authority,—

- (a) is inefficient, or has ceased to be efficient, whether by reason of—
 - (i) infirmity of mind or body, or
 - (ii) having, on two or more consecutive occasions, failed to pass in a departmental examination prescribed for the purpose of maintaining or raising general efficiency, or
 - (iii) having, without reasonable cause, failed to appear at any such examination as aforesaid, or otherwise, and is not likely to recover his efficiency; or
- (b) is guilty of misconduct; or
- (c) is guilty of desertion; or
- (d) is corrupt, or may reasonably be considered corrupt because—
 - (i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income, or
 - (ii) he has assumed a style of living beyond his ostensible means, or
 - (iii) he has a persistent reputation of being corrupt; or
- (e) is engaged, or is reasonably suspected of being engaged, in subversive activities, or who is reasonably suspected of being associated with others engaged in such subversive activities, and whose retention in service is, therefore, considered prejudicial to national security;

the authority may, subject to the provision of sub-rule (6) of rule 4, impose on him one or more penalties.

4. **Penalties.**—(1) There shall be two kinds of penalties which may be imposed under these rules, namely, minor penalties and major penalties.

(2) The following are the minor penalties—

- (a) censure;
- (b) withholding, for a specified period, of promotion or of increment otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post;
- (c) stoppage, for a specified period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
- (d) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;
- (e) reduction to a lower stage in the time-scale.

(3) The following are the major penalties—

- (a) reduction to a lower post or time-scale;

- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service.

(4) Removal from service does not, but dismissal from service does, disqualify from future employment under the Government or under any body corporate established by or under an Act of Parliament.

(5) Penalties may be imposed as follows—

- (a) for inefficiency as laid down in sub-clause (i) of clause (a) of rule 3, any penalty except censure and dismissal from service;
- (b) for any other inefficiency, any major penalty except dismissal from service;
- (c) for misconduct, any penalty;
- (d) for desertion, any penalty;
- (e) for corruption or subversion, any major penalty except reduction to a lower post or time-scale.

(6) No authority subordinate to that by which a Government servant was appointed shall be competent to impose on him any major penalty. The appointing authority may impose on him one or more minor or major penalties and the officer designated by it may impose on him one or more of the minor penalties.

(7) In this rule, removal from service or dismissal from service does not include the discharge of a person—

- (a) appointed on probation, during the period of probation or in accordance with the probation and training rules applicable to him; or
- (b) appointed otherwise than under a contract to hold a temporary appointment, on the expiration of the period of appointment; or
- (c) engaged, under a contract, in accordance with the terms of his contract.

5. Inquiry procedure in cases of subversion.—(1) When a Government servant is to be proceeded against under clause (e) of rule 3, the authority—

- (a) may, by order in writing, require the Government servant concerned to proceed on such leave as may be admissible to him and from such date as may be specified in the order;
- (b) shall, by order in writing, inform him, within seven working days from the date of taking decision to proceed against him, of the action proposed to be taken in regard to him and the grounds of that action; and
- (c) shall give him reasonable opportunity of showing cause within the time to be specified in the order under clause (b), which shall not be less than seven working days and not more than ten working

days, against that action before an Inquiry Committee to be constituted under sub-rule (2) to inquire into the charge:

Provided that no such opportunity shall be given where the President is satisfied that in the interest of the security of Bangladesh, it is not expedient to give such opportunity.

(2) Where an Inquiry Committee is to be constituted in pursuance of clause (c) of sub-rule (1),—

- (a) the appointing authority shall constitute, within three working days from the date of receipt of the reply to the show cause order issued under clause (b) of sub-rule (1), it of three officers of the rank not below that of the Government servant proceeded against;
- (b) the Committee shall start holding of the inquiry into the charge within seven working days from the date of receipt of order of inquiry and shall submit its findings to the authority within thirty working days from the date on which the Committee was constituted;
- (c) the appointing authority shall pass on the findings, within seven working days from the date of submission thereof, such orders as it deems fit.

Explanation—For the purpose of clause (a), an officer means a Gazetted Officer.

6. Inquiry procedure in cases of inefficiency and misconduct calling for minor penalties.—(1) When a Government servant is to be proceeded against under clause (a) or (b) or (c) of rule 3, and the authority or such officer as may be appointed by it in this behalf or in cases where the President is the authority, the Secretary of the administrative Ministry to which the Government servant belongs, is of the opinion that the allegations, if established, would call for a minor penalty heavier than that of censure, the authority or the officer or the Secretary of the administrative Ministry, as the case may be, shall—

- (a) make the allegations against the accused known to him in writing and call upon him to explain his conduct within a period of seven working days from the date of receipt of the allegations by the accused and fix a date for hearing the accused in person; and
- (b) consider the explanation of the accused, if any, submitted within the specified time and, after giving him an opportunity of being heard in person, or if no explanation is submitted within the specified time, may award any of the minor penalties within such time so that the whole proceedings are completed within twenty-one working days from the date of the allegation is made known to the accused in writing:

Provided that the authority or the officer or the Secretary of the administrative Ministry, as the case may be, may, if it or he thinks fit, appoint an officer not below the rank of the accused, within seven working days from the date of hearing of the accused in person, to inquire into the allegation and submit his findings within twenty-one working days from the date of receipt of the order of inquiry;

- (c) if the Inquiry Officer cannot complete the inquiry within the specified time, he may request, in writing, the authority, the officer or the

Secretary, as the case may be, ordering such inquiry for extension of time and the ordering authority, officer or Secretary may, after considering such request, grant such extension of time not exceeding ten working days, as it or he may consider necessary;

- (d) the authority or the officer or the Secretary of the administrative Ministry, as the case may be, shall take final decision in the case within seven working days from the date of submission of findings by the Inquiry Officer;
- (e) the authority, the officer or the Secretary, as the case may be, ordering the inquiry shall pass final order on the case within ten working days from the date of receipt by it or him of the findings of the Inquiry Officer or may order such further inquiry as it or he may consider necessary and such further inquiry shall be completed within another ten working days;
- (f) on receipt of the findings of further inquiry under clause (e) the authority, the officer or the Secretary, as the case may be, shall take a decision within fourteen working days from the date of receipt of the findings;
- (g) in case of failure of the authority, the officer or the Secretary, as the case may be, to take final decision in a case within the specified time the accused shall automatically be discharged of the charges brought against him and in such event the persons responsible for such failure shall be proceeded against under these rules.

(2) In an inquiry under this rule the accused may, if he so desires, adduce oral evidence in his defence which shall be subject to such cross-examination as may be necessary. The accused may also consult relevant files, but he will not have access to the note portion of the files.

(3) When a Government servant is to be proceeded against under clause (a) or (b) or (c) of rule 3, and the authority or such officer as may be appointed by it in this behalf or, in a case where the President is the authority, the Secretary of the administrative Ministry to which the Government servant belongs, is of the opinion that the allegations, if established, would call for the penalty of censure, the authority or the officer or the Secretary of the administrative Ministry, as the case may be, may impose upon the accused the said penalty after hearing him in person and recording the reasons therefor and obtaining the signature of the accused on the record of the proceedings. If, however, the accused does not appear or refuses to appear or demands that the allegation be communicated to him in writing, the procedure as laid down in sub-rule (1) shall be followed and in that event if the allegation is established, the penalty higher than that of censure shall be imposed.

Explanation.—For the purpose of this rule and rule 10, the expression “not below in rank” shall mean—

- (a) an officer either equal or higher in rank to that of the accused if the officer appointed to inquire into the allegations against the accused belongs to the same service; or
- (b) an officer whose scale of pay is equal to or higher than that of the accused if they belong to different services or hold different posts.

7. **Inquiry procedure in cases of inefficiency, misconduct, desertion and corruption calling for major penalties.**—(1) When a Government servant is to be proceeded against under clause (a) or (b) or (c) or (d) of rule 3, and the authority is of the opinion that the allegations, if established, would call for a major penalty, the authority shall—

- (a) frame a charge and specify therein the penalty proposed to be imposed, and communicate it to the Government servant together with a statement of allegations on which it is based and of any other circumstances which the authority proposes to take into consideration when passing orders on the case;
- (b) require the accused to submit, within ten working days from the day the charge has been communicated to him a written statement of his defence and to show cause at the same time why the penalty proposed to be imposed on him should not be imposed and also state whether he desires to be heard in person. In case the accused is unable to submit his statement of defence within the specified time, and he prays for extension of time, the authority may allow him extension of time up to ten working days for submission of the statement, provided the prayer for extension of time is submitted before the expiry of the time initially allowed; and
- (c) in case the accused does not submit his statement of defence as required under clause (b) within the specified or extended time, the authority shall record its decision on the allegation after taking into consideration the materials available with it and communicate the same to the accused within ten working days of the expiry of the specified or extended time. If it is decided to impose any major penalty, the authority shall ask the accused to show cause within seven working days why the proposed penalty shall not be imposed on him.

(2) If the accused so desires, or if the authority so directs, an Inquiry Officer or a Board of Inquiry, to be appointed under rule 10, shall hold an inquiry at which oral evidence shall be heard as to such of the allegations as are not admitted and documentary evidence relevant or material in regard to the charge shall be considered. The accused shall be entitled to cross-examine the witnesses against him, to give evidence in person and to have such witness called for the defence as he may wish. The person presenting the case in support of the charge shall be entitled to cross-examine the accused and the witnesses examined in his defence:

Provided that the Inquiry Officer or the Board of Inquiry may, for reasons to be recorded in writing, refuse to call for a particular witness or to summon or admit a particular evidence.

(3) In an inquiry under this rule the accused may, if he so desires, adduce oral evidence in his defence which shall be subject to such cross-examination as may be necessary. The accused may also consult relevant files, but he will not have access to the note portion of the files.

(4) The authority may nominate any person to present the case in support of the charge before the Inquiry Officer or the Board of Inquiry.

(5) The proceedings of an inquiry under this rule shall contain sufficient record of the evidence and, where an Inquiry Officer or a Board of Inquiry is appointed, also the report of the findings of such Officer or Board and the grounds therefor.

(6) The Inquiry Officer or Board of Inquiry, as the case may be, shall start holding of the inquiry within seven working days from the date of receipt of the order of inquiry and submit his or its findings to the authority within thirty working days from the date on which the Inquiry Officer or Board of Inquiry was appointed :

Provided that if the Inquiry Officer or Board of Inquiry cannot conclude his or its findings within the specified time, he or it may request, in writing stating the reasons therefor, the authority ordering the inquiry for extension of time; and the ordering authority may, after considering such request, grant such extension of time, not exceeding fifteen working days, as it may consider necessary.

(7) On receipt of the report of the findings of the Inquiry Officer or the Board of Inquiry, the authority shall consider the report and record its decision on the charge and communicate the same to the accused within ten working days from the date of receipt of the report.

(8) If the authority decides under sub-rule (7) to impose any major penalty, it shall ask the accused to show cause within seven working days why the proposed penalty shall not be imposed on him.

(9) If it is decided under sub-rule (1)(c) or sub-rule (7) to impose any major penalty on the accused, and if it is a case in which consultation with the Bangladesh Public Service Commission is necessary, the authority shall forward the proceedings along with the decision to impose the penalty to the Bangladesh Public Service Commission requesting it to give its advice within ten working days of the receipt of the letter forwarding the said proceedings. If no advice is received within the specified time, the authority shall presume that the Commission agrees with the decision to award the penalty.

(10) The authority shall take final decision on the proceedings after considering the cause shown, if any, by the accused as required under sub-rule (1)(c) or under sub-rule (8) and taking into account the advice, if any, of the Bangladesh Public Service Commission received under sub-rule (9) and communicate the same to the accused within ten working days from the expiry of the date specified under the said sub-rules for the receipt of the cause to be shown against the proposed penalty.

(11) In case of failure of the authority to take decision within one hundred and twenty working days from the date of communicating the charges under these rules or within one hundred and fifty working days from the date the Government servant is placed under suspension, whichever is earlier, the accused shall stand discharged of the charges brought against him and in such event the persons responsible for such failure shall be proceeded against under these rules.

8. Savings.—Nothing in rule 6 or 7 shall apply to a case—

- (a) where the accused is dismissed or removed from service or reduced in rank on the ground of conduct which has led to his conviction of a criminal charge; or
- (b) where the authority competent to dismiss or remove the accused from service or to reduce him in rank is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. Power to order medical examination as to mental or bodily infirmity.—(1) Where it is proposed to proceed against a Government servant on the ground of inefficiency by reason of infirmity of mind or body the authority may, at any stage of the proceedings, require the Government servant to undergo a medical examination by a Medical Board or a Civil Surgeon, as the authority may direct, and the report of the Medical Board or the Civil Surgeon shall form part of the proceedings.

(2) If the Government servant refuses to undergo such examination, his refusal may, subject to the consideration of any ground he may give in support of it, be taken into consideration against him as showing that he had reason to believe that the result of examination would prove unfavourable to him.

10. Appointment and procedure of Inquiry Officer.—(1) Where a Government servant is proceeded against under clause (a) or (b) or (c) or (d) of rule 3, and the authority has decided that the case calls for a major penalty, the authority shall appoint an officer, not below in rank of that of the person proceeded against, to be Inquiry Officer and to conduct the proceedings.

(2) The Inquiry Officer shall hear the case from day-to-day, and no adjournment shall be given except for reasons to be recorded in writing. Every adjournment, with reasons therefor, shall be reported forthwith to the authority. No adjournment shall be given for more than a week.

(3) If the Inquiry Officer is satisfied that the Government servant proceeded against is hampering or attempting to hamper the progress of the inquiry, he shall administer a warning, and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect, and proceed to complete the inquiry in such manner as he thinks best fitted to do substantial justice.

(4) The Inquiry Officer shall, within five days of the conclusion of the proceedings, submit his findings, and the grounds therefor to the authority.

(5) The Inquiry Officer shall give his findings of only guilty or not guilty on each charge and he shall not give any recommendation regarding punishment or otherwise.

(6) The authority may, in any case it deems fit, instead of appointing an Inquiry Officer under sub-rule (1), appoint a Board of Inquiry consisting of two or more persons, and, where a Board of Inquiry is so appointed, references in this rule to an Inquiry Officer shall be construed as references to the Board.

(7) The period for which either the accused or the Inquiry Officer falls sick or otherwise incapacitated to continue with the proceedings shall be excluded from the operation of time-limitation. In case of injunction issued by any court against any departmental proceedings the period during which the injunction remains in force shall also be excluded from the time-limitation.

11. Suspension.—(1) A Government servant against whom action is proposed to be taken under clause (b) or (c) or (d) of rule 3, or against whom any criminal proceedings have been or are proposed to be initiated, may be placed under suspension if, in the opinion of the authority, suspension is necessary or expedient :

Provided that the authority may, if it considers it more expedient, instead of placing such Government servant under suspension, by order in writing require him to proceed on such leave as may be admissible to him from such date as may be specified in the order.

(2) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the authority, on consideration of the circumstances of the case, decided to hold a further inquiry against him on the allegation on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the authority from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders. In such an eventuality, the limitation imposed under sub-rule (1) (b) of rule 7 shall count from the date of decision to proceed against the accused following the court decision.

12. Compensation pension, gratuity, etc. of Government servants compulsorily retired, removed or dismissed.—(1) Subject to any order of the President as to the amount of compensation pension or gratuity to be paid, a Government servant compulsorily retired shall, except as hereinafter provided, be entitled to such compensation pension or gratuity or provident fund benefits as would have been admissible to him on the date of the retirement under the rules applicable to his service or post if he had been discharged from service on account of the abolition of his post without alternative suitable employment being provided:

Provided that where the compulsory retirement follows a period of suspension ordered under rule 11, such compensation pension or gratuity or provident fund benefits shall be admissible only for the period of service rendered excluding the period of suspension:

Provided further that if a temporary Government servant is retired for inefficiency due to mental or physical infirmity, he shall be allowed pensionary benefits as if he was required to retire in terms of rule 321 of the Bangladesh Service Rules, Part I.

(2) Subject to any order of the President made on compassionate grounds, a Government servant who is removed or dismissed from service shall not be entitled to any compensation pension, gratuity or benefits accruing from Government contribution to a contributory provident fund.

13. **Re-instatement.**—(1) If a Government servant proceeding on leave in pursuance of an order under clause (a) of sub-rule (1) of rule 5, is not dismissed, removed, reduced in rank, or compulsorily retired, he shall be re-instated in service or, as the case may be, restored to his rank or given an equivalent rank, and the period of such leave shall be treated as duty on full pay.

(2) Re-instatement after suspensions shall be governed by the Service Rules.

14. **Procedure of inquiry against officers lent to local authorities, etc.**—(1) Where the services of a Government servant to whom these rules apply are lent to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the power of the authority for the purpose of placing him under suspension and of initiating proceedings against him under these rules:

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

(2) In the light of the findings in the proceedings taken against the Government servant in terms of sub-rule (1) if the borrowing authority is of opinion that any penalty should be imposed on him it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority may, if it is the authority, pass such orders thereon as it deems necessary or, if it is not the authority, submit the case to the authority which shall pass such orders on the case as it deems necessary.

(3) The authority may make an order under this rule on the record of the inquiry transmitted by the borrowing authority or after holding such further inquiry as it may deem necessary and, in passing such order, shall comply with the provisions of sub-rule (7) of rule 7.

PART III—APPEALS

15. **Orders made by President not appealable.**—Notwithstanding anything contained in this Part, no appeal shall lie against any order made by the President.

16. **Appeals against orders.**—(1) A Government servant may appeal against any order—

(a) imposing upon him any penalty;

(b) terminating his services in accordance with the terms of his contract, if he has been engaged on contract and has rendered continuous service for a period exceeding five years at the time when his services are terminated;

(c) altering, varying or denying to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or contract of service; or

- (d) interpreting to his disadvantage the provisions of any rules or contract of service whereby his pay, allowances, pensions or other conditions of service are regulated;

to the authority specified in this behalf by a general or special order made by the Government or, where no such authority is specified, to the authority to which the authority making the order is immediately subordinate or, where the order is made by an authority subordinate to the appointing authority, to the appointing authority.

17. Limitation for appeals.—No appeal under this part shall be entertained unless it is submitted within three months of the date on which the appellant was informed of the order appealed against:

Provided that the appellate authority may entertain an appeal within three months after the expiry of the above period, if it is satisfied that the appellant had sufficient cause for not submitting the appeal in time.

18. Form and manner of submission of appeals.—(1) Every person submitting an appeal shall do so separately and in his own name.

(2) The appeal shall be addressed to the authority to whom it lies, 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) Every appeal shall be submitted through the head of the office in which the appellant serves or, if he is not in service, the head of the office in which he served last and through the authority against whose order the appeal is preferred:

Provided that an advance copy of the appeal may be submitted direct to the appellate authority.

19. Withholding of appeals.—(1) The authority which made the order appealed against may withhold the appeal, if—

- (a) it is an appeal against an order for which no appeal lies; or
- (b) it is not submitted within the period specified in rule 17 and no cause is shown for the delay; or
- (c) it does not comply with any of the provisions of rule 18; or
- (d) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford grounds for reconsideration of the case:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it within seven days from the receipt of the appeal:

Provided further that an appeal withheld on the ground only of failure to comply with the provisions of rule 18 may be resubmitted at any time within one month of the date on which the appellant was informed of the withholding of the appeal, and, if resubmitted after compliance with the said provisions, shall not be withheld.

(2) No appeal shall lie against the withholding of an appeal by a competent authority.

(3) A list of the appeals withheld by any authority under this rule, together with the reasons for withholding them, shall be forwarded quarterly by that authority to the appellate authority.

20. Forwarding of appeals.—(1) The authority which made the order appealed against shall forward to the appellate authority every appeal which is not withheld under rule 19, together with its comments thereon and the relevant records within three working days from the date of receipt of the appeal.

(2) The appellate authority may call for any appeal withheld under rule 19, and thereupon such appeal shall be forwarded to that authority together with the comments of the authority withholding the appeal and the relevant records.

21. Disposal of appeals.—(1) In the case of an appeal against an order imposing any penalty, the appellate authority shall consider—

- (a) whether the procedure prescribed in these rules has been complied with, and, if not, whether such non-compliance has resulted in failure of justice;
- (b) whether the findings on the charge are justified; and
- (c) whether the penalty imposed is excessive, adequate or inadequate; and pass such orders as it deems fit.

(2) In the case of an appeal against any other order, the appellate authority shall consider all the facts and circumstances of the case and pass such orders as it deems just and equitable within thirty working days from the date of receipt of the appeal.

(3) The authority which passed the order appealed against shall give effect to the orders passed by the appellate authority within thirty working days from the date of receipt of the order of the appellate authority.

PART IV—REVIEW AND REVISION

22. Review.—(1) Where an order by which a Government servant is aggrieved was made by the President, the Government servant may apply to the President for review of the order.

(2) No application for review shall be entertained unless it is submitted within three months of the date on which the applicant was informed of the order by which he is aggrieved:

Provided that the President may entertain an application for review within three months after the expiry of the above period if he is satisfied that the applicant had sufficient cause for not submitting the application in time.

(3) Every person submitting an application for review shall do so separately and in his own name.

(4) Every application for review shall be submitted to the President through the head of the Office in which the applicant serves or, if he is not in service, the head of the office in which he served last.

(5) The President may pass such orders on an application for review as he deems fit.

23. **Revision.**—The President may, on his own motion or otherwise, after calling for the records of the case, revise any order passed in appeal, or any order which is appealable but against which no appeal has been preferred, under these rules within one year of the date on which the order was passed.

PART V—MISCELLANEOUS

24. **Court proceedings.**—(1) If there be any prosecution or legal proceeding against a Government servant pending in any court on the same issue, there shall be no bar on the disposal of the departmental proceedings against him; but if the authority decides to impose any penalty on such Government servant in the departmental proceedings, imposition of such penalty shall be stayed until disposal of the prosecution or legal proceeding.

(2) A Government servant convicted by a court of any offence, including any offence involving moral turpitude, shall not be dismissed, discharged or removed from service automatically. The Government shall consider the circumstances which led to the conviction and decide whether the Government servant so convicted shall be retained in service or not:

Provided that for arriving at such decision no further proceeding will be drawn up against such convicted person:

Provided further that no convicted person shall be re-instated or retained in service except with the approval of the President.

25. **Rules not to deprive any person of any right or privilege under any other law.**—Nothing in these rules shall deprive any person of any right or privilege to which he is entitled—

(a) under any law; or

(b) under the terms of any contract or agreement subsisting immediately before the date of the commencement of these rules between such person and the Government.

26. **Repeal and savings.**—(1) The Government Servants (Discipline and Appeal) Rules, 1976, are hereby *repealed*.

(2) Such repeal shall not affect the previous operation of the said rules or anything done or any action taken thereunder, and any proceedings under the said rules 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.

(3) Any officer or authority designated by the President to exercise the powers of the authority under the rules mentioned in sub-rule (1) or any officer or authority deemed to be an authority so designated by the President under these rules shall be deemed to be an authority designated under these rules.

(4) Any authority which was an appellate authority in respect of any Government servant under the rules mentioned in sub-rule (1) shall be deemed to be an appellate authority in respect of such Government servant specified by the Government under these rules.

By order of the President

D. S. YUSUF HYDER

Additional Secretary.