

The Coimbatore Corporation Services (Discipline and Appeal) Rules, 1986

TAMILNADU

India

The Coimbatore Corporation Services (Discipline and Appeal) Rules, 1986

Rule

THE-COIMBATORE-CORPORATION-SERVICES-DISCIPLINE-AND-APPEAL-RULES-1986

- Published on 9 January 1987
- Commenced on 9 January 1987
- [This is the version of this document from 9 January 1987.]
- [Note: The original publication document is not available and this content could not be verified.]

The Coimbatore Corporation Services (Discipline and Appeal) Rules, 1986Published vide Notification G. O. Ms. No. 62, Municipal Administration and Water Supply, dated 9th January 1987In exercise of the power conferred by sub-section (1) of section 430, read with subsection (1) of section 108 of the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981), the Governor of Tamil Nadu makes the following rules, namely:-

1. Short title and application.

(1)These rules may be called the Coimbatore Corporation Services (Discipline and Appeal) Rules, 1986.(2)They shall apply to-(i)every member of the service holding posts in any of the categories in Classes I to IV;(ii)every member of the service appointed to any of the categories in Classes I to IV under rule 8 of the General Rules in Part II of the Coimbatore Corporation Service Rules;(iii)every member of the service appointed to any of the categories in Class I to IV under rule 9 of the General Rules except to the extent otherwise expressly provided in the contract or agreement subsisting between such member and the Corporation.Explanation. - If any doubt arises as to the application of these rules to any member of the service, the matter shall be referred to the Government whose decision thereon shall be final.

2. Definitions.

(1)In these rules, unless there is anything repugnant in the context, the words and expressions not defined in these rules shall have the same meaning assigned to them in Part I of the Coimbatore

Corporation Service Rules, 1981.(2)"Appellate authority" means the authority competent to entertain and pass orders setting aside or confirming or modifying an original order of the disciplinary authority imposing any of the penalties specified in rule 3 or the Government on any member of the service.(3)"Disciplinary authority" means the authority competent to impose any of the penalties specified in rule 3 on any member of the service.Explanation. - Where an appellate authority passes an original order imposing any of the penalties specified in rule 3, he shall, in respect of that order, be deemed to be the disciplinary authority.

3. Penalties.

- The following penalties may, for good and sufficient reason, be imposed on any member of the service, namely:-(1)Censure;(2)Withholding of increment or promotion;(3)Reduction to a lower rank in the seniority list or to a lower post or time-scale or to a lower-stage in a time-scale;(4)Recovery from pay of the whole or part or any pecuniary loss caused to the Corporation or to any other local body or the Government or the Central Government by negligence or breach of orders;(5)Recovery from pay to the extent necessary of the monetary value equivalent to the amount of reduction to a lower stage in a time scale ordered, where such an order cannot be given effect to;(6)Recovery from pay to the extent necessary of the monetary value equivalent to the amount of reduction to a lower stage in a time scale ordered, where such an order cannot be given effect to. Explanation. - In case of stoppage of increment with cumulative effect, the monetary value equivalent to the amount of increment ordered to be withheld may be recovered.(7)Compulsory retirement from the service;(8)Removal from the service;(9)Dismissal from the service;(10)Suspension, where a member of the service has already been suspended under rule 8, to the extent considered necessary by the authority imposing the penalty.The penalties mentioned in clauses (1), (2), (4) to (6) and (10) shall be deemed to be minor penalties and those in (3), (7) to (9) shall be deemed to be as major penalties.Explanation. -(i)The discharge of a member of the service appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or(ii)of a member of the service engaged under contract, in accordance with the terms of his contract; or(iii)of a member of the service appointed otherwise than under contract to hold a temporary appointment on the expiration of the period, of the appointment,does not amount to removal or dismissal within the meaning of this rule.Explanation 2. - The following shall not amount to a penalty within the meaning of this rule, namely:-(a)Withholding of increments of pay of member of the service for his failure to pass any departmental examination in accordance with the rules or orders governing the post which he holds;(b)Non-promotion of a member of the service, whether in a substantive or officiating capacity after consideration of his case, to class or category for promotion to which he is eligible;(c)Reversion of member of the service officiating in higher class or category to a lower class or category on the ground that he is considered to be unsuitable for such higher class or category or on any administrative ground unconnected with his conduct;(d)Reversion of a member of the service appointed on probation to any other class or category to his permanent class or category during or at the end of the period of probation in accordance with the terms of his appointment or to the rules and orders governing such probation;(e)Replacement of service of a member of the service whose services had been borrowed from a State Government or Central Government or an authority under the control of a State Government or Central Government or the authority from which the services of such member of the

service had been borrowed.(f)Compulsory retirement of a member of the service in accordance with the provision relating to superannuation or retirement.

4. Disciplinary authority.

(1)The authority competent to impose the penalties specified in clauses (1), (2), (4), (5), (6) and (10) of rule 3 on the members holding Class I and II posts shall be the Commissioner.(2)The authority competent to impose the penalties specified in clauses (3), (7) to (9) of rule 3 on the members holding Class I and Class II posts shall be the Government.(3)The authority competent to impose any of the penalties mentioned in rule 3 on the members holding Class III and IV posts shall be the Commissioner.

5. Appellate authority.

(1)Notwithstanding anything contained in rule 4, the appellate authority may in respect of any specific penalty pass, an order imposing penalty on member of the service in any specified case.(2)Where in any case the appellate authority had imposed or declined to impose a penalty under this rule, the disciplinary authority shall have no jurisdiction to proceed under these rules in respect of the same case.(3)The fact that a disciplinary authority has imposed or declined to impose a penalty in any case shall not debar the appellate authority from exercising his powers under this rule in respect of the same case(4)The order of the appellate authority imposing or declining to impose a penalty in any case under this rule shall supersede any order passed by] the disciplinary authority in respect the same case.(5)The fact that a disciplinary authority had dropped a charge against a member of the service as not proved, shall not debar the appellate authority from reviving it for reasons to be recorded in writing and taking suitable action on the charge so revised.

6. Disciplinary authority in respect of members of the service promoted.

- While as a member of the service had been promoted from Class III to Class II, no penalty shall be imposed on him in respect of his work or conduct while he was a member of the class from which he was promoted except by an authority competent to impose punishments upon the members of Class II to which he had been promoted.

7. Disciplinary authority in respect of members of the service reduced or reverted.

- Where a member of the service had been reduced or reverted from Class II to Class III, no penalty shall be imposed upon him in respect of his work or conduct while he was a member of the class from which he was reverted or reduced except by an authority competent to impose the penalty upon a member of Class II.

8. Procedure for imposing penalties.

(1) In every case where it is proposed to impose on a member of the service any of the penalties specified in clause (1), (2), (4), (5), (6) and (10) of rule 3, shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before the order imposing the penalty is passed: Provided that the requirement of this sub-rule shall not apply where it is proposed to impose on a member of the service any of the penalties aforesaid on the basis of facts which have led to his conviction by a Court martial or where the member of the service concerned had absconded or where it is for other reasons impracticable to communicate with them. (2) In every case where it is proposed to impose on a member of the service any of the penalties specified in clauses (3), (7), (8) and (9) or rule 3, of the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges or charge which shall be communicated to the member of the service charged together with a statement of the allegation on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing order in the case. The member of the service so charged shall be required within a reasonable time to put in a written statement of his defence and to state whether he desires an oral inquiry as to be heard in person or both. As oral enquiry shall be held if such an enquiry is desired by the member of the service charged shall be entitled to cross-examine the witness, to give evidence in person and to have such witness, called as he may wish provided that the authority conducting the enquiry may, for special and sufficient reasons to be recorded in writing refuse to call witness whether or not the member of the service charged desired or had an oral enquiry he shall be heard in person at any stage if he so desires before passing final orders. A report of the enquiry or personal hearing, as the case may be, shall be prepared by the authority holding the enquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of evidence, if any, and a statement of the findings and the ground thereof. (3) After the enquiry or personal hearing referred to in sub-rule (2) been completed and after the authority competent to impose the penalty has arrived at a provisional conclusion in regard to the penalty to be imposed, the member of the service charged shall be supplied with a copy of the report of the enquiring authority referred to in that clause and be called upon to show cause within a reasonable time, not ordinarily exceeding one month, against the particular proposed to be imposed. (4) Any representation in this behalf submitted by the member of the service charged shall be taken into consideration before final orders are passed, provided that such representation shall be based only on the evidence adduced during the enquiry. Explanation. - An opportunity to show cause against the imposition of any of the penalties Permanent employees referred to in sub-rule (2) shall be given, after the authority competent to impose the penalty arrives at the provisional conclusion in regard to the penalty to be imposed, either by such authority in rank or under his direction by a subordinate authority who is superior in rank to the member of the service on whom it is proposed to impose the penalty. (5) The requirements of sub-rule (2) shall not apply where it is proposed to impose on a member of the service any such penalty as is referred to therein on the basis of the facts which have led to his conviction in a criminal Court (whether or not he has been sentenced by such Court to any imprisonment), but he shall be given a reasonable opportunity of making any representation that he may desire to make and such representation, if any shall be taken into consideration before the order imposing the penalty is passed. (6) The requirement of sub-rule (2) shall not apply where it is

proposed to impose on a member of the service any of the penalties mentioned in Rule 13 on the basis of the facts which have led to his conviction by a Court martial or where the member of the service has absconded where it is for other reasons impracticable to communicate with him.(7)The provisions of sub-rule (2) shall not apply where the Government are satisfied that in the interest of the security of the state it is not expedient to follow the procedure prescribed in that sub-rule.(8)All or any of the provisions of sub-rule (1) and (2) may, in exceptional cases, for special and sufficient reasons to be recorded in writing be waived whether there is difficulty in observing exactly the requirements of the said sub-rules and these requirements can be waived without in justice to the member of the service charged. If any question arises whether it is reasonably practicable to follow the procedure prescribed in sub-rule (2) the decision thereon of the authority competent to dismiss or remove such member of the service or reduce him rank, as the case may be shall be final.(9)A member of the service may be placed under suspension from service where-(i)an inquiry into grave charge against him is contemplated or is pending or(ii)a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest.(10)A member of the service, who is detained in custody whether on criminal charge or otherwise for a period longer than forty eight hours, shall be deemed to have been suspended under this rule.Provided a member of the service who has been placed under suspension under sub-rule (9) and (10) shall be paid subsistence allowance at the rates as applicable to Government servants of the same status from time to time.(11)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the service under suspension is set aside in appeal Or On a review under these rules and the case is remitted for further inquiry or action or with any other directions the order of suspension shall be deemed to, have continued in force on and from the date of original order of dismissal, removal, or compulsory retirement and shall remain in force until further orders.(12)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the service 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 him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, such member of a service shall be deemed to have been placed under suspension by the appointing authority from the date of original order-of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.(13)Where a member of the service is suspended or is deemed to have been suspended (Whether in connection with any disciplinary proceedings or otherwise) and any other disciplinary proceedings 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 such a member of the service shall continue to be under suspension until the termination of all or any of such proceedings or by the appellate authority or by the Government.

9. Maintenance of records.

- The competent authority imposing penalty under these rules shall maintain a record showing-(1)the allegation upon which action was taken against the member of the service punished;(2)the charge framed, if any;(3)the representation of the members of the service, if any, and evidence taken, if any; and(4)the findings and the grounds thereof, if any.

10. Order of punishment to state grounds and to be communicated.

(1) All orders of punishment shall state the grounds on which they are based and shall be communicated in writing to the member of the service against whom they are passed. (2) Every order, notice and other process made or issued under these rules, shall be served in person on the member of the service concerned and sent to him by registered post acknowledgment due or if such member of the service is not found, by leaving it at his last known place of residence or by giving or tendering it to an adult member of his family or if none of the means aforesaid is available by affixing it in some conspicuous part of his last known place of residence.

11. Appeals.

- Every member of the service shall have the right of appeal against an order passed by an authority within a period of two months from the date on which the order was communicated to him- (1) imposing on him any of the penalties specified in rule 3; (2) discharging him in accordance with the term of his contract, if he has been engaged on a contract for a period exceeding three years at the time when his services are terminated.

12. Appellate authority.

(1) Where penalties mentioned in clauses (1), (2), (4), (5), (6) and (10) of rule 3 have been imposed by the Commissioner on a member of the service holding Class I and Class II posts, the appeal shall lie to the Government, and where the penalties mentioned in clauses (3), (7), (8) and (9) of rule 3 have been imposed by the Government on a member of the service holding Class I or Class II post, such member of the service may, within two months on the date on which the order is communicated to him, submit a revision petition, and the Government shall, as far as possible, follow the procedure prescribed for dealing with appeals. (2) Where any of the penalties mentioned in rule 3 has been imposed by the Commissioner on a member of the service holding Class III or Class IV posts, the appeal shall lie to the Appeal Committee. (3) The Appointment Committee shall be the Appeal Committee.

13. Appeal to Government.

- Notwithstanding anything contained in rule 12, where an original order imposing specific penalty on a member of the service has been passed by the appellate authority in exercise of the powers conferred by rule 5, an appeal against such orders shall lie only to the State Government: Provided that where the appellate authority who has passed the original order imposing the penalty happens to be the State Government, the member of the service aggrieved by the order may prefer a revision petition to the State Government to re-consider the order. The State Government shall, thereupon review the records of the case and pass such orders thereupon as it may appeal to them to be just or expedient.

14. Procedure to be followed by the Appellate Authority.

(1) In the case of an appeal against an order imposing any of the penalties specified in rule 3, the appellate authority shall consider-(i) whether the facts on which the orders were based have been established; (ii) whether the facts established afford sufficient ground for taking action; and (iii) whether the penalty is excessive, adequate or inadequate; and (iv) after such consideration, shall pass such orders as it thinks proper. (2) Any error or defect in the procedure followed in imposing a penalty may be disregarded by the Appellate Authority if such authority considers for persons to be recorded in writing that the error or defect was not material and has neither caused injustice, to the member of service concerned nor affected the decision of the case.

15. Appellate authority to decide appeals.

- In the case of an appeal, the Appellate Authority shall pass orders as appears to it just and equitable, having regard to all the circumstances of the case-

16. Mode of preferring an appeal.

(1) Every member of the service preferring an appeal shall do so separately and in his own name. (2) Every appeal preferred under these rules shall contain all material statements and arguments relied on by the appellant shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be addressed to the authority to whom the appeal is preferred and shall be submitted through the head of the office to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred.

17. Withholding of appeal.

- An appeal may be withheld by an authority not lower than the authority from whose order it is preferred, if-(1) it is an appeal in the case in which under these rules no appeal lies; or (2) it does not comply with the provisions of sub-rule (2) of rule 16 or (3) it is not preferred within two months after the date on which the applicant was communicated of the order appealed against, and no reasonable cause is shown for the delay; or (4) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal had been decided and no new Acts or circumstances are adduced which afford grounds for re-consideration of the case; or (5) it is addressed to an authority to which no appeal lies under these rules: Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it: Provided further that an appeal withheld on account of failure to comply with the provisions of sub-rule (2) of rule 16 may be re-submitted at any time within one month on the date on which the appellant has been informed of the withholding of the appeal; and an appeal re-submitted in a form which complies with these provisions, shall not be withheld'

18. No appeal to lie withholding of any appeal.

- No appeal shall lie against the withholding of an appeal by a competent authority.

19. Powers appellate authority or Government when no appeal is preferred.

- The authority by whom an order imposing a penalty specified in rule 3 may be reversed or altered in cases in which no appeal is preferred shall be the appellate authority prescribed in the rules or the Government.

20. Forwarding of appeal and list of appeals withheld to Appellate Authority.

(1) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority from whose order appeal is preferred with an expression of opinion. (2) A list of appeals withheld under rule 17, with the reason for withholding them, shall be forwarded half yearly by the withholding authority to the appellate authority.

21. Powers of appellate authority to call for a withheld appeal.

- An appellate authority may call for any appeal admissible under these rules which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

22. Savings.

- Nothing in these rules shall operate to deprive any member of the service of any right of appeal, which he would have had if these rules had not been made in respect of any order passed before they came in to force, shall be deemed to be an appeal under these rules, and rule 14 shall apply as if the appeal were against an order appealable under those rules.

23. Revision petition to Government.

- Where the original order imposing any of the penalties specified in rule 3 had been imposed on a member of the service by the Government, such member may, within two months on the date on which the order is communicated to him, submit a revision petition to the Government against the order. In disposing of such petition, the Government shall, as far as possible, follow the procedure prescribed for dealing with appeals.

24. Powers of Government to pass order on completed disciplinary proceedings.

- Notwithstanding anything contained in these rules, the Government shall have the power to call for the records relating to any disciplinary proceedings which has been completed either by the disciplinary authority or by the appellate authority and pass such orders on it as they may consider

just or expedient: Provided that before a penalty is imposed in case where it has been imposed or a penalty which has been imposed is enhanced, the member of the service concerned shall be given an opportunity to show cause as to why penalty should not be imposed or enhanced, as the case may be.