

The Punjab State Agricultural Marketing Service (Punishment and Appeal) Rules, 1988

PUNJAB

India

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Rule

THE-PUNJAB-STATE-AGRICULTURAL-MARKETING-SERVICE-PUNISHMENT-AND-APPEAL-RULES-1988

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1. Short title.

- These rules may be called the Punjab State Agricultural Marketing Service (Punishment and Appeal) Rules, 1988.

2. Definitions.

- In these rules unless the context otherwise requires, -(a)'Act' means the Punjab Agricultural Produce Markets Act, 1961 (Punjab Act No. 23 of 1961) ;(b)'appointing authority' in relation to an employee means :(i)the authority empowered to make appointments to the Service of which the employee is for the time being a member or to the grade of the Service in which the employee is for the time being included ; or(ii)the authority empowered to make appointments to the post which the employee for the time being holds ; or(iii)the authority which appointed the employee to service, grade or post, as the case may be ; or(iv)where the 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 Board, the authority which appointed him to that Service or to any grade in that Service or to the post whichever authority is the highest authority ;(c)'employee' means any person appointed to any service or post in connection with the affairs of the Board and the Committees

;(d)'Government' means the Government of the State of Punjab in the Department of Agriculture and Forests ;Explanation :- An employee whose services are placed temporarily at the disposal of a company, Corporation, organisation or a local authority by the Board shall, be for the purposes of these rules be deemed to be an employee serving under such authority notwithstanding that his salary is drawn from sources other than the fund of the Board ;(e)'Punishing authority' means the authority competent under these rules to impose on the employee any of the penalties specified in Rule 5 ;(f)'Service' means the service of the Board or the committees, as the case may be.

3. Application.

(1)These rules shall apply to every member of the Service but shall not apply to, -(a)any person in casual employment in the Service ;(b)any person subject to discharge from the Service on less than one month's notice;(c)any person for whom special provision is made in respect of the 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 the Board with the previous approval of the Government and by the Committees with the previous approval of the Board before or after the commencement of these rules, in regard to matters covered by such special provisions.(2)Notwithstanding anything contained in sub-rule (1), the Board with the approval of Government may by order exclude any class of member of Service from the operation of all or any of these rules.(3)Notwithstanding anything contained in sub-rule (1), these rules shall apply to every member of the Service 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 Government who shall decide the same.

Part II

4. Suspension.

(1)The appointing authority or any other authority empowered in that behalf by the Government by general or special order, may place an 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 authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances, in which the order was made.(2)An 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 sub-rule (2) shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent period of imprisonment, if any, shall be taken into account.(3)Where a penalty of dismissal, removal or compulsory retirement from the Service imposed upon an employee

under suspension is set aside in appeal under these rules and the case is remitted for further enquiry or action or 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 the service imposed upon the 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 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 these rules continues to remain in force until it is modified or revoked by the authority competent to do so.(b)Where an employee is suspended or is deemed to have been suspended whether in connection with any disciplinary proceeding 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, in writing, direct that the 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 these rules may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

Part III

5. Penalties.

- The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed on an employee, namely :-Minor Penalties :(i)censure ;(ii)withholding of his promotions ;(iii)recovery from his pay of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders ;(iv)withholding of increments of pay ;Major Penalties :(v)reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Board employee will earn increments of pay during the period of such reduction and whether on the expiry of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;(vi)reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the employee to the time- scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the employee was reduced and his seniority and pay on such restoration to that grade, post or service ;(vii)compulsory retirement ;(viii)removal from the service which shall not be a disqualification for future employment under the Board or committee ;(ix)dismissal from the service which shall ordinarily be disqualification for future employment under the Board or Committee.Explanation. - The following shall not amount to a penalty within the meaning of this rule namely :-(i)Withholding of increments of pay of an employee for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment ;(ii)Stoppage of the employee at the

efficiency bar in the time-scale of pay on the ground of his unfitness to cross the efficiency bar ;(iii)non-promotion of the 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 an 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 or on any administrative ground unconnected with his conduct ; or(v)reversion of the 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 terms of his appointment or the rules and orders governing such probation ;(vi)compulsory retirement of the employee in accordance with the provisions relating to his superannuation or retirement ;(vii)termination of the services, -(a)of the employee appointed on probation, during or at the end of the period of his probation in accordance with the terms of his appointment or the rules and orders governing such probation ; or(b)of a temporary employee appointed otherwise than under contract, on the expiration of the period of the appointment, or on the abolition of the post or before the due time in accordance with the terms of his appointment ; or(c)of the employee under an agreement in accordance with the terms of such agreement.Note :- Punishing authorities have full discretion to circulate the reasons for dismissal where such circulation is considered desirable in the 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 intimate 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 person and any other particulars required for purpose of identification. Similarly, if a person happens to be a resident of another State, the aforesaid officers of that State should be informed accordingly.(3)The provisions of this rule shall not be construed to derogate from the provisions of Section 36 of the Punjab Courts Act, 1918, the Payment of Wages Act, 1936, or any other law authorising 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 provisions of Explanation (vii) (b) amounts to removal or dismissal and is, therefore, appealable 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 appealable under these rules, on the other hand, non-selection for a selection post is not appealable. If an employee, because of an unsatisfactory record and unfavourable confidential reports, is not selected for a selection post and some other employee junior to him is selected in preference, this does not amount to the withholding of promotion. If any enquiry is held against the 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 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 the 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 reports this order would amount to the infliction of the penalty of withholding promotion. This distinction between non-selection for a selection post and withholding of a promotion may be summed up as being that in the former case the employee in question is

considered for selection but some other employee is preferred on his merits, while in the later case the employee in question has been declared before hand as a disciplinary measure, to be ineligible for selections irrespective of the merits of other employees available.(6)(i)While reduction of a seniority as an independent penalty is not provided 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 repromotion of employee reduced to a lower post or time-scale should be determined by the date of such repromotion in accordance with the orders issued by the competent authority on the subject of seniority. Such 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)An employee in respect of whom one of the penalties included in Rule 5(vi) was imposed, will on repromotion count previous service in the higher grade under Rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I, unless the order of punishment or the order passed on appeal directs otherwise.(iv)An order debarring the 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 that admissible under Rule 4.4 of the Punjab Civil Services Rules, Volume I, Part I, and does not, therefore, fall outside the scope of Rule 5.(7)Unauthorised desertion of his post by the 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 within the meaning of Rule 5, for removal or dismissal in addition to any penalty provided in the East Punjab Essential Services (Maintenance) Act, 1947. Loss of pension would then follow automatically by virtue of the provisions of Rule 2.5 of Punjab Civil Service Rules, Volume II and it would also be possible to forfeit the Board's contribution, if any, to the individual's Provident Fund or (Gratuity as ordered by the competent authority and to forfeit the Board's contribution, if any, to the individual's Provident Fund) as the case may be.

6. Punishing Authorities.

- Subject to the provisions of the Act, the punishing authority shall be such as may be specified in the rules regulating the appointment and conditions of service of the employee concerned.

7. Authority to institute proceedings.

(1)An authority empowered under these rules, may, -(a)institute disciplinary proceedings against any employee.(b)direct a punishing authority to institute disciplinary proceedings against any employee on whom that punishing authority is competent to impose under these rules any of the penalties specified in Rule 5.(2)A punishing authority competent under these rules to impose any of the penalties specified in clauses (i) to (iv) of Rule 5 may institute disciplinary proceedings against any 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 enquiry held, as far as may be, in the manner provided in this rule and Rule 9 or in 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 an employee, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof. Explanation. - Where the punishing 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 an employee under this rule and Rule 9, the punishing authority shall draw up or cause to be drawn up :- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charges ; (ii) a statement of imputations of misconduct or misbehaviour in support of each article of charges, which shall contain - (a) a statement of all relevant facts including any admission or confession made by the employee ; (b) a list of documents by which and a list of witness by whom the articles of charges are proposed to be sustained. (4) The punishing authority shall deliver or cause to be delivered to the employer a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the employee to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person. (5) (a) On receipt of the written statement of defence the punishing authority may itself inquire into such of the articles of charge as are not admitted or ; if it considers it necessary so to do, appoint under sub-rule (2) an inquiring authority for the purpose, and where all the articles of charge have been admitted by the employee in his written statement of defence, the punishing authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 9. (b) If no written statement of defence is submitted by an employee, the punishing authority may itself inquire into the articles of charges or may, if it considers it necessary to do so, appoint under sub-rule (2) inquiring authority for the purpose. (c) Where the punishing authority itself inquires into any article of charge or appoints as inquiring authority for holding an inquiry into such charge, it may, by an order appoint an 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, forward to the inquiring authority : (i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour ; (ii) a copy of the written statement of defence, if any, submitted by the employee ; (iii) a copy of the statement of witnesses, if any, referred to in sub-rule (3) ; (iv) evidence proving the delivery of documents required to be delivered to the employee under sub-rule (4) ; (v) a copy of the order appointing the "Presenting Officer". (7) An employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour as the inquiring authority may, by a notice, in writing, specify in this behalf, or within

such further time not exceeding ten days, as the inquiring authority may allow;(8)The employee may take the assistance of any other employee to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the punishing authority is legal practitioner, or the punishing authority having regard to the circumstances of the case, so permits.(9)If the employee who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of the charges, the inquiring authority shall record the plea, sign the record and obtain the signatures of the employee thereon.(10)The inquiring authority shall return a finding of guilt in respect of these articles of charge to which the employee pleads guilty.(11)The inquiring authority shall if an employee fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days after recording an order that an employee may, for the purpose of preparing his defence, -(i)inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents, specified in the list referred to in sub-rule (3); and(ii)submit a list of witnesses to be examined on his behalf;Note :- If an employee applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witness, on behalf of the punishing authority.(iii)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 are in the possession of the Board or the Committees, as the case may be but not mentioned in the list referred to in sub-rule (3).Note :- An employee shall indicate the relevance of the documents required by him to be discovered or produced by the Board or the Committee, as the case may be.(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 production of the document by such date as may be specified in such requisition :Provided that the inquiring authority may, for reasons to be recorded by it, in writing, refuse to requisition such of the documents as are in its opinion not relevant to the case.(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 reasons to be recorded by it, in writing, that the production of all or any of such documents would be against the interest of the Board or the Committee, as the case may be, or the public interest or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the 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 produced by or on behalf of punishing authority, the witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the 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

questions 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 Presiding Officer to produce evidence not included in the list given to the employee or may itself call for new evidence or recall and re-examine any witnesses and in such case the employee shall be entitled to have if he demands it, a copy of the list of further evidence proposed to be produced and ask 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 enquiry is adjourned. The inquiring authority shall give the employee an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.Note :- No evidence shall 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 was produced originally.(16)When the case for the punishing authority is closed, the 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 employee shall be required to sign the record, in other case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.(17)The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross- examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the punishing authority.(18)The inquiring authority may, after an employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances, appearing against him in the evidence for the purpose of enabling the 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 employee or permit them to file written briefs of their respective cases, if they so desire.(20)If the employee to whom a copy of articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before 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 the articles of any charge and that authority, having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (v) to (ix) of Rule 5 should be imposed on the employee, that authority shall forward the records for the inquiry of such punishing authority as is competent to impose that 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 and re-examine the witnesses and may impose on the 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 exercise, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly 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 interests of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore 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 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 reason therefor. 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 findings on such article of charge : Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such articles of charge is based or has had a reasonable opportunity of defending himself against 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 (1) ; (b) the written statement of defence, if any, submitted by the employee ; (c) the oral and documentary evidence produced in the course of the inquiry ; (d) written briefs, if any, filed by the Presenting Officer, or the employee or both during the course of the inquiry ; and (e) the orders, if any, made by the punishing authority and the inquiring authority in regard to the inquiry.

9. Action on the inquiry report.

- 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 report and the inquiring authority shall thereupon proceed to hold the further enquiry according to the provisions of Rule 5 as far as may be. (2) The punishing authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reason 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 employee it shall, notwithstanding anything contained in Rule 10, make an order imposing such penalty. (4)(i) 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 (v) to (ix) of Rule 5 should be imposed on the employee, it shall - (a) furnish to the employee a copy of the report of the inquiry held by it and its finding on each article of charge or where the inquiry had been held by an inquiring authority, appointed by it, a copy of the report of such authority and a statement of its findings on each article of charge together with brief reasons for its disagreement, if any, with the findings of the inquiring authority ; (b) give the employee a notice stating the penalty proposed to be imposed on him and calling upon him to submit within fifteen days of receipt of the notice or such further time not exceeding fifteen days, as may be allowed, such representation as he may wish to make the proposed penalty on the basis of the evidence adduced during the inquiry held under Rule 8. (ii) The punishing authority shall consider the representation, if any, made by the employee in pursuance of the notice given to him under clause (i) and determine what penalty, if any should be imposed on him and make such order as it may deem fit.

10. Procedure for imposing minor penalties.

(1) Subject to the provision of sub-rule (3) of Rule 9, no order imposing on an employee any of the penalties specified in clauses (i) to (iv) of Rule 5 shall be made except after -(a) informing the 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 employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration ; and(d) recording a finding on each imputation of misconduct or misbehaviour.(2) The record of the preceding in such case shall include, -(i) a copy of the intimation to an employee of the proposal to take action against him;(ii) a copy of the statement of imputation of misconduct or misbehaviour delivered to him ;(iii) his representation, if any ;(iv) the evidence produced during the inquiry ;(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(vi) the orders on the case together with reasons therefor.

11. Communication of orders.

- Orders made by the punishing authority shall be communicated to the employee who shall also be supplied with a copy of the report of the inquiry, if any, held by the punishing authority and a copy of its findings on each article of charge, or, where the punishing authority is not the inquiry authority, a copy of the report of the inquiring authority and a statement of the findings of punishing authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority (unless they have already been supplied to him).

12. Common proceedings.

(1) Where two or more employees are concerned in any case, the appointing authority may make an order directing that disciplinary action against all of them may be taken in a common proceeding and, if the authorities competent to impose the penalty of dismissal on such employees are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of others.(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 proceeding;(ii) the penalties specified in Rule 5 which such punishing authority shall be competent to impose; and(iii) whether the procedure laid down in Rule 8 and Rule 9 or Rule 10 shall be followed in the proceedings.

13. Special procedure in certain cases.

- Notwithstanding anything contained in Rules 8, 9, 10, 11 and 12, -(i) where any penalty is imposed on the 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 reasons to be recorded by it, in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or(iii)where the appointing authority is satisfied that in the interest of the Board or Committee, as the case may be, it is not expedient to hold any enquiry in the manner provided in these rules, the authority may consider the circumstances of the case and make such orders thereon as it deems fit.

Part V

14. Orders against which no appeal lies.

- Notwithstanding anything contained in this part no appeal shall lie against -(i)any order of an interlocutory nature or of the nature of step-in-aid to the final disposal of a disciplinary proceeding other than an order of suspension;(ii)any order passed by an inquiring authority in the course of an inquiry under Rule 8.

15. Orders against which appeal lies.

- Subject to the provisions of Rule 14, the employee may prefer an appeal against all or any of the following orders, namely :-(i)an order of suspension made 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 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 conditions of service as regulated by rules or by agreement;(b)interprets to his disadvantage the provisions 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 on his unfitness to cross the bar;(b)reverting him while officiating in 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 these rules;(d)determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof; or(e)determining his pay and allowances, -(i)for the period of suspension; or(ii)for the period from the date of his dismissal, removal or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time scale or stage in a time scale of pay to the date of his retirement or restoration to his service, grade or post; or(f)determining whether or not the period from the date of his suspension or from the date of dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time scale of pay or stage in a time scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.Explanation. - In this rule, -(i)the expression 'an employee' includes a person who has ceased to be in the service;(ii)the expression 'pension' includes additional pension, gratuity and any other retirement benefit.

16. Appellate authorities.

- An employee, including a person who has ceased to be an employee, may prefer an appeal against all or any of the orders specified, in Rule 15 to the authority specified in this behalf in the rules regulating his appointment and conditions of service.

17. Period of limitations of appeal.

- No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant :Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

18. Form and contents of appeal.

(1)Every person preferring an appeal shall do so separately and in his own name.(2)The appeal shall be presented to the authority to whom the appeal lies, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain material statements and arguments on which the appellant 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, forward the same with its comments thereon together with the relevant record to the appellate authority without any avoidable delay and without waiting for any direction from 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 regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.(2)In the case of an appeal against an order imposing any of the penalties specified in Rule 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 findings 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 severe; and pass order, -(i)confirming, enhancing, reducing or setting aside the penalty ; or(ii)remitting the case to 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 -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 provisions of Rule 13 itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 8 and thereafter, on a

consideration of the proceedings of such inquiry shall make such orders as it may deem fit ;(iii)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 already been held in the case, the appellate authority shall make such orders as it may deem fit, and(iv)no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity as far as may be in accordance with the provisions of Rule 10 of making a representation against such enhanced penalty.

20. Implementation of order in Appeal.

- The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

Part VI – Miscellaneous

21. Service of orders, notices, etc.

- Every order, notice and other process made or issued under these rules shall be served in person on the employee concerned or communicated to him by registered post :Provided that if there is reason to believe that the employee is keeping out of the way for the purposes 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 news papers of the region giving last known address of the employee concerned and thereupon the same shall be deemed to have been served upon him.

22. 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.

23. Effect on commencement of these rules.

(1)After the commencement of these rules, the proceedings already initiated under the Punjab Civil Services (Punishment and Appeal) Rules, 1970 shall be deemed to have been initiated under these rules.Provided that -(a)such commencement shall not affect the previous operation of the said rules or any notification or order made, or anything done, or any action taken thereunder ; and(b)any proceedings under the said rules, pending at the commencement of these rules, shall be continued and disposed of, as far may be in accordance with 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 immediately 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 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 provided by any rule in force immediately before the commencement of these rules.

24. Removal of doubts.

- If any doubts arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Government who shall decide the same.