

# **M.P. Panchayat Service (Discipline and Appeal) Rules, 1999**

MADHYA PRADESH

India

## **M.P. Panchayat Service (Discipline and Appeal) Rules, 1999**

### **Rule**

### **M-P-PANCHAYAT-SERVICE-DISCIPLINE-AND-APPEAL-RULES-1999 of 1999**

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M.P. Panchayat Service (Discipline and Appeal) Rules, 1999 Published vide Notification No. F-1-35-98-22-P-2, dated 22-6-1999, M.P. Rajpatra (Asadharan), dated 22-6-1999 at p. 864 (10) In exercise of the powers conferred by the sub-section (1) of Section 95 read with sub-section (2) of Section 70 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), the State Government hereby makes the following rules, the same having been previously published as required by the sub-section (3) of Section 95 of the said Act, namely :-Part-I General

### **1. Short title, commencement and application.**

(1) These rules may be called the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999. (2) They shall come into force with effect from the date of their final publication in the Madhya Pradesh Gazette. (3) Except as otherwise provided by or under these rules, they apply to all persons employed in connection with the affairs of Zila Panchayats, Janpad Panchayats and the Gram Panchayats and discharging the functions of Zila Panchayat, Janpad Panchayat and Gram Panchayat : Provided that nothing in these rules shall apply to officers and servants of the state service who are posted under the Panchayats under Section 69 or are on lone service to the Panchayats under Section 71 of the Act.

### **2. Definitions.**

- In these rules, unless the context otherwise requires :- (a) "Act" means the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994); (b) "Appointing Authority" in relation to a person appointed in the Panchayat Service means :- (1) Such officer, who in that service in which he hold the post at that time, empowered to make appointments of such officer to whom the powers of

appointment is delegated to the service of that class or grade to which he is a member at that time.(2)Such officer, who at that time, hold the post in substantive or temporary capacity in that service in which he is appointed;(c)"Disciplinary Authority" in relation to the imposition of penalty on a member of the Panchayat Service means the authority declared to be the disciplinary authority under the Appendix appended to these rules;(d)"Foreign Sendee" means the service in which a Panchayat Servant receives his substantive pay, with the sanction of Panchayat;(e)"Government" means the Government of Madhya Pradesh;(f)"Member of Panchayat Service or a Panchayat Servant" means any person appointed to the Panchayat Service and includes an officer or servant allocated to the Panchayat Service;(g)"Minor Penalty" means any of the penalties specified in clauses (i) to (iii) of Rule 5;(h)"Major Penally" means any of the Penalties specified in clauses (iv) to (vii) of Rule 5;(i)"Panchayat" means a Zila Panchayat or Janpad Panchayat or Gram Panchayat, as the case may be;(j)"Panchayat Service" means any Panchayat Service.

### **3. Protection of rights and privileges conferred by any law or agreement.**

- Nothing in these rules shall operate to deprive any member of the Panchayat Service or any right or privilege to which he is entitled,-(a)by or under any law applicable to him; or(b)by the terms of any agreement subsisting between such member and the relevant Panchayat at the time of the commencement of these rules.Part-II Suspension

### **4. Suspension.**

(1)The appointing authority or any authority to which it is subordinate or disciplinary authority in that behalf, may place a member of Panchayat Service 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 involving moral turpitude is under investigation, inquiry or trial:Provided that where the order of suspension is made by an authority subordinate to or lower in rank than the appointing authority, such authority shall forth with report to the appointing authority the circumstances in which the order was made.(2)A member of Panchayat Service shall be deemed to have been placed under suspension by an order of appointing authority :-(a)With effect from the date of his detention, on a criminal charge or otherwise, for a period exceeding forty eight hours..(b)With effect from the date of his conviction, if 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 upon such conviction.Explanation. - The period of forty eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment if any, shall be taken into account.(3)When a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of Panchayat Service under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry of or action or with any other directions, the order of his suspension shall be deemed to have continued in force with effect on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.(4)Whether a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of Panchayat 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, the member of Panchayat Service shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal, compulsory retirement and shall continue to remain under suspension until further orders.(5)(a)An order suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.(b)Where a member of Panchayat Service is suspended or is deemed to have been suspended in connection with any disciplinary proceeding or otherwise and any other disciplinary proceeding is commenced against him during the continuance of such suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the member of Panchayat Service shall continue to be under suspension until the termination of all or any of such proceedings.(c)An order of suspension made or deemed to have been made under this rule, may at any time be modified or revoked by the authority which made or is deemed to have made it or by any authority to which, that authority is subordinate.Part-III Discipline

## 5. Penalties.

- The following penalties may, for good and sufficient reasons, and as hereinafter provided by imposed on a member of the Panchayat Service namely :-(a)Minor Penalties-(i)Censure;(ii)Withholding of increments, stagnation allowances or promotions, with or without cumulative effect;(iii)Recovery from pay of the whole or part of any pecuniary loss caused to the Panchayat or the State Government by negligence or breach of orders.(b)Major Penalties-(iv)Reduction in rank including reduction to a lower post or time-scale or to a lower stage in a time scale;(v)Compulsory retirement;(vi)Removal from service not disqualifying for future employment;(vii)Dismissal from service which shall ordinarily be a disqualification for future employment :Provided that in the case of member who have been allocated to the Panchayat Service and who according to the terms and conditions of their service which were immediately applicable to them before such allocation were not liable to the penalty or fine, no penalty or fine shall be indicated upon them.Explanation. - The following shall not amount to a penalty within the meaning of this rule,-(i)Withholding of increments of a member of the Panchayat Service for failure to pass a departmental or language examination in accordance with the rules or orders governing the service to which he belongs or the post which, he for the time being holds or the terms governing his appointment;(ii)Stoppage at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;(iii)Non-promotion of a member of the Panchayat Service, after consideration of his case, to a post or grade to which he is eligible, on administrative grounds unconnected with his conduct;(iv)Reversion of a member of the Panchayat Service who is officiating in a higher service, grade or post to a lower service, grade or post on the ground that after trials he is considered to be unsuitable for such higher service grade or post or on administrative grounds not connected with his conduct;(v)Reversion of a member of Panchayat Services, appointed on probation to another service, grade or post during or at the end of the period of probation to his permanent service grade or post in accordance with the terms of his appointment or Inc rules or orders governing such probation;(vi)(a)Termination of the service of a member of the Panchayat Service appointed on probation during or at the end of the period of probation in accordance with the terms of

appointment or the rules order governing such probation,(b)Termination of the service of a member of the Panchayat Service employed under an agreement in accordance with the terms of such agreement;(vii)Compulsory retirement of a member of a Panchayat Service in accordance with the provisions relating to his superannuation or retirement in the Panchayat Service and not on grounds of his misconduct.

## **6. Authority to impose penalties.**

- Subject to the provisions of these rules, the disciplinary authority or any authority to whom such authority is subordinate, may impose any of the penalties specified in Rule 5 on any servant of the Panchayat Service to the extent shown against in the Appendix appended to these rules.

## **7. Procedure for imposing major penalties.**

(1)No order, imposing on a member of the Panchayat Service, any of the penalties specified in clauses (iv) to (via) of Rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided.(2)When an order for formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, alongwith the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified a written statement of defence and also to state whether he desires to be heard in person.(3)The person against whom inquiry is to be held shall, for the purpose of preparing to defence, be permitted to inspect and take extracts from such records as he may specify :Provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the Enquiry' Officer such records are not relevant for the purpose or it is against the public interest to allow his access thereto.(4)On receipt of the written statement of defence or if any such statement is not received within the time specified, the disciplinary authority may himself enquire into such of the charges as are not admitted or appoint an Enquiry Officer to hold the inquiry and forward to him his report and, if advised, his recommendation alongwith all the inquiry papers.(5)The disciplinary authority may nominate any person to present the case in support of the charges before the Enquiry Officer. The member of the Panchayat Service may present his case with the assistance of any other Panchayat Servant of State Government Servant approved by the Enquiry Officer but may not engage a legal practitioner for the purpose, unless the person nominated by the disciplinary authority as aforesaid is a legal practitioner or unless the disciplinary authority having regard to the circumstances of the case so permits.(6)If the servant of the Panchayat Service desires to be heard in person, he shall be so heard. If he so desires or if the disciplinary authority so directs, an oral enquiry shall be held by the Enquiry Officer. At such inquiry, evidence shall be heard as to such of the allegations as are not admitted and the person charged shall be entitled to cross examine the witness, to give evidence in person, to produce documentary evidence, if any and to have such witness called as he may wish :Provided that the Enquiry Officer may, for reasons to be recorded in writing, refuse to call a witness.(7)At the conclusion of the inquiry, the Enquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with reasons therefor.(8)The proceedings conducted against the persons charged shall contain a sufficient record of :-(i)the charges framed against such person and the statement of allegations;(ii)the written statement of defence if

any;(iii)the oral evidence taken in the course of the inquiry;(iv)the documentary evidence considered in the course of the inquiry;(v)the orders, if any, made by the Enquiry Officer or the disciplinary authority, as the case may be, with regard to the inquiry;(vi)a report setting out the findings on each charge and the reasons therefor.(9)The Enquiry Officer, if he is other than the disciplinary authority, shall submit the records of the proceedings mentioned in clause (8) above to the disciplinary authority without recommendation relating to the penalty to be imposed. The disciplinary authority shall consider the record of the enquiry and its findings on each charge, having regard to the findings on the charges and the record (if the proceedings) if he is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 5 should be imposed, it shall furnish to the person charged a copy of the report of the Enquiry Officer, and where the disciplinary authority is not the Enquiry Officer a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Enquiry Officer.(10)The disciplinary authority shall consider the representation, if any, made by the person charged in response to the notice and determine the penalty, if any, should be imposed and shall pass appropriate order on the case.(11)The orders passed by the disciplinary authority shall be communicated to the member of the Panchayat Service, who shall also be supplied with a copy of the report of the Enquiry Officer and where disciplinary authority is not the Enquiry Officer, a statement of its findings together with the brief reasons for disagreement, if any, with the findings of the Enquiry Officer, unless they have already been supplied to the person charged.

## **8. Procedure for imposing minor penalties.**

(1)No order imposing any of the penalties specified in clauses (i) to (iii) of Rule 5 shall be passed except after :-(a)the person charged is informed in writing of the proposal to take action against him and of the allegations on which such action is proposed to be taken and is given an opportunity to make any representation which he may wish to make; and(b)such representation, if any, is taken into consideration by the disciplinary authority;Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if made by the Panchayat Servant, under clause (b) of that sub-rule to withhold increments of pay or stagnation allowance, and such withholding of increment of pay or stagnation allowance is likely to affect adversely the amount of pension payable to the Panchayat Servant or to withhold increment of pay or stagnation allowance, for a period exceeding three years or to withhold increments of pay or stagnation allowance, with commutative effect for any period, an enquiry shall be held in the manner laid down in sub-rules (1) to (11) of Rule 7, before making any order imposing on the Panchayat Servant any such penalty.(2)The record of the proceedings in such cases shall include :-(i)a copy of intimation to the person charged of the proposal to take action against him;(ii)a copy of the statement of allegations communicated to him, his representation, and the orders on the case together with the reasons therefor.(3)A copy of the orders shall be supplied to the member of the Panchayat Service charged.

## **9. Joint Inquiry.**

- Where two or more members of the Panchayat Service are concerned in any matter relating to disciplinary action, the disciplinary authority shall make an order directing whether the action

against all of them should be taken in a common proceedings, or whether separate action should be taken against each of the members. In both cases the procedure laid down in Rule 7 or Rule 8, as may be applicable, shall be followed.

## **10. Special procedure in certain cases.**

(1) Notwithstanding any thing contained in Rules 7, 8 and 9, - (i) where a penalty is imposed on a Panchayat Servant on the ground of conduct which has led to his conviction on a criminal charge; or (ii) where the Disciplinary Authority is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to follow the procedure prescribed in the said rules, the Disciplinary Authority may consider the circumstances of the case and pass such orders thereon as it deems fit.

## **11. Provisions regarding Panchayat Servants lent to Government etc.**

(1) Where the services of a Panchayat Servant are lent to any Government in India or to an authority subordinate thereto or to a local or other authority (hereinafter in this rule referred to as "the borrowing authority"), the borrowing authority shall have the powers of the Disciplinary Authority for the purpose of placing him under suspension and for initiating a disciplinary proceeding against him : Provided that the borrowing authority, shall forthwith in form the Chief Executive Officer of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be. (2) In the light of the findings in the disciplinary proceeding taken against the Panchayat Servant, - (i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iii) of Rule 5 should be imposed on him, it may, in consultation with the Panchayat shall pass such orders on the case as it deems fit : Provided that, in the event of a difference of opinion between the borrowing authority and the Panchayat, the services of the Panchayat Servant shall be replaced at the disposal of the Panchayat. (ii) if the borrowing authority is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 5 should be imposed on him, it shall replace his services at the disposal of the Panchayat and transmit to the Chief Executive Officer, the proceedings of the inquiry after complying with provisions of Rule 7; and thereupon the Chief Executive Officer, if he is the Disciplinary Authority on the basis of the proceedings of the inquiry' transmitted by the borrowing authority or after holding such further inquiry as it may deem fit, pass such orders on the case as it deems fit, or if he is not the Disciplinary Authority refer the case to the Disciplinary Authority which shall on the basis of the proceedings of the inquiry transmitted by the borrowing authority or after holding such further inquiry as it may deem fit, pass such orders on the case as it deems fit : Provided that in passing any such order, the Disciplinary Authority shall comply with the provisions of sub-rule (9) of Rule 7. (3) The provisions of this rule and of Rule 6 and Rule 7 shall be brought to the notice of the borrowing authority by the Chief Executive Officer at the time of lending the services of the Panchayat Servant.

## **12. Provisions regarding officers or servants borrowed from Government etc.**

(1) Where the services of an officer or servant of any Government in India or an authority subordinate thereto or a local or other authority are borrowed by a Panchayat for a Panchayat Service, the Panchayat shall have the powers of the Disciplinary Authority for the purpose of placing

him under suspension and initialing disciplinary' proceedings against him :Provided that, the Panchayat shall forthwith inform the authority which lent the services of such officer or servant (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 disciplinary proceeding, as the case may be :Provided further that the disciplinary proceeding shall be conducted in accordance with the procedure prescribed by the law applicable to such officer or servant under the lending authority.(2)In the light of the findings in the disciplinary proceedings taken against such officer or servant,-(i)if the Panchayat is of the opinion that any of the penalties specified in clauses (i) to (iii) of Rule 5 should be imposed on him, it may after consultation with the lending authority, pass such orders on the case as it deems fit :Provided that in the event of a difference of opinion between the Panchayat and the lending authority the services of such officer or servant shall be replaced at the disposal of the lending authority;(ii)if the Panchayat is of the opinion that any of the penalties specified in clauses (iv) to (vii) of Rule 5 should be imposed on him, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such sanction as it deems fit.(3)The provisions of clauses (i) and (ii) of sub-rule (2) shall be brought to the notice of the lending authority by the officer at the time of borrowing its officer or servant.

### **13. Subsistence allowance during suspension.**

- A member of the Panchayat Service who is placed under suspension shall during the period of such suspension be paid subsistence allowance according to the relevant rules applicable to him.

### **14. Reinstatement.**

- When a Member of the Panchayat Service who has been dismissed, removed or suspended from service is reinstated, the sorority passing the order of reinstatement shall make an order as to :-  
(a)the pay and allowances which shall be paid to him for the period of his suspension;  
and (b)whether or not the said period shall be treated as a period spent on duty;in accordance with the relevant rules applicable to him.

### **15. Appeals against order of suspension or orders imposing penalties.**

(1)A member of the Panchayat Service may appeal against an order of suspension or an order imposing any penalty on him to the authority specified as appellate authority in the Appendix appended to these rules within a period of 90 (ninety) days from the date on which he receives the order :Provided that the appellate authority may entertain an appeal after expiry of the said period if it is satisfied that the appellant has had sufficient cause for not submitting the appeal in time.(2)Every person submitting an appeal shall do so separately and in his own name.(3)The appeal shall be addressed to the authority competent to hear appeals and shall contain a material statement and arguments on which the appellant relies and shall not contain any disrespectful or improper language. A copy of the order appealed against shall invariably be enclosed with the Appeal.(4)A copy of appeal shall also be sent to the disciplinary authority, against whose order appeal is preferred.

## **16. Disposal of appeals.**

(1) In the case of an appeal against an order of suspension the appellate authority shall consider whether, 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, 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 violation of any provisions of the Constitution of India or in failure of justice; (b) whether the findings are justified; and (c) whether the penalty imposed is excessive, adequate, or in adequate and pass orders :-(i) setting aside, reducing, confirming or enhancing the penalty; or (ii) remitting the case to the authority which imposed the penalty or to any other authority with such directions as it may be fit in the circumstances of the case ; Provided that-(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose; (ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty proposed to be imposed on him; and (iii) if the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in clauses (iv) to (vii) of Rule 5 and an inquiry under Rule 7 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 10 itself hold such inquiry or direct that such inquiry be held, and thereafter on consideration of the proceedings of such inquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty and after obtaining the advice of the administrative Standing Committee or the competent authority as the case may be, where necessary, pass such orders as it may deem fit.

## **17. Implementation of orders in appeal.**

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

## **18. Representation on other cases.**

(1) A member of the Panchayat Service may make representation against an order which,-(a) denies or varies to his disadvantage his pay, allowance, retirement benefit or other conditions of service as regulated by any rules or by agreement; or (b) denies promotion to a higher post or service to which is otherwise eligible according to the recruitment rules and which is due to him according to seniority; or (c) interprets to his disadvantage the provisions of any rules or agreement; or (d) stops him at the efficiency bar in the time scale on the ground of his unfitness to cross the bar; or (e) reverts him to a lower service, or post, otherwise than as a penalty; or (f) determines the pay and allowances for the period of suspension to be paid on reinstatement or determines whether or not such period shall be treated as a period spent on duty; or (g) reduces or withholds the retirement benefit or denies the maximum retirement benefit admissible under the rules; or (h) discharges him from service other than penalties; or (i) denies him confirmation in service or has the effect of his non confirmation in service; and Transfer order issued by Panchayat; to the authority specified as appellate authority in



the Appendix appended to these rules ;Provided that Government by special or general order may direct the class of cases or classes of cases under this sub-rule shall be presented to the prescribed authority as specified by it :Provided further that appellate authority shall pass order within 30 days under clause (2) the Chief Executive Officer or the State Government or the officer so authorised, as the case may be, shall call for the relevant records, consider the representation and as may be necessary, pass suitable orders, which shall be final.(3)No representation under sub-rule (1) shall be entertained unless it is submitted within a period of 30 days from the date on which the applicant received a copy of the order of representation against :Provided that, the authority may entertain representation after the expiry of the said period, if it is satisfied that the applicant had sufficient cause for not submitting the representation in time.

Part-V Miscellaneous

## 19. Repeal and Savings.

(1)Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to the Panchayat Servants to whom these rules apply, are hereby repealed ;Provided that-(a)such repeal shall not affect the previous operation of the said rules or anything done or any action taken thereunder;(b)any proceedings under the said rules which are pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules.(2)Nothing in these rule shall operate to deprive any person to whom these rules apply of any right of appeal which had accrued to him under the rules repealed in respect of any order passed before the commencement of these rules.(3)An appeal pending at the time of or preferred after the commencement of these rules, against an order made before such commencement shall be considered an orders thereon shall be passed in accordance with these rules.

## 20. Removal of Doubts.

- In all cases of doubts as to interpretation of these rules, the decision of the State Government shall be final.

S. No.	Class of Panchayats	Class of Service	Disciplinary Authority	Kind of penalty referred to in Rule 5 which maybe imposed	Appellate Authority
(1)	(2)	(3)	(4)	(5)	(6)
1.	Zila Panchayat/Janpad Panchayat	Class III and IV	Chief Executive Officer	Minor Penalty	General Administration Committee.
General Administration	Major Penalty	General body.			

## Committee

2.	Zila Panchayat/Janpad Panchayat	Class II	General Administration Committee	Minor Penalty	General body.
3.	Zila Panchayat	Class II	General body	Major Penalty	Divisional Commissioner.
4.	Janpad Panchayat	Class II	General body	Major Penalty	District Collector
5.	Gram Panchayat	Class IV	Secretary	Minor Penalty	Gram Panchayat
General Administration Committee	Major Penalty	General body.			
Class III	General Administration Committee	Minor Penalty	General body		
General body	Major Penalty	Sub-Divisional Officer (Revenue)			