

The Chennai Corporation Class III and Class IV Service (Discipline and Appeal) by-laws

TAMILNADU

India

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Rule

THE-CHENNAI-CORPORATION-CLASS-III-AND-CLASS-IV-SERVICE-DI of 1983

- Published on 18 March 1983
- Commenced on 18 March 1983
- [This is the version of this document from 18 March 1983.]
- [Note: The original publication document is not available and this content could not be verified.]

The Chennai Corporation Class III and Class IV Service (Discipline and Appeal) by-laws Published vide Notification No. S.R.O. C-21/83 The Government in G. O. Ms. No. 363, Rural Development and Local Administration Department, dated the 18th March 1983 have approved the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] Corporation Class III and IV Services (Discipline and Appeal) By-Laws and the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] Corporation Class III and IV Servants Conduct By Laws, under sub section (1) of section 352 of the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919). The above By-Laws are published hereunder as required under section 354 of the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) in English and Tamil.

1. Short title and application.

- These by-laws may be called the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] Corporation Class III and Class IV Service (Discipline and Appeal) By-Laws, 1983. (2) They shall apply to all persons appointed to the posts in Class III and Class IV Service of the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] Corporation establishment. But, they shall not apply to a person appointed to a post on contract basis

2. Definitions.

- In these by-laws, unless the context otherwise requires, -(a)"appellate authority" means the authority prescribed in by-law 13;(b)"Commissioner" means the Commissioner, Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).];(c)"Corporation service" means the service constituted in respect of posts coming under Class III and Class IV of the Corporation establishment;(d)"disciplinary authority" means the authority competent to impose any of the penalties specified in by-law 5 on any member of a service.Explanation. - Where an appellate authority passes an original order imposing any of the penalties specified in by-law 5, he shall, in respect of that order, be deemed to be a disciplinary authority;(e)"Government" means the Government of Tamil Nadu;(f)"member of the service" means a person who has been appointed to that service and who has not retired or resigned, been removed or dismissed or been discharged otherwise than for want of vacancy. He may be a probationer, an approved probationer or a full member of that service;(g)"members of family in relation to a servant in the Corporation service" means and includes-(i)the wife, child or step child or adopted child of such servant whether residing with him or not and in relation to the servant, who is a woman, the husband residing with her and dependent on her; and(ii)any other person related, whether by blood or by marriage, to the servant or to the wife or husband of such servant wholly dependent on such servant, but does not include a wife or husband legally separated from the servant or a child or step child who is no longer in any way dependent upon him or her or of whose custody the Corporation servant has been deprived of by law.

3.

The Commissioner shall prescribe the duties of the member of a service and exercise supervision and control over his acts and proceedings.

4. Interpretation.

- If any doubt arises as to the application of these by-laws, the matter shall be referred to the Government, whose decision shall be final.

5. Penalties.

- The following penalties may, for good and sufficient reason, be imposed on any member of a service, namely:-(i)Censure;(ii)Fine.Explanation. - The penalty of fine shall be imposed only on a person who is a member of the Last Grade Service included in Class IV establishment;(iii)Withholding of increments;(iv)Withholding of promotion, reduction to a lower rank in the seniority list or to a lower post or time scale or to a lower stage in the time scale;(v)Recovery from pay of the whole or part of any pecuniary loss caused to the Corporation or the Government of Tamil Nadu or the Central Government by negligence or breach of order;(vi)Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld, where such an order cannot be given effect to;(vii)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 cases of stoppage of increments with cumulative effect, the monetary value of three times the amount of increments ordered to be withheld may be recovered; (viii) Suspension, where a person has already been suspended under by-law 9 to the extent considered necessary by the authority imposing the penalty; (ix) Compulsory retirement from the Corporation service; (x) Removal from the Corporation service; (xi) Dismissal from the Corporation service; Explanation 1. - The discharge, - (a) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation; or (b) of a person appointed 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 by-law. Explanation 2. - The removal of a person from the Corporation service shall not disqualify him from future employment, but the dismissal of a person from the Corporation service shall ordinarily disqualify him from future employment in any Corporation service.

6. Disciplinary authority.

- The Commissioner may impose any of the penalties mentioned in by-law 5.

7. Disciplinary authority in respect of persons promoted.

- Where a person has been promoted from a category of a service to a higher category of such service, no penalty shall be imposed on him in respect of his work or conduct while he was a member of the category from which he was promoted except by an authority competent to appoint him to the category to which he has been promoted.

8. Disciplinary authority in respect of persons reduced rank or reverted.

- Where a person has been reduced in rank or reverted from a category of a service to a lower category of such service, no penalty shall be imposed upon him in respect of his work or conduct while he was a member of a category from which he was reverted or reduced in rank except by an authority competent to impose the penalty upon a member of such category, as the case may be.

9. Procedure for imposing penalties.

(1) In every case, where it is proposed to impose on a member of a service, any of the penalties specified in clauses (i), (ii), (iii), (v) and (vi) of by-law 5, he shall be given 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 requirements of this clause shall not apply where it is proposed to impose on a member of a service any of the penalties aforesaid on the basis of facts which have led to his conviction by the Court martial I or where the officer concerned has absconded or where it is for other reasons impracticable to communicate with him. (2) In every case, where it is proposed to impose on a member of a service, any of the penalties specified in clauses (iv), (viii), (ix), (x) and (xi) of by-law 5, the grounds on

which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the person charged together with a statement of the allegations on which each charge is based and of any other circumstances on which it is proposed to take into consideration in passing orders in the case. The person 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 enquiry or only to be heard in person or both. An oral inquiry shall be held if such inquiry is desired by the person charged or is directed by the authority concerned. At the inquiry, oral 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 witnesses called, as he may wish, provided that the officer conducting the inquiry may, for special and sufficient reason to be recorded in writing, refuse to call a witness. After the inquiry has been completed, the person charged shall be entitled to put in, if he so desires, any further written statement of his defence. If no inquiry is held and if he has desired to be heard in person, a personal hearing shall be given to him. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof.(3)[After the expiry of personal hearing referred to in clause (2) has been completed, the authority competent to impose the penalty specified in that clause is of the opinion, on the basis of the evidence adduced during the enquiry, that any of the penalties specified in by-law 5 should be imposed on the person charged, it shall, before making an order imposing such penalty, furnish to him a copy of the report of the enquiry or personal hearing or both, as the case may be, and call upon him to submit his further representation, if any, within a reasonable time, not exceeding 15 days. Any representation received in this behalf within the period shall be taken into consideration before making any order imposing the penalty, provided that such representation shall be based on the evidence adduced during the enquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed.(4)The requirements of clause (2) shall not apply where it is proposed to impose on a member of a service any such penalty as is referred to therein on the basis of facts which have led to his conviction in a criminal Court (whether or not he has been sentenced by such Court to any punishment), 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.] [Clauses (3) and (4) amended by the Government in G.O. Ms. No. 169, MAWS (MC3) department, dated the 7th July, 1999.](5)The requirements of clause (2) shall not apply where it is proposed to impose on a member of a service any of the penalties mentioned in by-law 5 on the basis of the facts which have led to his conviction by a Court martial or where the person has absconded or where it is for other reasons impracticable to communicate with him.(6)The provisions of clause (2) shall not apply where the Corporation is satisfied that in the interest of the security of the State, it is not expedient to follow the procedure prescribed in that clause.(7)All or any of the provisions of clauses (1) and (2) may, in exceptional cases and for special and sufficient reasons to be recorded in writing, be waived where there is difficulty in observing exactly the requirements of the said clauses and those requirements can be waived without injustice to the person charged. If any question arises whether it is reasonably practicable to follow the procedure prescribed in clause (2), the decision thereon of the authority competent to dismiss or remove such person or reduce him in rank, as the case may be, shall be final.(8)A member of a service may be placed under suspension from service, where-(i)an enquiry into grave charges 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.(9)A member of a service who is detained in custody whether on a criminal charge or otherwise for a period longer than forty-eight hours shall be deemed to have been suspended under these by-laws.(10)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of a service under suspension is set aside in appeal or on review under these by-laws and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.(11)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of a 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 the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.(12)An order of suspension made or deemed to have been made under this by-law may, at any time, be revoked by the authority which made the order or by the appellate authority or the Government.

10. Maintenance of records.

- The authority imposing any penalty under these by-laws shall maintain a record showing-(i)the allegations upon which action was taken against the person punished;(ii)the charges framed, if any;(iii)the person's representation, if any, and the evidence taken, if any; and(iv)the findings and the grounds thereof, if any.

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

- All orders of punishment shall state the grounds on which they are based and shall be communicated in writing to the person against whom they are passed.

12. Appeal.

- Every member of a service shall have the right of appeal against an order passed by an authority imposing on him any of the penalties specified in these by-laws. v

13. Appellate authority.

(1)The appellate authority shall be the Standing Committee (Taxation and Finance) in respect of cases where penalty is imposed by the Commissioner and the Government in respect of cases of appeals against the orders of the Standing Committee (Taxation and Finance).(2)Notwithstanding anything contained in by-law 6, the appellate authority in respect of any specific penalty, may pass an order imposing penalty on a member of a service in any specified case.(3)Where in any case the appellate authority has imposed or declined to impose a penalty under this by-law, the disciplinary

authority shall have no jurisdiction to proceed under this by-law in respect of the same case.(4)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 jurisdiction under this by-law in respect of the same case.(5)The order of the appellate authority imposing or declining to impose in any case a penalty under this by-law, shall supersede any order passed by a disciplinary authority in respect of the same case.(6)The fact that a disciplinary authority has dropped a charge against a member of a service as not proved, shall not debar the appellate authority from reviving it for reason to be recorded in writing and taking suitable action on the charge so revived.

14. Procedure to be followed by the appellate authority.

(1)In the case of an appeal against an order imposing any penalty specified in by-law 5, the appellate authority shall consider -(a)whether the facts on which the order was based have been established;(b)whether the facts established afford sufficient ground for taking action; and(c)whether the penalty is excessive, adequate or inadequate, and after such consideration, shall pass such order 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 reasons to be recorded in writing, that the error or defect was not material and has neither caused injustice to the person 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 such order as appears to it just and equitable, having regard to all the circumstances of the case.

16. Mode of preferring an appeal.

(1)Every person preferring an appeal shall do so separately and in his own name.(2)Every appeal preferred under these by-laws 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 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 against whose order it is preferred, if-(i)it is an appeal in a case in which under these by-laws no appeal lies; or(ii)it does not comply with the provision of by-law 16(2); or(iii)it is not preferred within two months after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; or(iv)it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford grounds for reconsideration of the case; or(v)it is addressed to an authority to which no appeal lies under these bylaws;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 only of failure to comply with the provisions of by-law 16(2) may be re-submitted, at any time, within one month of the date on which the appellant has been informed of the withholding of the appeal, and re-submitted in a form which complies with those provisions, shall not be withheld.

18. Appeal against withholding of an appeal.

- No appeal shall lie against the withholding of an appeal.

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

- The authority, by whom an order imposing a penalty specified in by-law 5 may be reversed or altered in cases in which no appeal is preferred, shall be the appellate authority prescribed in these by-laws or the Government.

20. Forwarding of appeal and list of appeals withheld to the appellate authority.

(1) Every appeal which is not withheld under these by-laws shall be forwarded to the appellate authority by the authority from whose order the appeal is preferred with an expression of opinion. (2) A list of appeals withheld under by-law 17 with the reasons 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 by-laws which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

22. Saving.

- Nothing in these by-laws shall operate to deprive any person of any right of appeal, which he would have had if these by-laws had not been made, in respect of any order passed before they came into force. An appeal pending at the time when preferred after these by-laws came into force shall be deemed to be an appeal under these by-laws and by-law 14 shall apply as if the appeal were against an order appealable under these by-laws.

23. Revision petition to the Government.

- Where the original order imposing any of the penalties specified in by-law 5 has been imposed on a member of a service by the Government, such member may, within two months on the date of 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 the Government to pass orders on completed disciplinary proceedings.

- Notwithstanding anything contained in these by-laws, the Government shall have the power to call for the records relating to a 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.