

# **The Punjab School Education Board Employees (Punishment and Appeal) Regulations, 1978**

PUNJAB

India

## **The Punjab School Education Board Employees (Punishment and Appeal) Regulations, 1978**

### **Rule**

### **THE-PUNJAB-SCHOOL-EDUCATION-BOARD-EMPLOYEES-PUNISHMENT of 1978**

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The Punjab School Education Board Employees (Punishment and Appeal) Regulations, 1978 Published vide Punjab Government Notification No. 6723-ASO(R)-PSEB-78/3441 dated 3.11.1978.

## **Part I – Preliminary**

### **1. Short title.**

- These regulations may be called the Punjab School Education Board Employees (Punishment and Appeal) Regulations, 1978.

### **2. Commencement.**

- These shall come into force at once.

### **3. Extent of application.**

- These shall apply to all the employees of the Punjab School Education Board. The employees, who are on foreign service with the Board, will however, continue to be governed by their respective rules.

## 4. Definitions.

- In these Regulations, unless there is anything repugnant in the subject or context :-(i)'Employee' means any person appointed to any post by the Board or by any other authority subordinate to it in connection with the affairs of the Punjab School Education Board.(ii)'Appointing Authority' means the authority empowered to make appointments to the various posts in the Board as specified in the Punjab School Education Board Service Regulations.(iii)'Punishing Authority' means the authority competent under these Regulations to impose on an employee any of the penalties specified in Regulation 5 of these Regulations.(iv)'Establishment Committee' means the Committee constituted by the Board for each financial year consisting of the Chairman and at least two members of the Board for the purpose of these Regulations.(v)Other terms and expressions have the meaning respectively assigned to them in the Punjab School Education Board Act, 1969 or Regulations made thereunder.

## Part II – Punishment and Appeals

### 5. Penalties.

- Notwithstanding anything contained in any other Regulation, and without prejudice to such action to which an employee may become liable under any other Regulation or law for the time being in force, any or all the following penalties may be imposed for good and sufficient reasons on any employee of the Board :-Minor Penalties :(i)Censure;(ii)withholding of his promotion;(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 increment of pay;Major Penalties :(v)reduction to lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period 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 retirements;(viii)removal from service which shall not be a disqualification for future employment under the Board;(ix)dismissal from service (which shall ordinarily be a disqualification for future employment under the Board).Explanation. - The following shall not amount to a penalty within the meaning of this regulation, namely :- (i)withholding of increments of an employee for failure to pass any departmental examinations in accordance with the Regulations or orders governing the conditions of his appointment;(ii)stoppage of an employee at the efficiency bar in the time- scale of pay on the ground of his unfitness to cross the bar;(iii)non-promotion of an 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 employer meaning the 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;(v)reversion of an employee

appointed on probation to any 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 regulations and orders governing such probation;(vi)reversion of an employee promoted from a lower post to a higher post to such lower post for want of vacancy;(vii)compulsory retirement of an employee in accordance with the provisions relating to his superannuation or retirement;(viii)termination of the service,(a)of an 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 regulations 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 an employee employed under a contract or agreement with such contract or agreement or in the case of an employee appointed for a specified period at the end of such period.Notes. - (1) The discharge of a person appointed to hold a temporary appointment, otherwise than in accordance with the provisions of Explanation (viii)(b) amounts to removal or dismissal and is, therefore, appealable under these regulations.(2)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 regulations. 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 an employee and if 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 enquiry is held against an 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 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 selection irrespective of the merits of the other employees available.(3)(i)While reduction of a seniority as a independent penalty is not provided for regulation 5 and cannot be imposed as such, the loss of seniority as a result of an order or reduction to a lower post or shall be inherent in the order reduction cannot be avoided.(ii)The seniority on repromotion of an employee reduced to a lower post on time-scale should be determined by the date of such repromotion in accordance with the orders issued by competent authority on the subject of seniority. Such an 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 regulations 5(vi) was imposed, will on re-promotion count previous service in the higher grade under rule 4.4 of the Punjab Civil Service Rules Volume I, Part I, unless the order of punishment or the order passed on appeal directs otherwise.(iv)An order debarring an 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 Service Rules, Volume-1, Part I,

and does not therefore, fall outside the scope of regulation 5.(4) Unauthorised desertion of his post by an 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 regulation 5, for removal or dismissal in addition to any penalty provided in the East Punjab Essential Services (Maintenance) Act, 1947.

## **6. Punishment and Appellate Authority.**

- The authorities specified in column (3) of the table set out in the appendix shall, in respect of an employee of the description specified in column (2) thereof be competent to impose the penalties specified in Regulation 5. An appeal against an order imposing such a penalty shall lie to the authority specified in column (4) of the table.

## **7. Authority to institute proceedings.**

(1) The Board or the Chairman may - (a) institute disciplinary proceedings against any employee; (b) direct punishing authority to institute disciplinary proceedings against any employee on whom that punishing authority is competent to impose under these regulations any of the penalties specified in regulations 5. (2) A punishing authority competent under these regulations to impose any of the penalties specified in clauses (i) to (iv) of regulation 5 may institute disciplinary proceedings against any employee for the imposition of any of the penalties specified in clauses (v) to (ix) of regulation 5 notwithstanding that such punishing authority is not competent under these regulations to impose any of the later penalties.

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

(1) No order imposing on an employee any of the penalties specified in Regulation 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 every case. Provided that in cases involving minor penalties the punishing authority may dispense with the inquiry if in its opinion such inquiry is not necessary; (c) taking the representation, if any, submitted by the employee under clause (s) and the record of inquiry, if any, held under clause (b) into consideration; (d) recording a finding on such imputation of misconduct or misbehaviour; and (2) The record of the proceedings in such cases shall include - (i) a copy of the intimation to the employee of the proposal to take action against him; (ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him; (iii) his representation, if any; (iv) the evidence produced during the inquiry; (v) the findings on each imputation of misconduct or misbehaviour; and (vi) the orders on the case together with reasons therefor.

## **9. [ Procedure for holding an enquiry. [Amended by the Board vide item No. 21 dated 20-10-1987.]**

(1) In case where the punishing authority is of the opinion that it is necessary to hold an enquiry, it shall frame in writing a definite charge in respect of each imputation of misconduct or misbehaviour and draw up a list of documents by which and a list of witnesses by whom the articles of charges are proposed to be sustained. (2) The punishing authority may itself enquire into or appoint an officer of the Board or any person (in service/or retired) from outside the Board to enquire into the charges against any employee. An enquiry officer, other than the officer of the Board, may be paid remuneration upto Rs. 4000/-, as determined by the Chairman in accordance with the nature/value of the case.] Explanation. - Where the punishing authority itself holds the enquiry, any reference in this Regulation to the enquiry officer shall be construed as a reference to the punishing authority. (3) The punishing authority shall forward the charge-sheet framed under sub-para (1) along with the list of documents, list of witnesses and the record of the case to the enquiry officer. (4) The punishing authority may appoint an employee of the Board or any other person to be known as the presenting officer to present on its behalf the case in support of the articles of charge. (5) 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 a legal practitioner or the punishing authority, having regard to the circumstances of the case, so permits. (6) The enquiry officer shall call upon the employee to appear before him on such day and at such time as the former, may by a notice in writing, specify in this behalf. When the employee so appears, the enquiry officer shall read over and explain the articles of charges to him and shall deliver to him a copy each of the articles of charge, list of documents and list of witnesses. (7) (a) The enquiry officer shall then adjourn the enquiry to another date for the filing of the written statement of defence by the employee. (b) For the purpose of preparation of his defence, the employee may inspect the record in possession of the enquiry officer. He may also inspect, with the permission of the enquiry officer, any record in possession of the Board, if in the opinion of the enquiry officer such record is relevant for the purpose of enabling him to prepare his defence. (8) If the employee does not admit any of the charges in his written statement of defence, the enquiry officer shall call upon the presenting officer and the employee to produce their evidence with regard to such articles of charge and may for this purpose fix one or more dates as he deems fit. Explanation. - An imputation not specifically denied in the written statement of defence shall be deemed to have been admitted. (9) Evidence shall be recorded in the presence of the parties and the opposite party shall have the right to cross-examine the witnesses. (10) If it shall appear necessary, in the interests of justice, the enquiry officer may in his discretion allow the presenting officer or the employee, or both or to produce additional evidence or may himself call new evidence or recall and re-examine any witness. (11) The inquiring authority may, after the 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. (12) The enquiry officer shall, after the conclusion of the evidence hear the arguments of the presenting officer and the employee or may permit to them file written arguments, if they so desire. (13) The enquiry officer shall then record his findings on each article of charge and give reasons in support thereof. (14) If the employee 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 enquiry officer on any date fixed for the enquiry or otherwise fails or refuses to participate in the enquiry, the enquiry officer may hold the enquiry ex parte.(15)(a)Where the enquiry officer ceases to be in the service of the Board, or becomes incapable of conducting the enquiry or the punishing authority is of the opinion that unnecessary delay has been caused by the enquiry officer in conducting the enquiry or the enquiry by him may not be or appear to be fair and impartial the punishing authority may withdraw the enquiry from him and appoint another enquiry officer and transfer the enquiry to him :(b)The enquiry officer appointed under para (15)(a) may, in his discretion, conduct the enquiry de novo or proceed with it from the stage at which it stood on the date of his appointment in which case the enquiry shall from the date of its commencement be deemed to have been held by him.Provided that if such enquiry officer is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, he may recall, examine and cross-examine any such witness as hereinbefore provided.(16)No finding or order passed in an enquiry shall be called into question before or set aside by any authority including the enquiry officer merely on the ground that there has been any infringement of any provision of this regulation unless such infringement causes prejudice to the aggrieved party and objection thereto is taken at the earliest opportunity.

## **10. Action on the Enquiry Report.**

(1)The punishing authority if it is not itself the Enquiring Authority may, for reasons to be recorded by it, in writing, remit the case to the Enquiring Authority for further enquiry and report and the Enquiry Authority shall thereupon proceed to hold the further enquiry according to the provisions of Regulation 7 as far as may be.(2)The punishing authority shall, if it disagrees with the findings of the Enquiry Authority on any article of charge record its reasons for each disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.(3)(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 Regulation 5 should be imposed on the employee, it shall :- (a)furnish to the employee a copy of the report of the enquiry held by it and its findings on each article of charge or where the enquiry had been held by an Enquiring 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 Enquiring 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 as fifteen days, as may be allowed, such representation as he may wish to make on the proposed penalty on the basis of the evidence adduced during the enquiry held under Regulation 7.(ii)The punishing authority shall after considering the representation, if any, made by the employee determine that penalty, if any should be imposed on the employee and make such orders as it may deem fit.

## **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 enquiry, if any, held by the punishing authority and a copy of its findings on each articles of charge, or where the punishing authority is not the Enquiring

Authority, a copy of the reports of the Enquiry Authority and a statement of the findings of punishing authority together with brief reasons for disagreement, if any, with the findings of the Enquiring Authority unless they have already been supplied to him.

## **12. Common Proceeding.**

(1) Where two or more employees are concerned in any case the Chairman or any other authority competent to impose the penalty of dismissal from service on all such employees may make an order directing the disciplinary action against all of them may be taken in a common proceeding. Note. - 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 taken by highest of such authorities with the consent of the others. (2) Any order under sub-regulation (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 regulation 5 which such punishing authority shall be competent to impose; (iii) whether the procedure laid in regulations 7, 8 and 9 shall be followed in the proceedings.

## **13. Limitation for Appeal.**

- Every appeal shall be filed within a period of 60 days from the date of passing of the orders appealed against provided that the appellate authority may extend the period of limitation for sufficient cause.

## **14. Decision on Appeal.**

- The appellate authority may, after consideration of the case:-(a) set aside, reduce, confirm, or enhance and penalty; or (b) remit the case to the authority which imposed the penalty or to any other authority with such discretion as it may deem 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 to impose; (ii) no order imposing an enhanced penalty shall be passed unless the appellant is given a reasonable opportunity of making any representation which he may wish to make against such enhanced penalty.

## **15. Finality of decision.**

- Subject to the provisions of these Regulations, the decision of the appellate authority shall be final.

## **16. Suspension.**

(1) The appointing authority or any other authority to which it is subordinate or the punishing authority, 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. (2) The 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 this sub-regulation shall be computed from the commencement of the imprisonment after conviction and for this purpose, internment periods of imprisonment, if any, shall be taken into account.(3)Where a penalty of dismissal, removal or compulsory retirement imposed upon an employee under suspension is set aside on appeal or on review under these regulations and the case is remitted for further enquiry or action or with any other directions, the order of his suspension shall be deemed to have continued to remain in force on and from the date of original order imposing the penalty of dismissal or compulsory retirement and shall remain in force until further orders.(4)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set aside or declared or rendered void in consequence of or by a decision of court of law and the punishing authority on reconsideration of the circumstances of the case, decides to hold a further enquiry 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 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 this regulation shall continue 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 by him 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 this regulation may at any time be modified or revoked by authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.Note. - The payment of allowance during suspension and on reinstatement shall be governed by the rules laid down in Punjab Civil Services Rules, Volume I, Part I.

## 17. Review.

- Notwithstanding anything contained in these regulations :(i)the Board; or(ii)the Chairman;may at any time either on its or his own motion or on the application made by the aggrieved employee, call for the record of any enquiry or order and review any order made under these Regulations and on so reviewing may :-(i)confirm, modify or set aside the order; or(ii)confirm, reduce, enhance or set aside the penalty imposed by the order or impose any penalty where no penalty has been imposed; or(iii)remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of case; or(iv)pass such other order as it or he may deem fit :Provided as follows :-(a)No appealable order shall be reviewed against which an appeal has not been preferred. An order against which an appeal



has been preferred shall not be reviewed during the pendency of the appeal.(b)An application for review of an order shall not be entertained unless it is made within 30 days from the date of the passing of the order or unless the applicant satisfies the Board or the Chairman, as the case may be, that he had sufficient cause for not making the application till then.(c)No order imposing any penalty or enhanced penalty shall be made except after giving a reasonable opportunity to the employee concerned for showing cause against the proposed penalty or enhanced penalty.(d)No order other than the confirming the order under review shall be passed by the Board except by a resolution supported by two-third of the total number of its members.(e)The Chairman shall not review any order except one passed by an authority subordinate to him.

## **18. Service of Orders, Notices etc.**

- Every order, notice and other process made or issued under these regulations shall be served in person on the employee concerned or communicated to him by registered post.

## **19. Power to Relax time limit and to condone Delay.**

- Save as otherwise expressly provided in these regulations, the authority competent under these regulations to make and any order may for good and sufficient reasons or if sufficient cause is shown extend the time specified in these regulations for anything required to be done under these regulations or condone any delay.

## **20. Repeal and Saving.**

(1)An appeal pending at the commencement of these regulations against an order made before such commencement shall be considered and orders thereon shall be made in accordance with these regulations; as if such orders were made and the appeal was preferred under these regulations.(2)As from the commencement of these regulations any appeal or application for review against any orders made before such commencement shall be preferred or made under these regulations; as if such orders were made under these regulations :Provided that nothing in these regulations shall be construed as reducing any period of limitation for any appeal or review provided by any regulation in force before the commencement of these regulations.

## **21. [ Amended vide Board's item No. 21 dated 20.10.1987.]**

In matters for which no specific provision has been made in these regulations, the rules contained in the Punjab Civil Services Rules and such other instructions issued on the subject shall apply.]

## **22. [ Interpretation. [Amended vide Board's item No. 4(2) dated 6.8.1987.]**

- If any question arises as to the interpretation of these regulations, the decision of the Board shall be final.]

**23. [ General Regulation. [Amended vide Board's item No. 37 dated 20.10.1987.]**

- The Chairman may appoint any person, not on the establishment of the Board, as Enquiry officer to make a fact finding probe into any matter in which the interest of the Boards is in any way involved. He may also fix remuneration upto Rs. 2000/- for the Enquiry Officer in accordance with the nature/seriousness of the case.][Appendix] [Substituted vide Board item No. 4(3) dated 20.9.1989.]Referred to in Regulation 6

Sr. No.	Category of Employees	Punishing authority	Appellate authority
1	Employees in scale of pay the minimum of which is less thanRs. 1200/-	Secretary	Chairman
2	Employees in scale of pay the minimum of which is more thanRs. 1200/-	Chairman	Board.