

The Punjab Affiliated Colleges (Security of Service) Rules, 1978

PUNJAB

India

The Punjab Affiliated Colleges (Security of Service) Rules, 1978

Rule

THE-PUNJAB-AFFILIATED-COLLEGES-SECURITY-OF-SERVICE-RULES of 1978

- Published on 23 June 1978
- Commenced on 23 June 1978
- [This is the version of this document from 23 June 1978.]
- [Note: The original publication document is not available and this content could not be verified.]

The Punjab Affiliated Colleges (Security of Service) Rules, 1978 Published vide Notification Punjab Government Gazette Legislative Supplement dated 23rd June, 1978 at page 307

1. Short title and commencement.

(1) These rules may be called the Punjab Affiliated Colleges (Security of Service) Rules, 1978. (2) They shall come into force at once.

2. Definitions.

- In these rules, unless there is anything repugnant in the context, -(a)'Act' means the Punjab Affiliated Colleges (Security of Service) Act, 1974 (Punjab Act No. 23 of 1974); and (b)'section' means a section of the Act.

3. Procedure for imposing penalties of dismissal, removal or reduction in rank.

(1) Whenever, the Managing Committee 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 enquire into or may appoint an authority to enquire into the truth thereof. (2) Where it is proposed to hold an inquiry against an employee under this rule, the Managing Committee 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 charge; (ii) a statement of imputations of misconduct or misbehaviour

in support of each article of charge 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 witnesses by whom the articles of charge are proposed to be substantiated. (3) The Managing Committee shall deliver or cause to be delivered to the employee 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 substantiated and shall require the employee to submit, within such time, not being less than a week, as may be specified, a written statement of his defence and to state whether he desires to be heard in person. (4) (a) On receipt of the written statement of defence, the Managing Committee 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 (1) 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 Managing Committee shall record its finding on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 4. (b) If no written statement of defence is submitted by the employee within the specified period, the Managing Committee may itself inquire into the articles of charge or may, if it considers necessary so to do, appoint under sub-rule (1) an inquiring authority for the purpose. (c) Where the Managing Committee itself inquires into the articles of charge or appoints an inquiring authority for holding an inquiry into such charge, it may, by an order, appoint a Presenting Officer to present, on its behalf, the case in support of the articles of charge. (5) The Managing Committee shall, where it is not itself the inquiring authority, forward to the inquiring authority -(i) a copy of the articles of charge and the statement of 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 (2); (iv) evidence proving the delivery of the documents requiring to be delivered to the employee under sub-rule (3); and (v) a copy of the order appointing the Presenting Officer. (6) The 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 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. (7) 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 Managing Committee is a legal practitioner or the Managing Committee, having regard to the circumstances of the case, so permits. (8) 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 charge, the inquiring authority shall record the plea, sign the record and; obtain the signatures of the employee thereon. (9) The inquiring authority shall record his finding of guilt in respect of those articles of charge to which the employee pleads guilty. (10) The inquiring authority shall, if the employee fails to appear within the specified time or refuses or omits to plead, require the Prosecuting 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 the 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 (2); and (ii) submit a list of witnesses to be examined on his behalf. Note - If

the employee applies orally or in writing for the supply of the copies of the statements of witnesses mentioned in the list referred to in sub-rule (2), if any, the inquiring authority shall furnish him such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Managing Committee.(11)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 the production of the documents 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.(12)On receipt of the requisition referred to in sub-rule (11) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority.(13)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 the Managing Committee. The witnesses shall be examined by or on behalf of the Managing Committee 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 point on which they have been cross-examined, but not on any new matter without the leave of the inquiry authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.(14)The inquiring authority may, in its discretion, if it appears necessary before the close of the case on behalf of the Managing Committee, allow the Presenting 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 if copy of the list of further evidence proposed to be produced and 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 the inquiry is adjourned. The inquiry authority shall give the employee an opportunity of inspecting such documents before they are taken on the record. The inquiry 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 - New evidence shall not be produced or called for or any witnesses 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 has been produced originally.(15)When the case for the Managing Committee 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 either case a copy of the statement of defence shall be given to the Presenting Officer, if any appointed.(16)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 inquiring authority, according to the provision applicable to the witness for the Managing Committee.(17)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 such circumstances.(18)An inquiring authority may, after the completion of the evidence hear the Presenting Officer, if any appointed, and the employee or permit them to file written briefs of their respective case, if they so desire.(19)(i)If the inquiring authority is of the opinion that the employee is unduly delaying the producing of the evidence or fails or omits to produce evidence on the

specified date of hearing or fails to appear on the date of hearing, may record its reason in writing, and close the evidence on behalf of the employee and proceed with the case.(ii)The inquiring authority may, in its discretion, for reasons to be recorded in writing, set aside its own order under clause (i), if a petition is filed before it by the employee within fifteen days of the passing of such order :Provided that a copy of the petition is given to the Presenting Officer, if any appointed, and an opportunity is given to him to be heard before passing such order.(iii)No appeal shall lie against the order under clause (ii).(20)If the employee to whom a copy of the articles of the 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 these rules, the inquiring authority may hold the inquiry ex-parte.(21)(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 imputation 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 thereof;Explanation - If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of the charge different from the original articles of the charge, it may record its findings on such article of charge.(ii)The inquiring authority where it is not the Managing Committee shall forward to the Managing Committee, the records of the inquiry, which shall include.(a)the report prepared by it under clause (i);(b)the written statement of defence, if any, submitted by 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;(e)the orders, if any made by the Managing Committee and the inquiring authority in regard to the inquiry.

4. Action on the inquiry report.

(1)The Managing Committee, if it is not itself 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, as far as may be, shall thereupon proceed to hold the further inquiry, according to the provisions of Rule 3.(2)The Managing Committee, shall, if it disagrees with the findings of the inquiring 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)If the Managing Committee having regard to its finding on all or any of the articles of charge, is of the opinion that the penalty of dismissal or removal from service or reduction in rank 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 the charge or where the inquiry had been held by the 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 a period of thirty days of the receipt of such notice, such representation to the Director as he may wish to make against the proposed penalty;(c)forward to the Director the complete record of inquiry mentioned in sub-rule 21 (ii) of Rule 3, alongwith its own findings on each article of charge, together with brief reason for the disagreement, if any, with the findings of the inquiry; and(d)forward to the Director evidence of receipt of notice by the

employee under clause (b).

5. Action by Director.

- The Director, on receipt of such proposal and representation, if any, may, after examining the record and giving the parties an opportunity of being heard, by an order in writing, give his approval to the imposition of the proposed penalty of dismissal or removal from service, as the case may be, or refuse to give approval, if the proposal is found to be mala fide or by way of victimisation or not warranted by the facts and circumstances of the case.

6. Order by Managing Committee.

- On receipt of the approval of the Director to the proposal for dismissal or removal from service of an employee, the Managing Committee shall pass an order in detail, accordingly.

7. Manner of filing appeal to District Judge.

(1)An appeal under sub- section (2) of section 5 shall be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the District Judge within thirty days of the date of the order. The memorandum shall be accompanied by a copy of the order appealed against (unless appellate Court dispenses therewith) and of the inquiry report on which it is founded.(2)The memorandum shall set forth the grounds of objection to the order appealed against without any argument or narrative; and such grounds shall be numbered consecutively.(3)The appellant shall not, except by leave of the District Judge, urge to be heard in support of any ground of objection not set forth in the memorandum of appeal; but the District Judge, in deciding the appeal, shall not be confined to the grounds of objection set forth in the memorandum of appeal, or taken by leave of the Court under this rule;Provided that the District Judge shall not base his decision on any other ground unless the party who may be affected thereby as has had a sufficient opportunity of contesting the case on that ground.(4)Where the memorandum of appeal is not drawn up in the prescribed manner, it may be rejected or returned to the appellant for the purpose of being amended within the time to be fixed by the District Judge or be amended then and there.(5)Where the District Judge rejects any memorandum, he shall record the reasons for such rejection.