

The U.P. Government Servant (Discipline and Appeal) Rules, 1999

UTTAR PRADESH

India

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Rule

THE-U-P-GOVERNMENT-SERVANT-DISCIPLINE-AND-APPEAL-RULES of 1999

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The U.P. Government Servant (Discipline and Appeal) Rules, 1999Published Vide Notification No. 13/9/98-Ka-1-99, dated 09.06.1999, published in the U.P. Gazette, Extraordinary, Part 4, Section (Ka), dated 09.06.1999.In exercise of the powers conferred by the proviso to Article 309 of the Constitution and in suppression of the Civil Service (Classification, Control and Appeal) Rules, 1930 and Punishment and Appeal Rules for Subordinate Service Uttar Pradesh, 1932, the Governor is pleased to make the following rules :

1. Short title and commencement. -

(1)These rules may be called the Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999.(2)They shall come into force at once.(3)They shall apply to Government servants under the rule-making power of the Governor under the proviso to Article 309 of the Constitution except the officers and the servants of the High Court of Judicature at Allahabad covered under Article 229 of the Constitution of India.

2. Definitions. -

In these rules, unless there is anything repugnant in the subject or context, -(a)"appointing authority" means the authority empowered to make appointment to the posts under the relevant service rules;(b)"Constitution" means the Constitution of India;(c)"Commission" means the Uttar Pradesh Public Service Commission;(d)"Departmental inquiry" means the inquiry under Rule 7 of these Rules;(e)"Disciplinary authority" means an authority empowered under Rule 6 to impose

penalties;(f)"Governor" means the Governor of Uttar Pradesh;(g)"Government" means the State Government of Uttar Pradesh;(h)"Government servant" means a person appointed to public services and posts in connection with the affairs of the State of Uttar Pradesh;(i)"Group A, B, C and D posts" means the posts mentioned as such in the relevant service rules or the orders of the Government issued from time to time in this regard;(j)"Service" means the public services and posts in connection with the affairs of the State of Uttar Pradesh.

3. Penalties. -

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed upon the Government servants :Minor Penalties :(i)Censure;(ii)Withholding of increments for a specified period;(iii)Stoppage at an efficiency bar;(iv)Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders;(v)Fine in case of persons holding Group 'D' posts;Provided that the amount of such fine shall in no case exceed twenty-five percent of the month's pay in which fine is imposed.Major Penalties :(i)Withholding of increments with cumulative effect;(ii)Reduction to a lower post or grade or time scale or to a lower stage in a time scale;(iii)Removal from the service which does not disqualify from future employment;(iv)Dismissal from the service which disqualifies from future employment.Explanation. - The following shall not amount to penalty within the meaning of this rule, namely :(i)Withholding of increment of a Government servant for failure to pass a departmental examination or for failure to fulfil any other condition in accordance with the rules or orders governing tire service;(ii)Stoppage at the efficiency bar in the time scale of pay on account of ones not being found fit to cross the efficiency bar;(iii)Reversion of a person appointed on probation to the service during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probation;(iv)Termination of the service of a person appointed on probation during or at the end of the period of probation in accordance with the terms of the service or the rules and orders governing such probation.

4. Suspension. -

(1)A Government servant against whose conduct an inquiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the appointing authority :Provided that suspension should not be resorted to unless the allegations against the Government servant are so serious that in the event of their being established may ordinarily warrant major penalty :Provided further that concerned Head of the Department empowered by the Governor by an order in this behalf may place a Government servant or class of Government servants belonging to Group 'A' and 'B' posts under suspension under this rule :Provided also that in the case of any Government servant or class of Government servants belonging to Group 'C' and 'D' posts, the appointing authority may delegate its power under this rule to the next lower authority.(2)A Government servant in respect of, or against whom an investigation, inquiry or trial relating to a criminal charge, which is connected with his position as a Government servant or which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, is pending, may at the discretion of the appointing authority or the authority to whom the power of suspension has been delegated under these rules, be placed under suspension until the termination

of all proceedings relating to that charge.(3)(a)A Government servant shall be deemed to have been placed or, as the case may be, continued to be placed under suspension by an order of the authority competent to suspend, with effect from the date of his detention, if he is detained in custody, whether the detention is on criminal charge or otherwise, for a period exceeding forty-eight hours.(b)The aforesaid Government servant shall, after the release from the custody, inform in writing to the competent authority about his detention and may also make representation against the deemed suspension. The competent authority shall after considering the representation in the light of the facts and circumstances of the case as well as the provision contained in this rule, pass appropriate order continuing the deemed suspension from, the date of release from custody or revoking or modifying it.(4)Government servant shall be deemed to have been placed, or as the case may be, continued to be placed under suspension by an order of the authority competent to suspend under these rules, 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 consequent to such conviction.Explanation. - The period of forty-eight hours referred to in sub-rule will be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken to account.(5)Where a penalty of dismissal or removal from service imposed upon a Government servant is set aside in appeal or on review under these rules or under rules rescinded by these rules and the case is remitted for further inquiry or action or with any other directions :(a)if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any such directions as aforesaid, be deemed to have continued in force on and from the date of the original order of dismissal or removal;(b)if he was not under suspension, he shall, if so directed by the appellate or reviewing authority, be deemed to have been placed under suspension by an order of the appointing authority on and from the date of the original order of dismissal or removal:Provided that nothing in this sub-rule shall be construed as affecting the power of the disciplinary authority in a case where a penalty of dismissal or removal in service imposed upon a Government servant is set aside in appeal or on review under these rules on grounds other than the merits of the allegations which, the said penalty was imposed but the case is remitted for further inquiry or action or with any other directions to pass an order of suspension pending further inquiry against him on those allegations so, however, that any such suspension shall not have retrospective effect.(6)Where penalty of dismissal or removal from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the appointing 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 or removal was originally imposed, whether the allegations remain in their original form or are clarified or their particulars better specified or any part thereof a minor nature omitted :(a)if he was under suspension immediately before the penalty was awarded to him, the order of his suspension shall, subject to any direction of the appointing authority, be deemed to have continued in force on and from the date of the original order of dismissal or removal;(b)if he was not under such suspension, he shall, if so directed by the appointing authority, be deemed to have been placed under suspension by an order of the competent authority on and from the date of the original order of dismissal or removal.(7)Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding 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 Government servant shall continue to be under suspension till the termination of all or any of such proceedings.(8)Any suspension ordered or deemed to have been ordered or to have continued in force under this rule shall continue to remain in force until it is modified or revoked by the competent authority.(9)A Government servant placed under suspension or deemed to have been placed under suspension under this rule shall be entitled to subsistence allowance in accordance with the provisions of Fundamental Rule 53 of the Financial Hand Book, Volume 11, Parts II to IV.

5. Pay and allowances etc. of the suspension period. -

After the order is passed in the departmental enquiry or in the criminal case, as the case may be, under these rules, the decision as to the pay and allowances of the suspension period of the concerned Government servant and also whether the said period shall be treated as spent on duty or not, shall be taken by the disciplinary authority after giving a notice to the said Government servant and calling for his explanation within a specified period under Rule 54 of the Financial Hand Book, Volume 11, Parts II to IV.

6. Disciplinary authority. -

The appointing authority of a Government servant shall be his disciplinary authority, who, subject to the provisions of these rules, may impose any of the penalties specified in Rule 3 on him :Provided that no person shall be dismissed or removed by an authority subordinate to that by which he was actually appointed :Provided further that the Head of Department notified under the Uttar Pradesh Class II Services (Imposition of Minor Punishment) Rules, 1973, subject to the provisions of these rules, shall be empowered to impose minor penalties mentioned in Rule 3 of these rules :Provided also that in case of a Government servant belonging to Group 'C' and 'D' posts, the Government, by a notified order, may delegate the power to impose any penalty, except dismissal or removal from service under these rules, to any authority subordinate to the appointing authority and subject to such conditions as may be prescribed therein.

7. Procedure for imposing major penalties. -

Before imposing any major penalty on a Government servant, an inquiry shall be held in the following manner :(i)The disciplinary authority may himself inquire into the charges or appoint an authority subordinate to him as Inquiry Officer to inquire into the charges.(ii)The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge-sheet. The charge-sheet shall be approved by the disciplinary authority :Provided that where the appointing authority is Governor, the charge-sheet may be approved by the Principal Secretary or the Secretary; as the case may be, of the concerned department.(iii)The charges framed shall be so precise and clear as to give sufficient indication to the charged Government servant of the facts and circumstances against him. The proposed documentary evidence and the name of the witnesses proposed to prove the same alongwith oral evidence, if any, shall be mentioned in the charge-sheet.(iv)The charged Government servant shall be required to put in a written statement of his defence in person on a specified date which shall not

be less than 15 days from the date of issue of charge-sheet and to state whether he desires to cross-examine any witness mentioned in the charge-sheet and whether desires to give or produce evidence in his defence. He shall also be informed that in case he does not appear or file the written statement on the specified date, it will be presumed that he has none to furnish and Inquiry Officer shall proceed to complete the inquiry ex parte.(v)The charge-sheet, alongwith the copy of the documentary evidences mentioned therein and list of witnesses and their statements, if any shall be served on the charged Government servant personally or by registered post at the address mentioned in the official records. In case the charge-sheet could not be served in aforesaid manner, the charge-sheet shall be served by publication in a daily newspaper having wide circulation :Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge-sheet, the charged Government servant shall be permitted to inspect the same before the Inquiry Officer.(vi)Where the charged Government servant appears and admits the charges, the Inquiry Officer shall submit his report to the disciplinary authority on the basis of such admission.(vii)Where the charged Government servant denies the charges, the Inquiry Officer shall proceed to call the witnesses proposed in the charge-sheet and record their oral evidence in presence of the charged Government servant who shall be given opportunity to cross-examine such witnesses. After recording the aforesaid evidence, the Inquiry Officer shall call and record the oral evidence which the charged Government servant desired in his written statement to be produced in his defence :Provided that the Inquiry Officer may for reasons to be recorded in writing refuse to call a witness.(viii)The Inquiry Officer may summon any witness to give evidence or require any person to produce documents before him in accordance with the provisions of the Uttar Pradesh Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1976.(ix)The Inquiry Officer may ask any question he pleases, at any time of any witness or from person charged with a view to discover the truth or to obtain proper proof of facts relevant to charges.(x)Where the charged Government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding inspite of the service of the notice on him or having knowledge of the date, the Inquiry Officer shall proceed with the inquiry ex parte. In such a case the Inquiry Officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged Government servant.(xi)The disciplinary authority, if it considers it necessary to do so, may, by an order appoint a Government servant or a legal practitioner, to be known as "Presenting Officer" to present on its behalf the case in support of the charge.(xii)The Government servant may take the assistance of any other Government servant to present the case on his behalf but not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner of the disciplinary authority having regard to the circumstances of the case so permits :Provided that this rule shall not apply in following cases :(i)Where any major penalty is imposed on a person on the ground of conduct which has led to his conviction on a criminal charge; or(ii)Where the disciplinary authority is satisfied that for reason to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or(iii)Where the Governor is satisfied that, in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules.

8. Submission of Inquiry Report. -

When the inquiry is complete, the Inquiry Officer shall submit its inquiry report to the disciplinary authority alongwith all the records of the inquiry. The inquiry report shall contain a sufficient record of brief facts, the evidence and statement of the findings on each charge and the reasons thereof. The Inquiry Officer shall not make any recommendation about the penalty.

9. Action on Inquiry Report. -

(1)The disciplinary authority may, for reasons to be recorded in writing, remit the case for re-inquiry to the same or any other Inquiry Officer under intimation to the charged Government servant. The Inquiry Officer shall thereupon proceed to hold the inquiry from such stage as directed by the disciplinary authority, according to the provisions of Rule 7.(2)The disciplinary authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded.(3)In case the charges are not proved, the charged Government servant shall be exonerated by the disciplinary authority of the charges and inform him accordingly;(4)If the disciplinary authority having regard to its findings on all or any of charges is of the opinion that any penalty specified in Rule 3 should be imposed on the charged Government servant, he shall give a copy of the inquiry report and his findings recorded under sub-rule (2) to the charged Government servant and require him to submit his representation if he so desires, within a reasonable specified time. The disciplinary authority shall, having regard to all the relevant records relating to the inquiry and representation of the charged Government servant, if any, and subject to the provisions of Rule 16 of these rules, pass a reasoned order imposing one or more penalties mentioned in Rule 3 of these rules and communicate the same to the charged Government servant.

10. Procedure for imposing minor penalties. -

(1)Where the disciplinary authority is satisfied that good and sufficient reasons exist for adopting such a course, it may, subject to the provisions of sub-rule (2) impose one or more of the minor penalties mentioned in Rule 3.(2)The Government servant shall be informed of the substance of the imputations against him and called upon to submit his explanation within a reasonable time. The disciplinary authority shall after considering the said explanation, if any, and the relevant records, pass such orders as he considers proper and where a penalty is imposed, reason thereof shall be given. The order shall be communicated to the concerned Government servant.

11. Appeal. -

(1)Except the orders passed under these rules by the Governor, the Government servant shall be entitled to appeal to the next higher authority from an order passed by the disciplinary authority.(2)The appeal shall be addressed and submitted to the appellate authority. A Government servant preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.(3)The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily

dismissed.(4)The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.

12. Consideration of Appeals. -

The appellate authority shall pass such order as mentioned in clauses (a) to (d) of Rule 13 of these rules, in the appeal as he thinks proper after considering.(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;

13. Revision. -

Notwithstanding anything contained in these rules, the Government may of its own motion or on the representation of concerned Government servant call for the record of any case decided by an authority subordinate to it in the exercise of any power conferred on such authority by these rules; and(a)confirm, modify or reverse the order passed by such authority; or(b)direct that a further inquiry be held in the case, or(c)reduce or enhance the penalty imposed by the order; or(d)make such other order in the case as it may deem fit;

14. Review. -

The Governor may at any time, either on his own motion or on the representation of the concerned Government servant, review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case.

15. Opportunity before imposing or enhancing penalty. -

No order under Rules 12, 13 and 14 imposing or enhancing any penalty shall be made unless the Government servant concerned has been given a reasonable opportunity of showing cause against the proposed disposition or enhancement, as the case may be.

16. Consultation with the Commission. -

Before any order is passed by the Governor under these rules, the Commission, as required under the Uttar Pradesh Public Service Commission (Limitation of Functions) Regulation, 1954, as amended from time to time, shall also be consulted.

17. Rescission and savings. -

(1)The Civil Service (Classification, Control and Appeal) Rules, 1930 and the Punishment and Appeal Rules for Subordinate Service, Uttar Pradesh, 1932 are hereby rescinded.(2)Notwithstanding

such rescission, -(a)delegation of power mentioned in Punishment and Appeal Rules for Subordinate Services Uttar Pradesh, 1932 and any order issued under the Civil Services (Classification, Control and Appeal) Rules, 1930 or Punishment and Appeal Rules for Subordinate Services, Uttar Pradesh, 1932 delegating the power of imposing any of the penalties mentioned in Rule 3 or power of suspension to any authority shall be deemed to have been issued under these rules and shall remain valid unless cancelled or rescinded;(b)any inquiry, appeal, revision or review pending on the date of coming into force of these rules shall be continued and concluded in accordance with the provisions of these rules;(c)nothing in these rules shall operate to deprive any person of any right of appeal, revision or review which he would have had if these rules had not been in force in respect of any order passed before the commencement of these rules and such appeal, revision or review shall be preferred under these rules and disposed of accordingly as if the provisions of this rule were in force at all material times.