

The U.P. Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 1995

UTTAR PRADESH

India

The U.P. Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 1995

Rule

THE-U-P-GOVERNMENT-SERVANTS-DISPOSAL-OF-REPRESENTATION of 1995

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The U.P. Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 1995Published vide Notification No. 20/1/95-Ka-2/1995, dated July 10, 1995, published in U.P. Gazette, (Extraordinary), Part 4, Section (Ka), dated 10th July, 1995In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Notification No. 20/1/95-ka-2/1995, date July 10, 1995.In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the Governor is pleased to make the following rules :

1. Short title, commencement and application.

(1)These rules may be called the Uttar Pradesh Government Servants (Disposal of Representation against Adverse Annual Confidential Reports and Allied Matters) Rules, 1995.(2)They shall come into force at once.(3)They shall apply to all Government Servants.

2. Overriding effect.

- These rules shall have effect notwithstanding anything to the contrary contained in any other rules or orders.

3. Definitions.

- Unless there is anything repugnant in the subject or context, the expression-(a)"appropriate authority" means a person who is empowered by the Government to act as reporting authority, reviewing authority or accepting authority, as the case may be;(b)"Constitution" means the Constitution of India;(c)"Government" means the State Government of Uttar Pradesh;(d)"Government Servant" means a person working on a post under the rule making powers of the Governor under the proviso to Article 309 of Constitution other than a post under control of the High Court;(e)"report" means annual confidential report regarding the work, conduct and integrity of a Government Servant for each year recorded by an appropriate authority, who has seen the performance of the Government servant for not less than a continuous period of three months;(f)"Secretariat" means the Secretariat of the Government;(g)"Year" means a period of twelve months commencing from the first day of April of a calendar year.

4. Communication of adverse report and procedure for disposal of representation.

(1)Where a report in respect of a Government Servant is adverse or critical, wholly or in part, hereinafter referred to as adverse report, the whole of the report shall be communicated in writing to the Government Servant concerned by the accepting authority or by an officer not below the rank of reporting authority nominated in this behalf by the accepting authority, within a period of 45 days from the date of recording the report and a certificate to this effect shall be recorded in the report.(2)A Government Servant may, within a period of 45 days from the date of communication of adverse report under sub-rule (1), represent in writing directly and also through proper channel to the authority one rank above the accepting authority, hereinafter referred to as the competent authority, and if there is no competent authority, to the accepting authority itself, against the adverse report so communicated:Provided that if the competent authority or the accepting authority, as the case may be, is satisfied that the Government Servant concerned had sufficient cause for not submitting the representation within the said period, he may allow a further period of 45 days for submission of such representation.(3)The competent authority or accepting authority as the case may be, shall, within a period not exceeding one week from the date of receipt of the representation under sub-rule (2), transmit the representation to the appropriate authority, who has recorded the adverse report, for his comments, who shall, within a period not exceeding 45 days from the date of receipt of the representation, furnish his comments to the competent authority or the accepting authority as the case may be :Provided that no such comments shall be required if the appropriate authority has ceased to be in, or has retired from, the service or is under suspension before sending his comments.(4)The competent authority or the accepting authority, as the case may be, shall, within a period of 120 days from the date of expiry of 45 days specified in sub-rule (3), consider the representation along with the comments of the appropriate authority, and if no comments have been received without waiting for the comments, and pass speaking orders-(a)rejecting the representation; or(b)expunging the adverse report wholly or partly as he considers proper.(5)Where the competent authority due to any administrative reasons, is unable to dispose of the representation within the period specified in sub-rule (4), he shall report in this regard to his higher authority, who shall pass such orders as he considers proper for ensuring

disposal of the representation within the specified period.(6)An order passed under sub-rule (4) shall be communicated in writing to the Government Servant concerned.(7)Where an order expunging the adverse report is passed under sub-rule (4), the competent authority or the accepting authority as the case may be shall omit the report so expunged.(8)The order passed under sub-rule (4) shall be final.(9)Where any matter for-(i)communication of an adverse report;(ii)representation against an adverse report;(iii)transmission of representation to the appropriate authority for his comments;(iv)comments of the appropriate authority; or(v)disposal of representation against an adverse report; is pending on the date of the commencement of these rules, such matters shall be dealt with and disposed of within the period prescribed therefor under this rule.Explanation. - In computing the period prescribed under this rule for any matters specified in this sub-rule the period already expired on the date of the commencement of these rules shall not be taken into account.

5. Report not to be treated adverse.

- Except as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial Handbook Volume II, Parts II to IV. Where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purposes of promotion, crossing of Efficiency Bar and other service matters of the Government Servant concerned.

6. Maintenance of register.

- The competent authority or accepting authority, as the case may be, or any other authority nominated by him in this behalf, shall maintain a register in such form as may be specified by the Government, from time to time, and shall make appropriate entries therein.

7. Penalty.

(1)Where an officer legally bound to communicate an adverse report to the Government servant concerned or where an officer legally competent to dispose of a representation against an adverse report under these rules, wilfully fails to do so within the period prescribed therefor, shall be guilty of misconduct and be punishable in accordance with the punishment rules applicable to him.(2)A Section Officer in the Secretariat and an officer or official incharge of an office, other than the Secretariat, shall place the representation, comments of the appropriate authority there on and other relevant records, if any, before the competent authority or the accepting authority, as the case may be, immediately after their receipt. Any wilful default, in this behalf, on his part shall be a misconduct and he shall be punishable in accordance with the punishment rules applicable to him.

8. Savings.

- Any action taken or anything done in respect of any matter specified in sub-rule (9) of Rule 4 before the commencement of these rules, shall be deemed to have been taken or done under the corresponding provisions of these rules.