

Tamil Nadu Municipal Services Discipline and Appeal) Rules, 1970

TAMILNADU

India

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Rule

TAMIL-NADU-MUNICIPAL-SERVICES-DISCIPLINE-AND-APPEAL-RULES of 1970

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Part I – General

1. Short title and Application.

(1)These rules may be called the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970.(2)They shall come into force from the date of issue of order, provided that every person to whom these rules shall apply shall be governed by the rules in force prior to the latter date.(3)They shall apply to (i) Every member of a Municipal service other than the members of services holding posts in any of the categories in Branch I of the Tamil Nadu Municipal Public Health and Medical service, as they are governed by the Regulations framed under the Tamil Nadu Public Health Act, 1939 (Tamil Nadu Act III of 1939);(ii)Every person appointed to a class or category of a Municipal service other than the categories in Branch I of the Tamil Nadu Municipal Public Health and Medical Service under rule 8 of the General Rules in Part II of the Tamil Nadu Municipal Service Rules, 1970. But they shall not apply to any person appointed to a Municipal Service on contract under rule 9 of the general rules.Explanation. - If any doubt arises as to the application of these rules to any person, the matter shall be referred to the State Government whose decision shall be final.

2. Definitions.

(1) In these rules, unless there is anything repugnant in the context, the words or expressions shall have the same meaning assigned to them in Part I of the Tamil Nadu Municipal Service Rules, 1970. (2) "Appellate Authority" means the authority competent to entertain and pass orders setting aside or confirming or modifying an original order of a disciplinary authority imposing any of the penalties specified in rule 3 of these rules on any member of a service. (3) "Disciplinary authority" means the authority competent to impose any of the penalties mentioned in rule 3 on any member of a service. Explanation: - Where an appellate authority passes an original order imposing any of the penalties specified in rule 3, he shall, in respect of that order, be deemed to be a disciplinary authority.

Part II – Discipline-Penalties

3. Penalties.

- The following penalties may, for good and sufficient reason, be imposed on any member of a service, namely; - (1) censure; (2) withholding of increments, or promotion, including stoppage at an efficiency bar; (3) reduction to a lower rank in the seniority list or to a lower post or time-scale or to a lower stage in a time-scale; (4) recovery from pay of the whole or part of any pecuniary loss caused to a Municipal Council or to any other local body or the State Government or the Central Government by negligence or breach of orders; (5) recovery from pay to 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; (6) 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 case of stoppage of increment with cumulative effect, the monetary value of three times the amount of increments ordered to be withheld may be recovered. (7) compulsory retirement from the Municipal service; (8) removal from the Municipal Service; (9) dismissal from the Municipal Service; (10) suspension, where a person has already been suspended under rule 8 to the extent considered necessary by the authority imposing the penalty. The penalties mentioned in items 1, 2, 4 to 6 and 10 will be deemed to be minor penalties, and those in 3, 7 to 9 as major penalties. Explanation. - (1) The discharge - (i) of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation, or (ii) of a person engaged under contract in accordance with the terms of his contract, or (iii) of a person appointed otherwise than under contract 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 rule. (iv) The following shall not amount to be a penalty within the meaning of this rule, namely: - (a) Withholding of increments of pay of a municipal servant for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment; (b) Stoppage of increment of a municipal servant at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar; (c) Non-promotion of a municipal servant, 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; (d) Reversion of a municipal servant officiating in

a 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 on any administrative ground unconnected with his conduct;(e)Reversion of a Municipal servant appointed on probation to any other 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 to the rules and orders governing such probation;(f)Replacement of services of a municipal servant whose service had been borrowed from a State Government or Central Government or an authority under the control of a State Government or Central Government at the disposal of the State Government or Central Government or the authority from which the services of such municipal servant had been borrowed; and(g)Compulsory retirement of a municipal servant in accordance with the provisions relating to his superannuation or retirement.(2)The removal of a person from the Municipal service shall not disqualify him from future employment, but the dismissal of a person from the Municipal service shall ordinarily disqualify him from future employment.

4. Disciplinary Authority.

(1)The authority competent to impose the penalties specified in clauses (1), (2), (4) and (5) of rule 3 on a member of a service other than those holding posts in any of the categories in the Tamil Nadu Municipal Engineering and Water Works Service shall be the Commissioner of the Municipality concerned.(2)The authority competent to impose any of the penalties mentioned in sub-rule (1) on a member of a service holding a post in any of the categories in the Tamil Nadu Municipal Engineering and Water Works Service shall be the Municipal Engineer.Explanation. - (i) In cases covered by sub-rule (1) if the delinquent is working in a Municipality other than the Municipality where the lapse was committed, the competent authority shall be the Commissioner of the Municipality in which delinquent was working at the time when the lapse was committed.(ii)In cases covered by sub-rule (2), if the delinquent happens to be working in a Municipality other than the Municipality where the lapse was committed, then the competent authority shall be the Municipal Engineer of the Municipality in which the lapse was committed.(3)The authority competent to impose the penalties specified in clauses (3), (6), (7), (8), (9), and (10) of rule 3 on a member of a service shall be the appointing authority. The appointing authority in respect of posts included in the Tamil Nadu Municipal Engineering and Waterworks Service and in Branch II of the Tamil Nadu Municipal Public Health and Medical Service should consult the head of the Government Department concerned before final orders are passed subject to the following conditions: -(i)the consultation should be only in respect of technical points which, in the opinion of the disciplinary authority require clarification;(ii)it should not relate to the adequacy of the explanation or the quantum of penalty to be imposed;(iii)there should be kept in the file a written record of the consultation.Explanation. - If the appointing authority are the Commissioners of the Municipalities, then the competent authority to impose the penalty shall be the Commissioner of the Municipality in which delinquent was working at the time of committing the lapse.

5. Appellate Authority.

(1)Notwithstanding the provisions in rule 4, the appellate authority may, in respect of any specified penalty, pass an order imposing penalty on a member of service in any specified case.(2)Where, in

any case, the appellate authority has imposed or declined to impose a penalty under this rule, the disciplinary authority shall have no jurisdiction to proceed under this rule in respect of the same case.(3)The fact that a disciplinary authority has imposed or declined or declined to impose a penalty in any case shall not debar the appellate authority from exercising his jurisdiction under this rule in respect of the same case.(4)The order of the appellate authority in imposing or declining to impose in any case a penalty under this rule shall supersede any order passed by the disciplinary authority in respect of the same case.(5)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 reasons to be recorded in writing and taking suitable action on the charge so revived.

6. Disciplinary authority in respect of persons promoted or transferred.

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

7. Disciplinary authority in respect of persons reduced or reverted.

- Where a person has been reduced or reverted from a class or category of a service to a lower class or 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 class or category from which he was reverted or reduced except by an authority competent to impose the penalty upon a member of such class or category, as the case may be.

8. 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 (1), (2), (4), (5) and (10) of rule 3, 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 penalty is passed:Provided that the requirements of the sub-rule 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 a court martial 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 (3), (6), (7), (8) and (9) of rule 3,'the grounds on which it is proposed to take action shall be reduced to the form of 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 is desired by the person charged or is directed by the authority concerned. At the enquiry, oral evidence shall be taken as to such of the allegations as are not admitted, and the person charged shall be entitled to

cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish, provided that the officer conducting the enquiry may, for special and sufficient reason to be recorded in writing refuse to call a witness, after the enquiry 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 enquiry is held, and if he had 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 inquiry or personal hearing referred to in sub-rule (2) has been completed, the authority competent to impose the penalty specified in that sub-rule is of the opinion on the basis of the evidence adduced during the inquiry that any of the penalties specified in rule 3 should be imposed on the person charged it shall before making an order imposing such penalty, furnish to him a copy of [xxx] inquiry 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 fifteen 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 inquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed.] [Substituted by G.O. Ms. No. 208, MA & WS (ME-II), dated 11th November 1998.](4)[***.] [Omitted by G.O. Ms. No 208, Municipal Administration and water supply (ME II) dated the 11th November 1998.](5)The requirements of sub-rule (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 the 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.(6)The requirements of sub-rule (2) shall not apply where it is proposed to impose on a member of a service any of the penalties mentioned in rule 3 on the basis of facts which had led to his conviction by a court martial or where the person concerned has absconded or where it is for other reasons impracticable to communicate with him.(7)The provisions of sub-rule (2) shall not apply where the State Government are satisfied that in the interest of the security of the State it is not expedient to follow the procedure prescribed in that sub-rule.(8)All or any of the provisions of sub-rules (1) and (2) may, in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived where there is difficulty in observing exactly the requirements of the said sub-rules, 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 sub-rule (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.(9)A member of a service may be placed under suspension from service by the disciplinary authority or such other authority to whom the power may be delegated or the Commissioner of the Municipality, 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:Provided that as and when a member of the service is placed under suspension by the authority other than the disciplinary authority such authority shall at once intimate the fact to the disciplinary authority.(10)A member of a service who is detained in custody whether on a criminal charge or otherwise for a period longer than 48 hours, shall be deemed to have been suspended under this rule.(11)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 rules, and the case is remitted for further enquiry or action or with any other directions, the orders of his suspension shall be deemed to have continued in force on and from the date of original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.(12)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 be deemed to have been placed under suspension by the appointing authority from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.(13)Where a Municipal servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings 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 Municipal servant shall continue to be under suspension until the termination of all or any of such proceedings.(14)An order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority which made the order or by the appellate authority or the State Government.

9. Maintenance of records.

- The competent authority imposing any penalty under these rules shall maintain a record showing:
-(1)The allegations upon which action was taken against the person punished;(2)the charges framed, if any;(3)the person's representation, if any, and the evidence taken, if any; and(4)the finding and the grounds thereof; if any.

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

(a)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;(b)Every order, notice and other process made or issued under these rules shall be served in person on the municipal servant concerned, or sent to him by registered post, acknowledgement due, or if such person is not found, by leaving it at his last known place of residence, or by giving or tendering it to an adult member of his family, or if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of residence.

11. Appeals.

- Every member of a service shall have the right of appeal against an order passed by an authority:
-(1)imposing on him any of the penalties specified in rule 3;(2)discharging him in accordance with the terms of his contract, if he has been engaged on a contract for a period exceeding 3 years at the time when his services are terminated.

12. Appeals to Appointing Authority.

- A member of a service on whom any of the penalties mentioned in clauses (1), (2), (4) and (5) of rule 3 has been imposed may appeal against the order imposing that penalty to the authority competent to appoint him to the post held by him at the time when the cause for the disciplinary proceedings arose.

13. Appellate Authority.

- [(a) Where any of the penalties mentioned in rule 12 has been imposed on a member of the service holding a post in any of the categories in the Tamil Nadu Municipal General Services, the Tamil Nadu Municipal Educational Service, Branch II of the Tamil Nadu Municipal Public Health and Medical Service or Tamil Nadu Municipal Last Grade Service, by the Commissioner of the First, Second and Third Grade Municipality or the Executive Officer of the Township Committee for which the Collector is not the Chairman, as the appointing authority, the appeal shall lie to the Regional Director of Municipal Administration concerned, and where it has been so imposed by the Commissioner of the Selection and the Special and the Special Grade Municipality of the Executive Officer of the Township Committee for which the Collector is the Chairman, the appeal shall lie to the Director of Municipal Administration.] [Substituted by SRO-A 159/80, RD & LAD, dated the 10th April 1980.](b) A member of service on whom any of the penalties mentioned in clauses (3), (6), (7), (8) and (9) of rule 3 has been imposed may appeal against the order imposing that penalty where such an order has been passed by the Municipal Commissioner, to the Director of Municipal administration in the case of members of services holding posts in any of the categories in the Tamil Nadu Municipal General service, the Tamil Nadu Municipal Engineering and Water Works Service, the Tamil Nadu Municipal Town Planning Service, the Tamil Nadu Municipal Educational Service, Branch II of the Tamil Nadu Municipal Education Service and Branch III of the Tamil Nadu Municipal Public Health and Medical Services, and where the order has been passed by the Director of Municipal Administration to the State Government.

14. Appeal to Government.

- Notwithstanding anything contained in rules 12 and 13, where an original order imposing a specific penalty imposed on a member of a service has been passed by the appellate authority in exercise of the powers conferred by rule 5, an appeal against such orders shall lie only to the State Government: Provided that where the appellate authority who has passed the original order imposing the penalty happens to be the State Government, the person aggrieved by the order may again appeal to the State Government to reconsider the order. The State Government shall, thereupon, review the records of the case and pass such orders thereon as it may appear to them to be just or expedient.

15. Procedure to be followed by the appellate authority.

(1) In the case of an appeal against an order imposing any penalty specified in rule 3, the appellate

authority shall consider -(i)whether the facts on which the order was based have been established;(ii)whether facts established afford sufficient ground for taking action; and(iii)whether the penalty is excessive, adequate, or inadequate, and after such consideration shall pass such orders 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.

16. Appellate authority to decide appeals.

- In the case of an appeal, the appellate authority shall pass such orders as appears to it just and equitable, having regard to all the circumstances of the case.

17. Mode of preferring an appeal.

(a)Every person preferring an appeal shall do so separately and in his own name.(b)Every appeal preferred under these rules 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 head of the office to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred.

18. Withholding of appeal.

- An appeal may be withheld by an authority not lower than the authority from whose order it is preferred, if -(1)It is an appeal in a case in which under these rules no appeal lies; or(2)it does not comply with the provisions of rule 17(b); or(3)it is not preferred within 2 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(4)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(5)it is addressed to an authority to which no appeal lies under these rules:Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reason for it:Provided further that an appeal withheld on account only of failure to comply with the provisions of rule 17(b) 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 an appeal re-submitted in a form which complies with those provision - shall not be withheld.

19. No appeal to lie against withholding of any appeal.

- No appeal shall lie against withholding of an appeal by a competent authority.

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

- The authority by whom an order imposing a penalty specified in rule 3 may be reversed or altered in cases in which no appeal is preferred shall be the appellate authority prescribed in the rules or the State Government.

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

(1) Every appeal which is not withheld under these rules 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 rule 18, with the reason for withholding them, shall be forwarded half-yearly by the withholding authority to the appellate authority.

22. Powers of appellate authority to call for a withheld appeal.

- An appellate authority may call for any appeal admissible under these rules which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

23. Savings.

- Nothing in these rules shall operate to deprive any person of any right of appeal which he would have had if these rules had not been made in respect of any order passed before they came into force. An appeal pending at the time, when, or preferred after these rules came into force, shall be deemed to be an appeal under these rules, and rule 15 shall apply as if the appeal were against an order appealable under these rules.

24. Revision petition to Government.

- Where the original order imposing any of the penalties specified in rule 3 has been imposed on a member of a service by the State Government, such member may, within two months from the date on which the order is communicated to him, submit a revision petition to the Government against the order. In disposing of the petition the State Government shall, as far as possible follow the procedure prescribed for dealing with appeals.

25. Powers of Government to pass orders on completed disciplinary proceedings.

- Notwithstanding anything contained in these rules, the State 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: Provided that before a penalty is imposed in a case where it has not been imposed or a penalty which has been imposed is enhanced, the persons concerned should be given opportunity to show cause why the penalty should not be imposed or enhanced, as the case may be.