

Tamil Nadu Town Panchayat Establishment (Punishment and Appeal) Rules, 1988

TAMILNADU

India

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Rule

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1. Short title.

- These rules may be called the Tamil Nadu Town Panchayats Establishment (Punishment and Appeal) Rules, 1988.

2. Application.

- These rules shall apply to holders of all posts under the Town panchayats (other than the provincialised categories of staff whether permanent officiating, temporary excluding those which are paid from contingencies).

3A. Penalties.

- The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon every person who is a member of the Town Panchayat service, namely.(i)Censure;(ii)Fine (in the case of persons for whom such penalty is permissible under these rules);(iii)Withholding of increments or promotion, including stoppage at an efficiency bar;(iv)Reduction to a lower rank in the seniority list or to a lower post or time-scale whether in the same service or in another service to a lower stage in time-scale;(v) (a)Recovery from pay of the whole or part of any pecuniary loss caused to the town panchayat or to any other local body by

negligence or breach of orders; or (b) Recovery from pay to the 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; (c) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of if reduction to a lower stage in a time-scale ordered where such an order cannot be given effect to; Explanation. - In cases of stoppage of increment with cumulative effect the monetary value equivalent to three times the amount of increments ordered to be withheld may be recovered. (vi) Compulsory retirement under rule 22 in Part II of the Tamil Nadu Town Panchayats (Establishment) Rules, 1988; (vii) Removal from the service of the Town Panchayat; (viii) Dismissal from the service of the Town Panchayat; (ix) Suspension, where a person has already been suspended Under rule 5, to the extent considered necessary by the authority imposing the penalty. The penalties mentioned in items (i), (ii), (iii), (v) and (ix) will be deemed to be minor penalties and those in (iv), (vi) to (viii) as major penalties. Explanation. - (1) The discharge of a person appointed on probation before the expiry or at the end of the prescribed or extended period of probation or of a person engaged under contract, in accordance with the terms of his contract or 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. (2) The following shall not amount to a penalty within the meaning of this rule, namely: - (i) Withholding of increments of pay of a panchayat servant for his failure to pass any departmental examination in accordance with the rules or orders governing the service; (ii) Stoppage of increments of a town panchayat servant at the efficiency bar in the time scale of pay on the grounds of his unfitness to cross the bar; (iii) Non-promotion of a town panchayat 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; (iv) Reversion of a town panchayat 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 or on any administrative ground unconnected with his conduct; (v) Reversion of a town panchayat 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 terms of his appointment or to the rules and orders governing such probation; (vi) Replacement of the service of a town panchayat servant, whose services had been borrowed from a State or Central Government or any other local authority under the control of the State Government from which the services of such servant had been borrowed; and (vii) Compulsory retirement of a town panchayat servant in accordance with the provisions relating to his superannuation or retirement. (3) The removal of a person from the services of a town panchayat shall not disqualify a person from future employment but the dismissal of person from the said service shall ordinarily disqualify a person from future employment. B. Authority competent to impose the penalties. - The authority competent to impose the penalties shall be the executive authority or the appointing authority notified under rule 29 of the Tamil Nadu Town Panchayat (Establishment) Rules, 1988, as the case may be,

4. Procedure for imposing penalties.

(1) No order or punishment specified below shall be passed on any officer or servant of a town panchayat unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken against that person. (i) Censure; (ii) Fine in the case of persons on whom the imposition of fine is permissible under these rules; (iii) Withholding of increments or promotion

including stoppage at an efficiency bar;(iv)(a)Recovery of the whole or a portion of any pecuniary loss caused to the Town Panchayat by negligence, fraud or breach of rules or orders;(b)Recovery from pay to the 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.Explanation. - In case of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increments ordered to be withheld, may be recovered.(2)(a)In every case where it is proposed to impose on an officer or servant of a town panchayat the penalties of 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, suspension not being one under rule 5, removal or dismissal, the grounds on which it is proposed to take action shall be reduced to the form of a 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 which it is proposed to take into consideration in passing orders on the case. He shall be required within a reasonable time, to put in written statement of his defence and to state whether he desires an oral enquiry only to be heard in person. An oral enquiry, shall be held if such an enquiry is desired by the person charged or is directed by the authority concerned. At that enquiry oral evidence shall be heard 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 witness 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 desired any further written statement of his defence. If no enquiry is held and if he had desired to be heard in person, 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. The quantum of punishment proposed to be imposed on an officer or servant of the town panchayat shall not be made in the charge memorandum, itself.(b)After the enquiry referred to in clause (a) has been completed, the competent authority shall record his findings on each charge and pass suitable final order as he deems fit by enclosing a copy of the enquiry report, if any along with the final order.The requirements of sub-rules (1) and (2) shall not apply where it is proposed to impose on an officer or servant any of the penalties referred to in the rule on the basis of facts which have led to his conviction in a criminal court or by a court martial or where the officer concerned has absconded or where it is for other reasons to be recorded in writing impracticable to communicate with him.(3)All or any of the provisions of sub-rule (1) or (2) may, in exceptional cases, for special and sufficient reasons to be recorded in writing and with the sanction of the appropriate appellate authority, be waived where there is difficulty in observing exactly the requirements of the sub-rule and those requirements can be waived without injustice to the person charged.Explanation I. - The discharge - (a) of a person appointed on probation before the expiry or at the end of prescribed or extended period of probation; or(b)of a person engaged under contract, in accordance with the terms of his contract; or(c)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.Explanation II. - The discharge or reversion to a lower post of any person officiating in any post, if made in accordance with such general or special rules or orders as the Government may issue in that behalf, does not amount to removal or dismissal or to reduction within the meaning of the rule.Explanation III. - The removal of a person from the service of the town panchayat shall not disqualify him from future employment unless specifically debarred

from future employment either at the time of removal or subsequently. The dismissal of a person from the service of the town panchayat shall disqualify him from future employment.

5. Suspension.

(1) The competent authority may suspend a member of the Establishment for the following reasons: (a) an enquiry into grave charges against him is contemplated or is pending; or (b) 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 in exceptional cases where the enquiry cannot be completed within three months from the date of suspension by the Executive Authority the person may be suspended for a further period not exceeding three months with the previous sanction of the District Officer of Town Panchayats concerned and for any period beyond six months from the date of suspension with the previous sanction of the Director of Town Panchayats. (2) A member of the establishment who is detained in custody whether on a criminal charge or otherwise for a period longer than forty-eight hours shall be deemed to have been suspended under this rule. (3) During the period of suspension such member of the establishment shall be paid a subsistence allowance at such rates as the suspending authority may direct subject to the maximum and minimum laid down in the fundamental rules. (4) Where a penalty of dismissal or removal from service imposed upon an officer or servant of a town panchayat under suspension is set aside on appeal or on review under these rules 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 in force on and from the date of the original order of dismissal or removal and shall remain in force until further orders. (5) Where a penalty of dismissal, or removal from service imposed upon an officer or servant of a Town Panchayat is set aside or declared or rendered void in consequence of or a decision of a Court of law and the disciplinary authority on a consideration of the circumstances of the case, decided to hold a further enquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, such officer or servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders. (6) An order of suspension under sub-rule (1) may, at any time be, revoked by the competent authority or any other higher authority to which that authority is subordinate.

6. Imposition of fine.

- The executive authority shall not impose a fine on a member of the establishment under the town panchayat other than a Bill Collector or an Office Assistant or a worker belonging to the regular establishment but not belonging to the superior service.

7. Appeals.

(1) (a) Every officer or servant of a town panchayat shall be entitled to appeal, as hereinafter provided, from an order passed by the executive authority or the authority specified in Chapter II of Part III of these rules of the Tamil Nadu Town Panchayats Establishment Rules, 1988, imposing upon him any one or more of the penalties specified in rule 3 other than the following,

namely:(i)Censure;(ii)A fine not exceeding five rupees or a recovery of any sum not exceeding five rupees under rule 4;(iii)Suspension pending enquiry under rule 5.(b)An appeal shall also lie against all orders of discharge or reversion to a lower post of a person appointed on probation:Provided that the discharge or reversion of any person shall not be deemed to be an order imposing a penalty within the meaning of this sub-rule and no appeal shall lie in cases falling under Explanations I and II to rule 4 (3).(2)An appeal under the sub-rule (1) shall lie, -(a)in the case of an order passed by the executive authority in consultation with the District Town Panchayat Officer or an order passed by the District Town Panchayat Officer to the Director of Town Panchayats; and(b)in all other cases to the District Town Panchayat Officer: Provided that the appellate authority may, in the case of any technical staff of the public health, water supply or Town Planning Establishment consult the Director of Health and Family Welfare, the Chief Engineer, Tamil Nadu Electricity Board, Tamil Nadu Water Supply and Drainage Board, or the Director of Town and Country Planning as the case may be, before final orders are passed on their appeals.(3)(a)The appellate authority shall consider, -(i)Whether the facts on which the order was based have been established;(ii)Whether the facts established afford sufficient grounds for taking action; and(iii)Whether the penalty is excessive, adequate or inadequate; and after such consideration, shall pass such order as it thinks proper.(b)Any order or defect in the procedure followed in imposing a penalty may be discharged 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.

8. Powers of revisions.

(1)Notwithstanding anything contained in the preceding rules the District Town Panchayat Officer may call for the records relating to an enquiry into the conduct of any member of the establishment of a Town Panchayat which has been completed and pass such orders as may be deemed fit. The Director of Town Panchayat shall be the revisionary authority against the orders passed by the District Town Panchayat Officer as appellate authority as laid down under sub-rule (2) of rule 7 of said rules.(2)If the order passed under sub-rule (1) imposes a punishment where the executive authority of a town panchayat had not imposed a punishment or if the order enhances the punishment imposed by such authority, an appeal shall lie to the Director of Town Panchayat, Madras against an order passed by the District Town Panchayat Officer.(3)All orders passed on appeal under sub-rule (2) shall be carried out by the executive authority.

9. Time limit for preferring appeal.

- A member of the establishment under a town panchayat preferring an appeal shall do so separately and in his own name and within two months from the date on which the appellant received the order appealed against:Provided that the appellate authority may entertain the appeal after the expiry of the said period of two months if it is satisfied that there was reasonable cause for the delay in preferring the appeal.

10. Procedure for Preferring Appeals.

- Every appeal shall be submitted through the head of the office, if any, to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred. A copy of the appeal may, however, be sent direct to the appellate authority.

11. Withholding of appeals.

- An appeal may be withheld, by an authority not lower in rank than the authority from whose order it is preferred if, - (i) it is an appeal in a case in which under these rules no appeal lies; or (ii) it is not preferred within the time limit prescribed in rule 9 and no reasonable cause is shown for the delay; or (iii) 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 a reconsideration of the case; or (iv) 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 reasons for it: Provided further that an appeal withheld under clause (iv) may be re-submitted at any time within one month of date on which the appellant has been informed of the withholding of the appeal and if re-submitted to the appropriate appellate authority, it shall not be withheld.

12. Appeal against withholding of appeal.

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

13. Procedure for forwarding appeals.

(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. (2) A list of appeals withheld under rule 11 with the reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority. (3) The appellate authority may call for any appeal admissible under these rules, which has been withheld by subordinate authority and pass such order thereon as it thinks fit.

14. Cancellation or modification of punishments.

- The executive authority of a town panchayat shall not cancel or modify any order of punishment whether passed by himself or by any of his predecessors in office without the previous sanction of the appellate authority referred in sub-rule (2) of rule 7.

15. Powers of Executive Authority, District Town Panchayat Officers and Director of Town Panchayats to decide certain matters.

(1) The executive authority shall decide all matters relating to discharge or reversion of personnel on abolition of posts and re-employment of discharged personnel and any other matters relating to

conditions of service of the establishment under town panchayats not dealt with in these rules in consultation with the Town Panchayat Officer concerned.(2)The District Town Panchayat Officer may on a reference made to him under sub-rule (1) or suo motu call for the connected papers relating to any establishment matters from the executive authority of the town panchayat and pass such orders as he deems fit. Such order shall be carried out by the executive authority.(3)The order passed under sub-rule (2) by the District Town Panchayat Officer shall be subject to such special or general orders as may be issued by the Director of Town Panchayats in any particular case or class of cases as the case may be.(4)Notwithstanding anything contained in these rules, the Government may either on application or suo motu call for and examine any of the records relating to the establishment of the town panchayat and pass such orders as the Government may think fit.

16. Reference of corruption cases to Tribunal for disciplinary proceedings.

(1)Notwithstanding anything contained in these rules, the executive authority may, with the sanction of the Director of Town Panchayats, or shall if so required by the State Government either in any individual case or in any class of cases, refer to a Tribunal for disciplinary proceedings, under intimation to Government in P & A.R. departmental cases relating to officers and servants of town panchayats who are involved jointly with Government servants in cases of corruption in the discharge of their official duties if the cases of such Government servants are referred to the tribunal.(2)As soon as the records relating to the allegations of corruption against an officer or servant are received the Tribunal shall frame appropriate charges, communicate them to the officer or servant concerned together with information as to the date of enquiry into the charges and a list of witnesses likely to be examined in respect of each of the charges. The tribunal shall immediately before each witness is examined by the prosecution, furnish the person charged, a copy of any statement taken from the witness which forms the basis on which the tribunal has framed the charges or charges against him. At the enquiry oral evidence shall be heard and the person charged shall be entitled to cross-examine the witness, to give evidence in person and to have such witnesses called as he may wish provided that the Tribunal may for special and sufficient reasons 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, a written statement of his defence or argue the case in person or through a pleader. The proceedings shall contain sufficient records of the evidence and statement of the findings and the grounds thereof.(3)After the enquiry has been completed the Tribunal shall send its findings to the appointing authority. After the appointing authority has arrived at a provisional conclusion in regard to the penalty to be imposed, the person charged shall be supplied with a copy of the report of the tribunal excluding the recommendations if any, in regard to punishment made by it and he shall be called upon to show cause within a reasonable time not ordinarily-exceeding one month, against the particular penalty to be inflicted, provided that if for sufficient reasons, the appointing authority disagrees with the whole or any part of the Tribunal findings, the point or points of such disagreement together with a brief statement of grounds thereof shall also be communicated to him. Any representation in this behalf submitted by the person charged shall be taken into consideration by the appointing authority before final orders are passed.(4)Where the person concerned has absconded or where it is for other reasons impracticable to communicate with him or where he does not take part in an enquiry the enquiry shall still proceed.(5)All or any of the provisions of sub-rules (2) and (3) may, in exceptional cases, and for

special and sufficient reasons to be recorded in writing, be waived where there is difficulty in observing the requirements of these sub-rules and the requirements can be waived without injustice to the person charged.(6)The appointing authority shall ordinarily accept the advice of the Tribunal. If the appointing authority considers that the advice of the Tribunal should be rejected or devised the reasons for such rejection or deviation shall be submitted to the Director of Town Panchayats who shall in consultation with the tribunal pass orders.

17. Appeal against orders passed under this rule 16.

(1)Against any order of the appointing authority imposing a penalty after following the procedure prescribed in rule 16, an appeal shall lie to the, Director of Town Panchayats, Madras.(2)The Tribunal for Disciplinary Proceedings shall be consulted before orders are passed on any appeal preferred under sub-rule (1):Provided that it shall not be necessary to consult the tribunal -(i)in any case in which the tribunal has at any previous stage given advise in regard to the order to be passed and no fresh question has thereafter arisen for determination; or(ii)where the Director of Town Panchayats proposes to pass orders rejecting the appeal.