

Haryana Affiliated Colleges (Security of Service) Rules, 1980

HARYANA

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Rule

HARYANA-AFFILIATED-COLLEGES-SECURITY-OF-SERVICE-RULES- of 1980

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Haryana Affiliated Colleges (Security of Service) Rules, 1980Published vide Haryana Notification No. G.S.R. /H.A./1979/S.16/80. dated 24.4.1980Education DepartmentNo. G.S.R.-/H.A./79/S.16/80. - In exercise of the powers conferred by section 16 of the Haryana Affiliated Colleges (Security of Service) Act, 1979 (Haryana Act 15 of 1979), the Governor of Haryana hereby makes the following rules, namely;-

1. Short title.

- These rules may be called the Haryana Affiliated Colleges (Security of Service) Rules, 1980.

2. Definitions.

- In these rules, unless there is anything repugnant to the context -(a)'Act' means the Haryana Affiliated Colleges (Security of Service) Act, 1979;(b)'Section' means a section of the Act.

3. Penalties.

(1)The following penalties may, for good and sufficient reasons, be imposed upon members to whom these rules are applicable, namely :-(i)Warning on personal file;(ii)Censure;(iii)Withholding of increments or promotion;(iv)Recovery from pay of the whole or part of any pecuniary loss caused to the college by negligence or breach of orders;(v)Removal/Dismissal from service;(vi)Reduction to a lower post or time scale or to a lower stage in a time scale.(2)The punishments referred to in clause (v) and (vi) shall be called the major punishments and the remaining as minor punishments.

4. Procedure for imposing major penalties of dismissal/removal from service 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 initially enquire into it itself or may appoint an authority to enquire into the truth thereof, and provisionally decide whether the delinquent official should be proceeded against for major punishment or minor punishment. (2) Where it is proposed to proceed against an employee for the award of major punishment the Managing Committee shall draw up - (i) the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charges; (ii) a statement of allegations on which each charge is based including the statement of all relevant facts including any admission or confession made by the employee; (iii) a list of documents by which and a list of witnesses by whom the articles of charges are proposed to be substantiated. (3) The Managing Committee shall deliver to the employee a copy of the articles of charges, the statement of allegations 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 fifteen days, as may be specified, a written statement of his defence and to state whether he desired 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 charges as are not admitted or if it considers it necessary to do so, appoint under sub-rule (1), an enquire officer for the purpose and where all the articles of charges have been admitted by the employee in his written statement of defence, the Managing Committee shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner hereinafter laid down in these rules. (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 to do so, appoint under sub-rule (1) an inquiry officer for the purpose. (c) Where the Managing Committee itself inquires into the articles of charges or appoints an inquiry officer for holding an inquiry into such charges, it may, by order, appoint a presenting officer to present, on its behalf, the case in support of the articles of charges. (5) The Managing Committee shall, where it is not itself the inquiring authority, forward to the inquiry officer, - (i) a copy of the articles of charges and the statement of allegations; (ii) a copy of the written statement of defence, if any, submitted by the employee; (iii) the record referred to in clause (iii) of sub-rule (2); (iv) evidence proving the delivery of the documents required to be delivered to the employee under sub-rule (3); (v) a copy of the order appointing the presenting officer. (6) The employee shall appear in person before the inquiring authority on such date at such time within ten working days from the date of receipt by him of the articles of charges 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 inquiring authority 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 charges, the

inquiring authority shall record the plea, sign the record and obtain the signatures of the employee thereon.(9)The inquiring authority shall record its findings of guilt in respect of those articles of charges 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 presenting officer to produce the evidence by which he proposes to prove the articles of charges, 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 (3);(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 requested 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 charges 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 inquiring 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 procure 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 it, a 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 inquiring authority shall give the employee an opportunity of inspecting such documents before they are taken on the record. The inquiring 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 witness 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 on behalf of 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 appear as his own witness 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 the inquiring authority and the presenting officer, according to the provision applicable to the witnesses for the Managing Committee.(17)The inquiring authority may, after the employee closes his case, and shall, if the employee has not examined himself ask him general question, on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any such circumstances.(18)The inquiring authority may, after the completion of the evidence hear the presenting officer, if any appointed, and the employee and permit them to file written brief 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 production of evidence or fails or omits to produce evidence on the specified date of hearing or fails to appear on the date of hearing, he may record his reasons 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 orders 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 passed under clause (ii).(20)If the employee to whom a copy of the article of 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 charges and the statement of the imputation of misconduct or misbehaviour ;(b)the defence of the employee in respect of each article of charges;(c)an assessment of the evidence in respect of each article of charges;(d)the findings of each article of charges and the reason thereof.Explanation. - If, in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles or the charges 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 record of inquiry, which shall include:-(a)the report prepared by it under clause (i);(b)the written statement of defence, if any, submitted by the employee;(c)the oral and documentary evidence produced during 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 enquiry;(c)the orders, if any, made by the inquiring authority in regard to the inquiry.

5. Action on the enquiry 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 of the inquiring authority for further inquiry and report and the inquiring authority, as far as may be, shall thereupon proceed to hold further inquiry, according to the provisions of rule 6.(2)The Managing Committee, shall, if it disagrees with the findings of the inquiring authority on any articles 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 charges, is of the opinion that any major punishment 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 findings on each article or 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; and(b)give the employee a notice stating the penalty proposed to be imposed on him and calling 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 clause (ii) of sub-rule (21) of rule 4, alongwith its findings on each article of charge, together with brief reasons for the disagreement, if any, with the findings of the inquiring authority;(d)forward to the Director evidence of receipt of notice by the employee under clause (b).

6. 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 punishment 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.

7. Order by Managing Committee.

- On receipt of the approval of the Director, the Managing Committee shall pass an order in detail.

8. Procedure for imposing minor penalty.

- (i) Where after examination of the report, referred to in sub-rule (1) of Rule 4, the Managing Committee is of the opinion that one of the minor penalties will meet the ends of justice, the Managing Committee shall cause to be delivered to the employee a statement of imputation or misconduct or misbehaviour on the basis of which it is proposed to take action against him and the employee shall be required to submit his reply within a period of 21 days.(ii)After considering the reply, the Managing Committee may pass an order in detail inflicting any of the penalties.

9. Manner of filing appeal to Director against the imposition of minor penalties.

(1)An appeal against an order passed under rule 8 may be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Director within thirty days of the date of the order. The memorandum shall be accompanied by a copy of the order appealed against (unless appellate authority exempts) and of the enquiry report on which it is founded.(2)The memorandum shall set forth the grounds of objection to the order appealed against without the argument or narrative, and such grounds shall be numbered consecutively.(3)The appellant shall not, except by the leave of the Director, urge to be heard in support of any ground of objection not set forth in the memorandum of appeal, but the director in deciding the appeal, shall not be confined to the grounds of objection set forth in the memorandum of appeal or submitted with leave of the Director :Provided that the Director shall not base his decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the case of 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 Director or be amended then and there.(5)The Director may, after hearing the parties, confirm, vary or reverse the order appealed from or may pass such orders as he deems fit. While passing the orders, the Director shall record its reasons.

10. An application for revision of the orders of the Managing Committee passed under rule 8 or the appellate order of the Director passed under rule 9 shall lie to the Government within sixty days of the date of communication of the order in question to the aggrieved employee. The application for revision shall be accompanied by a copy of the order sought to be revised and shall be submitted and disposed of mutatis mutandis in the same manner as prescribed in rule 9 above.