

# **Tamil Nadu Municipal Public Health Service (Discipline and Appeal) Regulations, 1973**

TAMILNADU

India

## **Tamil Nadu Municipal Public Health Service (Discipline and Appeal) Regulations, 1973**

### **Rule**

### **TAMIL-NADU-MUNICIPAL-PUBLIC-HEALTH-SERVICE-DISCIPLINE-AN of 1973**

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Tamil Nadu Municipal Public Health Service (Discipline and Appeal) Regulations, 1973

### **1. Short title and commencement.**

(1)These Regulations may be called the Tamil Nadu Municipal Public Health Service (Discipline and Appeal) Regulations, 1973.(2)They shall be deemed to have come into force on and from the 1st August 1973.(3)They shall apply to -(i)every member holding posts in any of the categories governed by the Tamil Nadu Municipal Public Health Service Regulations, 1970.(ii)Every person appointed to a class or category of the Tamil Nadu Municipal Public Service under rule 8 of General Rules issued 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 application of these regulations to any person, the matter shall be referred to the State Government whose decision thereon shall be final.

### **2. Definitions.**

(1)In these regulations unless there is anything repugnant in the subject or context -(a)the words and expressions other than those defined in these regulations shall have the same meaning assigned to them in Part I of the Tamil Nadu Municipal Service Rules, 1970;(b)"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 regulation 3 of these regulations on any member of the service;(c)"disciplinary authority" means the authority

competent to impose any of the penalties mentioned in regulation 3 on a member of the service subject to the provisions of Regulation 4. Explanation. - (1) Where an appellate authority passes an original order imposing any of the penalties specified in regulation 3, he shall, in respect of that order, be deemed to be a disciplinary authority. (2) A member of the Tamil Nadu Public Health Service whose services are placed at the disposal of any registered company or body corporate registered or established by a special statute shall, for the purpose of these rules, be deemed to be a member of such service or deemed to hold such post in the service notwithstanding that his salary is drawn from a source other than the Municipal Fund.

### 3. Penalties.

- The following penalties may, for good and sufficient reason, be imposed on any member of the service, namely: - (1) Censure. (2) Withholding of increments or promotion. (3) Reduction to a lower rank in the seniority list or to a lower post or time-scale or to a lower scale 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 to the Central Government by negligence or breach of orders: Provided that the recovery from the Health Assistant of cost of vaccine wasted, which wastage is not satisfactorily explained, shall not be considered as punishment imposed on the Health Assistant. (5) 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 of the amount of increments ordered to be withheld may be recovered. (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. (7) Compulsory retirement. (8) Removal from service. (9) Dismissal from service. (10) Suspension, where a person has already been suspended under regulation 8 to the extent considered necessary by the authority imposing penalty. 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 terms of 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 regulation. (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. (3) The following shall not amount to be a penalty within the meaning of this regulation, namely: - (i) Withholding of increments of pay of a municipal servant for failure to pass any departmental examination in accordance with the regulations or orders governing the service to which he belongs, or post which he holds or the terms of his appointment; (ii) 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; (iii) Non-promotion of a municipal servant, whether in a substantive or officiating capacity, after consideration of his case for promotion to which he is eligible; (iv) Reversion of a municipal servant officiating in a higher class or category on the ground that he is considered to be unsuitable for such higher class, category or on any administrative ground in connected with his conduct; (v) Reversion of a municipal servant appointed on probation to any class or category, to his permanent class or category during or at the end of the period of probation in accordance with the

terms of his appointment or the rules or regulations governing such probation.(vi)replacement of the service of a municipal servant, whose services had been borrowed from a State Government or the Central Government or another municipality or local authority or any authority under the control of a State Government or the Central Government or another Municipality or local authority, by the authority from which the services of such municipal servant had been borrowed.(vii)compulsory retirement of a municipal servant in accordance with the provisions relating to his superannuation or retirement.

#### **4. Disciplinary authority.**

(1)The authority competent to impose the penalties specified in clauses (1), (2), (4) and (5) of regulation 3 on a member of the service other than the members holding the posts in Class I and category 1 of Class II shall be the Municipal Health Officer.Explanation. - In case covered by sub-clause (1), if the delinquent is working in a Municipality other than the Municipality where the lapse was committed, the competent authority shall be the Municipal Health Officer of the Municipality where the delinquent was working at the time when the lapse was committed.Where there is no Municipal Health Officer, the authority appointed to hold additional charge of the post of Municipal Health Officer, or where no additional charge appointments have been made, the Executive Authority of the Municipality shall exercise the powers of Municipal Health Officer under this regulation.(2)The authority competent to impose the penalties specified in clauses (3), (6), (7), (8), (9) and (10) of regulation 3 on a member of the service shall be the appointing authority.Explanation. - In cases covered by sub-clause (2) in respect of members of the service in Class III, category 2 of Class IV and Class V if the delinquent is working in a Municipality other than the Municipality where the lapse was committed, the competent authority shall be the Municipal Health Officer of the Municipality where the delinquent was working at the time when the lapse was committed.(3)The authority competent to impose any of the penalties mentioned in regulation 3 on any member holding the posts in Class I and Category I of Class II shall be the Additional Director of Health Services and Family Planning.

#### **5. Appellate authority.**

(1)Notwithstanding the provisions of regulation 4, the appellate authority may, in respect of any specific penalty, pass an order imposing penalty on a member of the service in any specified case.(2)Where, in any case, the appellate authority has imposed or declined to impose a penalty under this regulation, the disciplinary authority shall have no jurisdiction to proceed under this regulation in respect of the same case.(3)The fact that a disciplinary authority has imposed or declined to impose a penalty in any case shall not debar the appellate authority from exercising his jurisdiction under this regulation 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 regulation 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 the 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 to a higher class or category, 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 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 to a lower class or category, 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. Suspension.**

(1)A member of the service may be placed under suspension from service 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.(2)A member of the 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 regulation.(3)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the service under suspension is set aside in appeal or on review under these regulations, 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, removal or compulsory retirement and shall remain in force until further orders.(4)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the 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 enquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, such member of the service shall 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.(5)An order of suspension made or deemed to have been made under this regulation may, at any time be revoked by the authority which made the order or by the appellate authority or by the State Government.(6)Where a member of the service 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 individual shall continue to be under suspension until the termination of all or any of such proceedings.(7)The Municipal Health Officer may suspend any member of the service except those holding the posts under Class I and category 1 of Class II:Provided that suspension pending enquiry referred to in clause (i) of sub-clause (1) shall not ordinarily be for a period exceeding 3 months, and in exceptional cases where the enquiry

cannot be completed within 3 months, the period of suspension may be extended for a further period with the sanction of the Additional Director of Health Services and Family Planning. Explanation. - Where there is no Municipal Health Officer, the authority appointed to hold additional charge of the post of Municipal Health Officer, or where no additional charge arrangements have been made, the Executive Authority of the Municipality shall exercise the powers of Municipal Health Officer under this clause. (8) The Additional Director of Health Service and Family Planning shall be the authority competent to place under suspension any member of the service holding the posts in Class I and category 1 of Class II. (9) During the period of his suspension, the member of the service shall be paid a subsistence allowance at such rates as are prescribed under the Fundamental Rules.

## **8A. Where a person to be punished has been lent to the punishing authority.**

(1)(i) The power to impose the penalty of compulsory retirement or removal or dismissal shall not lie with any authority other than the lending authority; the borrowing authority shall, in a case where it considers that the punishment of compulsory retirement, removal or dismissal should be imposed, complete the inquiry, revert the person concerned to the lending authority for such action as that authority may consider necessary: Provided that the provision in this clause requiring the reversion of the person concerned to the lending authority shall not apply where the person has been lent by one Municipality to another; and (ii) unless in any case it be otherwise provided by specific orders by the Government, the punishing authority shall consult the lending authority before imposing any lesser penalty, and in the case of suspension shall report forthwith to the lending authority the circumstances leading to the imposition of that penalty. (2) Where a member of Municipality whose services are placed at the disposal of any company, corporation, organisation or local authority has, at any time before his service were so placed, committed any act or omission which renders him liable to any penalty specified in regulation 3, the authority competent under regulation 4 to impose any such penalty on such member or person shall alone be competent to institute disciplinary proceedings against him and to impose on him the said penalty specified in regulation 3 as it think fit, and the borrowing authority under whom he is serving at the time of the institution of such proceedings shall be bound to render all reasonable facilities to such competent authority instituting and conducting such proceedings. (3)(a) Where an order of suspension is made or a disciplinary proceeding is conducted against a person whose services have been borrowed from any company, corporation, organisation, autonomous Board or other authority, the authority lending his services (hereinafter referred to as "the lending authority") shall forthwith be informed of the circumstances leading to the order of the suspension of the Municipal servant or of the commencement of the disciplinary proceedings, as the case may be. (b) In the light of the findings in the disciplinary proceedings conducted against the Municipal servant, if the disciplinary authority is of the opinion that any of the penalties specified in clauses (1), (2) and (4) of regulation 3 should be imposed on him it may, after consultation with the lending authority, pass such orders in the case as it may deem necessary: (i) Provided that in the event of difference of opinion between the borrowing authority and the lending authority, the services of the servant shall be replaced at the disposal of the lending authority: (ii) Provided further that if the borrowing authority is of the opinion that any of the penalties specified in clauses (3), (7), (8) and (9) of regulation 3 should be imposed on the servant, it shall replace the service of such servant at the disposal of the lending authority and

transmit to it the proceedings of the inquiry for such action as it may deem necessary.

## 9. Procedure for imposing penalties.

(1) In every case where it is proposed to impose on a member of service any of the penalties in clauses (1), (2), (4) and (5) of regulation 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 the penalty is passed: Provided that the requirements of this sub-clause shall not apply where it is proposed to impose on a member of the 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 cases where it is proposed to impose on a member of the service any of the penalties specified in clauses 3, 6, 7, 8 and 9 of regulation 3, the grounds on which it is proposed to take action shall be reduced to the form of definite charge or charge together with a statement of the allegations on 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 a written statement of his defence and to state whether he desires an oral enquiry or to be heard in person or both. An oral enquiry shall be held if such an enquiry is desired by the person charged or is directed by the authority concerned. At the 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 witnesses called, as he may wish, provided that the officer conducting the enquiry 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, 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 grounds thereon, the enquiry shall ordinarily be conducted by the disciplinary authority. In respect of cases for which the Additional Director of Health Services and Family Planning is the disciplinary authority, such enquiry shall be conducted either by himself or, at his direction, by any subordinate authority. (3) After the enquiry referred to in sub-clause (2) has been completed and after the authority competent to impose the penalty mentioned in that sub-clause 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 enquiring authority and be called upon to show cause within a reasonable time not ordinarily exceeding one month against the proposed penalty proposed to be inflicted. (4) Any representation in this behalf submitted by the person charged shall be taken into consideration before final orders are passed: Provided that such representation shall be based only on the evidence adduced during the enquiry. Explanation. - An opportunity to show cause against the imposition of any of the penalties referred to in sub-clause (2) shall be given after the authority competent to impose the penalty arrives at a provisional conclusion in regard to the penalty to be imposed either by such authority himself or under his direction, by a subordinate authority who is superior in rank to the person on whom it is proposed to impose the penalty. (5) The requirements of sub-clause (2) shall not apply where it is proposed to impose on a member of the 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-clause (2) shall not apply where it is proposed to impose on a member of the service any of the penalties mentioned in regulation 3 on the basis of the facts which have 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-clause (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-clause.(8)All or any of the provisions of sub-clauses (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 clauses, and these 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-clause (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.

## **10. Maintenance of records.**

- The competent authority imposing any penalty under these regulations 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.

## **11. Order of punishment to state grounds and to be communicated.**

(1)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.(2)Every order, notice and other process made or issued under these regulations shall be served on a member of service concerned, or sent to him by registered post acknowledgment 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 defacing it in some conspicuous part of his last known place of residence.

## **12. Appeals.**

- Every member of the service shall have the right of appeal against an order passed by an authority -(1)imposing on him any of the penalties specified in regulation 3;(2)discharging him in accordance with the terms of his contract, if he has been engaged on a contract for a fixed or for an indefinite period and has rendered under either form of contract continuous service for a period exceeding five years at the time when his services are terminated; and(3)reducing or withholding the maximum pension, including an additional pension/admissible to him under the rules governing pensions.

## **13. Appellate authority.**

- An appeal against all orders of punishment imposed by the Municipal Health Officer shall lie to the

Additional Director of Health Services and Family Planning, and in cases where the order has been passed by the Additional Director of Health Services and Family Planning, the appeal shall lie to the Government.

#### **14. Appeal to Government.**

- Notwithstanding anything contained in regulation 13, and where an original order imposing a specific penalty imposed on a member of the service has been passed by the appellate authority in exercise of the powers conferred under regulation 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 regulation 3, 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 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, 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) No appeal preferred under these regulations shall be entertained unless it is preferred within 2 months from the date on which the appellant was informed of the orders appealed against: Provided that the appellate authority may entertain an appeal after the expiry of such period if it is satisfied that there was reasonable cause for the delay. (c) Every appeal preferred under these regulations shall contain all material statements and arguments relied on by the appellant, shall contain no disrespectful or improper language as 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 appeals.**

- 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 regulations no appeal lies; or(2)it does not comply with the provisions of regulation 17(c); or.(3)it is not preferred within two 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 previous appeal and is made to the same appellate authority by which such appeal has been decided and not 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 regulations: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 on account only of failure to comply with the provisions of regulation 17(c) 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 provisions shall not be withheld.

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

- No appeal shall lie against the 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 regulation 3 may be reversed or altered in cases in which no appeal is preferred shall be the appellate authority prescribed in the regulations or any higher authority.

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

(1)Every appeal which is not withheld under these regulations 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 regulation 18 with the reasons 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 regulations which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

### **23. Savings.**

- Nothing in these regulations shall operate to deprive any person of any right of appeal which he would have had if these regulations 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 regulations came into force shall be deemed to be an appeal under these regulations, and regulation 15 shall apply as if the appeal were against an order appealable under these regulations.

### **24. Revision petition to Government.**

(1) Where the original order imposing any of the penalties specified in regulation 3 has been imposed on a member of the service by the State Government, such member may, within two months of the date on which the order is communicated to him, submit a revision petition to the Government against the order. In disposing of such petition, State Government shall, as far as possible, follow the procedure prescribed for dealing with appeals and on any of the grounds specified below: -(a) that the order was not passed by the competent authority; (b) that a reasonable opportunity of defending himself was not given; (c) that the punishment is excessive or unjust; (d) discovery of new matter or evidence, which, the appellant alleges and proves to the satisfaction of the Government was not within his knowledge or could not be adduced by him before the order imposing the penalty was passed; (e) evident error or omission, such as, failure to apply the law of limitation or an error of procedure apparent on the face of record. (2) the petition for review which does not satisfy any of the above grounds shall be summarily rejected.

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

- Notwithstanding anything contained in these regulations, the State Government or such officer as they may empower in this behalf, 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 no penalty has been imposed, or a penalty which has been imposed is enhanced, the person concerned should be given an opportunity to show cause why the penalty should not be imposed or enhanced, as the case may be.

### **26. Treatment of period of suspension.**

- When a member of the service who has been dismissed, removed, compulsorily retired or suspended is reinstated the authority competent to order the reinstatement shall consider and make a specific order for treating the period of absence from duty with reference to the provisions of Fundamental Rule 54.