

Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-CIVIL-SERVICES-DISCIPLINARY-PROCEEDINGS- of 1961

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Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961Published vide Notification No. G.O.Ms. No. 895, General Administration (Services-D) Department, Dated the 18th July, 1961Last Updated 11th January, 2020G.O.Ms.No.895. - In exercise of the powers conferred by subsection (i) of Section 10 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960) the Government of Andhra Pradesh hereby makes the following rules, namely: -

1.

These rules may be called the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961.

2.

In these rules, unless the context otherwise requires:(a)"Act" means the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960:(b)"Misconduct" shall have the same meaning as criminal misconduct under section 5 (1) of the Prevention of Corruption Act, 1947 (Central Act (II) of 1947), and shall include any attempt to commit an offence referred to in class (c) of Clause (d) of that section and any wilful contravention of the rules made under the proviso to Article 309, of the Constitution of India, to regulate the conduct of persons appointed to Public Services and posts in connection with the affaire of the State (Amended in G.O.Ms.No.1026, G.A. (Ser.D) Department, dated 16-12-1969.

3.

(1)The Government may subject to the provisions of rule 4 refer to the Tribunal for enquiry and report under section 4 of the Act -(a)Cases relating to Government servants drawing a basic pay of Rs.600/- and above per mensem in respect of matters involving misconduct; and(G.O.Ms.No. 490, dated 25-7-1980)(b)[cases relating to Government servants, drawing a basic pay of less than Rs. 600/- per mensem in respect of matters involving misconduct committed by such Government Servants either jointly with other Government servants drawing a basic pay of not less than Rs. 600/- per mensem or in the course of the same transaction involving misconduct committed by such other Government servants:] [Amended by G.O.Ms.No.718, G.A. (Ser. C), Dept., dated 8-10-1976) (G.O. Ms.No. 490, dated 25-7-1980)]Provided that it shall not be necessary to refer to the Tribunal any case in which the Tribunal has, at any previous stage, reported its findings in regard to the order to be passed and no fresh question has thereafter arisen for determination.(2)[***] [Omitted (Vide G.O.Ms.No. 359, G.A. (Ser.C) Dept., dated 22-5-78)][(2-A) Where two or more Government servants are concerned in any case, the Government may make an order directing that disciplinary proceedings against all of them may be taken in a Common proceeding; and there upon the Tribunal shall conduct the enquiry into such case accordingly.] [Added by G.O.Ms.No. 862, G.A. (Ser. D) Department, dated 9-8-72](3)notwithstanding anything contained in sub-rule (1) or (2) cases arising in the judicial Department and cases of officers and servants of the High Court who come under the rule making control of the Chief Justice as laid down in article 229 of the Constitution of India shall not be referred to the Tribunal.

4.

(1)In every case referred to in sub rule (1) or (2) of rule 3 on completion of investigation. the Anti-Corruption Department on other departmental authority concerned shall submit a report of the case to the Government.(2)The Government shall after examining such records and after consulting the Heads of Departments concerned, if necessary, decide whether the case shall be tried in a court of law or inquired into by the Tribunal or departmental authority.(3)If the Government decide that the case shall be inquired into by the Tribunal, they shall send the records relating thereto to the Tribunal.(4)In any case where the Head of the Department is not consulted he shall be informed of the action that is being taken.(5)[There shall be a Director of Prosecutions and as many additional Director of Prosecutions, as may be considered necessary to conduct enquiries on behalf of the Government in disciplinary cases before the Tribunal and the accused officer concerned shall be allowed to be represented by counsel. In case where the Director of Prosecutions cannot attend to examination of witnesses on commission an adhoc Director of Prosecutions shall be appointed.] [Amended in G.O.Ms. No. 109, G.A. (Ser. D) Dept., dated 25-2-1969]

5.

[***] [Omitted (Vide G.O.Ms.No. 780, G.A. (Ser. D) Dept., dated 6-5-1966.)]

6.

The Tribunal may sit at such places as it may determine, with due regard to the convenience of the parties concerned and expenses involved.

7.

(1) The following procedure shall be followed by the Tribunal in conducting enquiries into cases of corruption referred to it under section 4 of the Act: (i) As soon as the records relating to allegations of corruption against a Government servant are received, the Tribunal shall frame appropriate charges and communicate them to the Government servant charged together with a list of witnesses likely to be examined in respect of each of the charges and with information as to the date and place of enquiry. (ii) The Tribunal shall, before the date fixed for enquiry, furnish copies of the statements of witnesses recorded by the concerned Departments to the Government servant charged for purposes of cross examination. The Charge or charges shall at the enquiry, be read over to the Government servant charged and he shall be asked whether he admits or denies the charge or charges. If the Government servant charged denies any of the charges brought against him, evidence shall be let in, in support of such of the charge or charges as are not admitted by him. (iii) For clause (iii) of sub-rule (1) of rule 7, the following shall be substituted, namely: - "At the enquiry, oral and documentary evidence shall be first adduced by the prosecution and the Government servant charged shall be entitled to cross examine the prosecution witnesses and to explain any documents produced by the Prosecution. The Government servant charged may, thereafter within the time allowed by the Tribunal, file a written statement of his defence together with a list of witnesses whom he wishes to examine, stating the points on which he proposes to examine each of them and a list of documents proposed to be summoned stating the purpose for which such documents are sought to be summoned. He may also offer himself as a witness in his own defence. The oral and documentary evidence on his side may then be adduced and the Government Servant charged shall be entitled to advance the necessary arguments either orally or in writing or both. The prosecution shall also be entitled to advance the necessary arguments to the Government Servant's arguments, whether written or oral or even in the shape of a mere written statement detailing the whole defence case. The arguments may be oral or written or both and when time is requested for written arguments by either party, a reasonable time shall be granted. (G.O.Ms.No.490, dated 25-7-1980) (iv) The Tribunal shall, as far as possible, observe the basic rules of evidence relating to the examination of Witnesses and the marking of documents and the enquiry shall conform to the principles of natural justice. (v) The Tribunal, on the application of the Government servant charged shall furnish to him certified copies of depositions of witnesses records by the Tribunal and may also furnish to him certified copies of the documents exhibited before the Tribunal. Provided that the Tribunal may, for reasons to be recorded in writing, refuse to grant certified copy of any such documents. Provided further that the Tribunal shall in every case where it refuses to grant a certified copy of any document asked for, give, under proper supervision, an opportunity to the Government servant charged or to his counsel, if any to inspect the document and take notes. (v-a) The Tribunal shall, on the application of the Director of Prosecutions, furnish to him certified copies of, depositions of witnesses recorded by the Tribunal or the documents exhibited before it on plain unstamped paper. (vi) The Tribunal may also interrogate the Government servant charged after the closure of the

prosecution evidence.(vii)For sufficient reasons to be recorded in writing, the Tribunal shall have power to refuse on either side.(a)to summon and examine any witness.(b)to call for and exhibit any document or(c)to recall a witness for further examination.(viii)The Tribunal may, if necessary authorise the Government servant charged or his counsel, if any, to go to the offices where the documents are available in' order to' enable him either to secure copies of such documents or take necessary extracts from such documents.(ix)The proceeding of the Tribunal shall contain a sufficient record of the evidence.(2)(i)After the enquiry has been completed, the Tribunal shall send the report of its findings and recommendations to the Government together with its opinion; in cases in which exoneration of Government servant charged is recommended. Whether he is "fully exonerated" for purposes of Fundamental Rule 54(A). Where the Tribunal does not express any such opinion it shall be presumed by the Government that he is not fully exonerated by the Tribunal.(ii)Where during the enquiry of a case by Tribunal, it is proved that the Government servant charged has accepted or obtained or has agreed- to accept or attempted to obtain for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be as a motive or regard, or as the case may be without consideration or for a consideration which he knows. to be inadequate. Provided that the Tribunal may decline to draw such presumption, if the gratification or thing aforesaid is in its opinion, so trivial that no inference of misconduct may fairly be drawn.(iii)After the Government have arrived at provisional conclusions in regard to the penalty to be imposed, the Government servant charged shall be supplied with a copy of the report of the Tribunal and he shall be called upon to show cause within a reasonable time not ordinarily exceeding one month against the particular penalty proposed to be imposed.Provided that the Government shall consult the Andhra Pradesh Vigilance Commission before the Government arrive at a provisional conclusion in regard to the penalty to be, imposed and also after the receipt of any representation of the Government servant charged, against the particular penalty proposed to be imposed but before the actual imposition of the penalty.Provided further that where the Government disagree with the whole or any part of the Tribunal' s findings, the point or points of such disagreement together with a brief statement of the grounds thereof shall, in case where it effects the Government servant charged adversely or prejudicially be communicated to such Govt. servant. Any representation in this behalf submitted by the Government servant charged shall be duly taken into consideration by the Government before final orders are passed.Provided also that the Government may, for reasons to be recorded in writing, remit the case to the Tribunal for enquiry and report and Tribunal shall thereupon hold further inquiry.(G.O. Ms. No. 88, dated 4-2-1980).(3)Where the Government servant charged has absconded or where it is for other reasons impracticable to communicate with him or where he wilfully fails to take part in an enquiry, the enquiry shall be conducted or continued even in his absence.(4)All or any of the provisions of sub-rule (1) and (2) may in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived by the Tribunal where there is difficulty, in observing · the requirements of those sub-rules ,and the requirements can be .waived without injustice to the person charged.(5)[The provisions of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 shall apply in regard to any other matter. for which no specific provision has been made in these rules.] [Amended in G.O. Ms. No. 354,G.A. (Ser.C) Dept. , dated 26-5-1969](6)Where the Chairman or any member of the Tribunal is prevented by death, transfer or other cause from concluding any

enquiry or from reporting his findings in any case referred to the Tribunal, his successor may deal with any evidence taken down by his predecessor in office as if such evidence had been taken down by him and may proceed with, the enquiry from the stage at which his predecessor has left it, or report his findings to the Government.(7)Notwithstanding anything contained in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, or the Hyderabad Civil Services (Classification, Control and Appeal) Rules, 1955, the Government shall be the authority competent to impose a penalty in cases of Government servants enquired into by the Tribunal.