

# **CHAPTER II** **PERSONNEL POLICIES**

## **(f) Conduct, Discipline & Appeal Rules**

**1. DPE/Guidelines/II(f)/1  
Report of the Working Group to frame Model Conduct, discipline and Appeal Rules for Public Undertakings**

At the Conference of the Chief Executives of public sector undertakings held at New Delhi in June 1973, it was decided that a Working Group to review the existing Rules of Public Undertakings regarding conduct and discipline procedures should be set up with a view to frame a model set of Conduct and Discipline Rules for the employees of the public sector undertakings. The recommendation was accepted by the Central Vigilance Commission and in consultation with BPE, Department of Personnel, a Working Group comprising of the representatives from CVC, Department of Personnel, BPE, Ministry of Labour and Employment, Central Bureau of Investigation, Hindustan Steel Limited, Fertilizer Corporation of India, Indian Airlines, Bharat Earth Movers Limited and Heavy Engineering Corporation was set up to frame a model set of Conduct and Discipline Rules which could be adopted by the Public Enterprises.

2. The working Group has since submitted its Report, which contains a model set of Rules which could be adopted by the Public Enterprises while framing their Conduct and Discipline Rules. The Report has also been considered by the Executive Board of the Standing Conference of Public Enterprises at its meeting held on 7th March 1974, wherein it was decided that the Report in question may be circulated to the Public Enterprises, who may consider the adoption of the Rules as contained in the Report with such modifications as they may consider necessary, keeping in view their particular circumstances. The Working group had themselves accepted that it may not be possible for the public enterprises to adopt these Model Rules in toto and it may be necessary for them to make deviations from these Rules to suit local conditions. But since the demand for constitution of the Working Group had come from the Chief Executives themselves the Group did not anticipate any difficulty in these Rules being broadly accepted as "Model Rules" by all the enterprises. Section VII of the Working Group's Report refers.

A copy of the Report is enclosed herewith\* for necessary action on the lines indicated above. It is requested that the action taken by your enterprise in this regard may be intimated to the Bureau in due course, along with a copy of the Conduct, Discipline and Appeal Rules of the enterprise as may be finally evolved. \* Not reproduced.

**(BPE No. 2(121)/73-BPE (GM-I) dated 26th April, 1974)**

### **MODEL CONDUCT, DISCIPLINE AND APPEAL RULES**

(Public Enterprises were advised under BPE's letter No. 2/(121)/73-BPE (GM-1), dated 26th April, 1974 to frame their own Conduct, Discipline and Appeal Rules based on the Model Rules furnished to them. The Model Rules reproduced below incorporate the latest amendments)

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

- i) These rules may be called ----- Conduct, Discipline and Appeal Rules 1973.
- ii) They shall come into force on-----.

#### **Rule 2. Application**

These rules shall apply to all employees except

- i) Those in casual employment or paid from contingencies;
- ii) Those governed by the standing orders under the Industrial Disputes Act, 1947.

#### **Rule 3. Definitions**

In these rules, unless the context otherwise requires-

a. Employee means a person in the employment of the undertaking other than the casual, work-charged or contingent staff or workman as defined in the Industrial Disputes Act, 1947, but includes a person on deputation to the corporation /Company.

b. Workman means a person as defined in the Industrial Disputes Act 1947, and to whom the provision of these rules shall not apply.

c. Company/Corporation means the \_\_\_(name of the Corporation/ Company to be mentioned).

d. Board means the Board of Directors of the corporation/company and includes in relation to the exercise of powers, any committee of the Board/ management or any officer of the Undertaking to whom the Board delegates any of its powers.

e. Chairman/Managing Director means the Chairman/Managing Director of the Corporation/Company

f. Disciplinary Authority means the authority specified in the Schedule appended to these rules and competent to impose any of the penalties specified in Rule 23.

g. Competent Authority means the authority empowered by Board of Directors by any general or special rule or order to discharge the function or use the powers specified in the rule or order.

h. Government means the Government of India.

i. Appellate Authority means the authority specified in the Scheduled appended to these rules.

j. Reviewing Authority means the authority specified in the Schedule attached to these rules.

k. Family in relation to an employee includes:-

i. The wife or husband as the case may be of the employee, whether residing with him or not but does not include a wife or husband as the case may be separated from the employee by a decree or order of a Competent court.

ii. Sons or daughters or stepsons or stepdaughters of the employee and wholly dependent on him, but does not include a child or stepchild who is no longer in any way dependent on the employee or of whose custody the employee has been deprived of by or under any law.

iii. Any other person related, whether by blood or marriage to the employee or to such employee's wife or husband and wholly dependent on such employee.

l. Public servant shall mean and include a person as mentioned in section 21 of-Indian Penal Code as amended from time to time.

#### **Rule 4. General**

1. Every employee of the corporation/company shall at all times

i. Maintain absolute integrity;

ii. Maintain devotion to duty; and

iii. Do nothing which is unbecoming of a public servant.

2. Every employee of the corporation/company holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all employees for the time being under his control and authority

#### **Rule 5. Misconduct**

Without Prejudice to the generality of the term "misconduct", the following acts of omission and commission shall be treated as misconduct:-

1. Theft, fraud or dishonesty in connection with the business or property of the corporation/company or of property of another person within the premises of the corporation/company

2. Taking or giving bribes or any illegal gratification.

3. Possession of pecuniary resources or property disproportionate to the known source of income by the employee or on his behalf by another person, which the employee cannot satisfactorily account for.

4. Furnishing false information regarding name, age, father's name, qualification, ability or previous service or any other matter germane to the employment at the time of employment or during the course of employment.

5. Acting in a manner prejudicial to the interests of the Corporation/ Company.
6. Willful insubordination or disobedience, whether or not in combination with others, of any lawful and reasonable order of his superior.
7. Absence without leave or over-staying the sanctioned leaves for more than four consecutive days without sufficient grounds or proper or satisfactory explanation.
8. Habitual late or irregular attendance.
9. Neglect of work or negligence in the performance of duty including malingering or slowing down of work.
10. Damage to any property of the Corporation/Company.
11. Interference or tampering with any safety devices installed in or about the premises of the Corporation/Company.
12. Drunkenness or riotous or disorderly or indecent behaviour in the premises of the Corporation/Company or outside such premises where such behaviour is related to or connected with the employment.
13. Gambling within the premises of the establishment.
14. Smoking within the premises of the establishment where it is prohibited.
15. Collection without the permission of the competent authority of any money within the premises of the Corporation/Company except as sanctioned by any law of the land for the time being in force or rules of the Corporation/Company.
16. Sleeping while on duty.
17. Commission of any act, which amounts to a criminal offence involving moral turpitude.
18. Absence from the employee's appointed place of work without permission or sufficient cause.
19. Purchasing properties, machinery, stores, etc. from or selling properties, machinery, stores etc., to the Corporation/Company without express permission in writing from the competent authority.
20. Commission of any acts subversive of discipline or of good behaviour.
21. Abetment of or attempt at abetment of any act which amounts to misconduct.

\*Note: The above instances of misconduct are illustrative in nature, and not exhaustive.

**Rule 6. Employment of near relatives of the employees of the Corporation/Company in any company or firm enjoying patronage of the Corporation/Company.**

3. No employee shall use his position or influence directly or indirectly to secure employment for any person related, whether by blood or marriage to the employee or to the employee's wife or husband, whether such a person is dependent on the employee or not.
1. No employee shall, except with the previous sanction of the competent authority, permit his son, daughter or any member of the family to accept employment with any company or firm with which he has official dealings, or with any company or firm, having official dealings with the Corporation/Company.

Provided that where the acceptance of the employment cannot await the prior permission of the competent authority the employment may be accepted provisionally subject to the permission of the competent authority, to whom the matter shall be reported forthwith.

2. No employee shall in the discharge of his official duties deal with any matter or give or sanction any contract to any company or firm or any other person if any member of his family is employed in that company or firm or under that person or if he or any member of his family is interested in such matter or contract in any other matter and the employee shall refer every such matter or contract to his official superior and the matter or the contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

**Rule 7. Taking part in demonstration**

No employee of the Corporation/Company shall engage himself or participate in any demonstration, which involves incitement to an offence.

#### **Rule 8. Connection with Press or Radio**

1. No employee of the Corporation/Company shall, except with the previous sanction of the competent authority, own wholly or in part, of conduct or participate in the editing or management of, any newspaper or other periodical publication.

2. No, employee of the Corporation/Company shall, except with the previous sanction of the Competent authority or the prescribed authority, or in the bonafide discharge of his duties, participate in a radio broadcast or contribute any article or write any letter either in his own name or anonymously, pseudonymously, or in the name of any other person to any newspaper or periodical.

Provided that no such sanction shall be required if such broadcast or such contribution of is a purely literary, artistic or scientific character.

#### **Rule 9. Criticism of Government and the Corporation/Company**

No employee shall in any radio broadcast or in any document published under his name or in the name of any other person or in any communication to the press, or in any public utterances, make any statement:

a. which has the effect of adverse criticism of any policy or action of the Central or State Governments, or of the Corporation/ Company;

or

b. which is capable of embarrassing the relations between the Corporation/Company and the public.

Provided that nothing in these rules shall apply to any statement made or views expressed by an employee, of purely factual nature which are not considered to be of a confidential nature, in his official capacity or in due performance of the duties assigned to him.

Provided further that nothing contained in this clause shall apply to bonafide expression of views by him as an office-bearer of a recognized trade union for the purpose of safeguarding the conditions of service of such employees or for securing an improvement thereof.

#### **Rule 10. Evidence before Committee or any other Authority**

1. Save as provided in sub-rule (3), no employee of the Corporation/Company shall, except with the previous sanction of the competent authority, give evidence in connection with any enquiry conducted by any person, committee or authority.

2. Where any sanction has been accorded under sub-rule (1), no employee giving such evidence shall criticize the policy or any action of the Central Government or of State Governments, or of the Corporation/Company.

3. Nothing in this rule shall apply to-

a. evidence given at any enquiry before an authority appointed by the Government, Parliament or a State Legislator or any Corporation/Company;

b. evidence given in any judicial enquiry; or

c. evidence given at any departmental enquiry ordered, by authorities subordinate to the Government.

#### **Rule 11. Unauthorized communication of information**

No employee shall, except in accordance with any general or special order of the Corporation/Company or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof to any officer or other employee, or any other person to whom he is not authorized to communicate such document or information.

#### **Rule 12. Gifts**

1. Save as otherwise provided in these rules, no employee of the Corporation/Company shall accept or permit any member of his family or any other person acting on his behalf, to accept any gift.

Explanation - The expression "gift", shall include free transport, board, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or a personal friend having no official dealings with the employee.

Note - An employee of the Corporation/Company shall avoid acceptance of lavish or frequent hospitality from any individual or firm having official dealings with him.

2. On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gifts is in conformity with the prevailing religious or social practices, an employee of the Corporation/Company may accept gifts, from his near relatives but he shall make a report to the competent authority if the value of the gift exceeds Rs. 500/-.

3. On such occasions as are specified in sub-rule (2), an employee of the Corporation/Company may accept gifts from his personal friends having no official dealings with him, but he shall make a report to the competent authority if the value of any such gift exceeds Rs. 250/-

4. In any other case, an employee of the Corporation/Company shall not accept or permit any other member of his family or any other person acting on his behalf to accept any gifts without the sanction of the competent authority if the value thereof exceeds Rs. 250/-

Provided that when more than one gift has been received from the same person/firm within a period of 12 months, the matter shall be reported to the competent authority if the aggregate value of the gifts exceeds Rs. 250/-.

**Rule 12A. No employee of the Corporation/Company shall-**

i. give or take or abet the giving or taking of dowry; or

ii. demand, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

*Explanation:* For the purposes of this rule dowry has the same meaning as in Dowry Prohibition Act, 1961 (28 of 1961).

**Rule 13. Private Trade or employment**

1. No employee of the Corporation/Company shall except with the previous sanction of the competent authority, engage directly or indirectly in any trade or business or undertake any other employment; Provided that an employee may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of literary, artistic or scientific character, subject to the condition that his official duties do not thereby suffer.

2. Every employee of the Corporation/Company shall report to the competent authority; any member of his family is engaged in a trade or business or owns or manages an insurance agency or Commission agency.

3. No employee of the Corporation/Company shall, without the previous sanction of the competent authority except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 (1 of 1956) or other law for the time being in force or any cooperative society for commercial purposes;

Provided that an employee of the Corporation/Company may take part in the registration, promotion or management of a consumer/House Building Co-operative society substantially for the benefit of employees of the Corporation/Company, registered under the Cooperative Societies Act, 1912 (2 of 1912) or any other law for the time being in force, or of a literary, scientific or charitable society registered under the Societies Registration Act, 1860 (21 of 1860), or any corresponding law in force.

4. No employee of the Corporation/Company may accept any fee or any pecuniary advantage for any work done by him for any public body or any private person without the sanction of the competent authority.

**Rule 14. Investment, lending and borrowing**

No employee shall, save in the ordinary course of business with a bank, the Life Insurance Corporation or a firm of standing, borrow money from or lend money to or otherwise place himself under pecuniary obligation to any person with whom he has or is likely to have official dealings or permit any such borrowing, lending or pecuniary obligation in his name or for his benefit or for the benefit of any member of his family.

**Rule 15. Insolvency and habitual indebtedness**

1. An employee of the Corporation/Company shall avoid habitual indebtedness unless he proves that such indebtedness or insolvency is the result of circumstances beyond his control and does not proceed from extravagance or dissipation.

2. An employee of the Corporation/Company who applies to be, or is adjudged or declared insolvent shall forthwith report the fact to his competent authority.

**Rule 16. Movable, Immovable and valuable property**

1. No employee of the Corporation/Company shall, except with the previous knowledge of the competent authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.
2. No employee of the Corporation/Company shall, except with the previous sanction of the competent authority, enter into any transaction concerning any immovable or movable property with a person or a firm having official dealings with the employee or his subordinate.
3. Every employee of the Corporation/Company shall report to the competent authority every transaction concerning movable property owned or held by him in his own name or the name of a member of his family, if the value of such property exceeds Rs. 2,500/-.
4. Every employee shall, on first appointment in the Corporation/Company, submit a return of assets and liabilities in the prescribed form giving the particulars regarding:-
  - a. the immovable property inherited by him, or owned or acquired by him, held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;
  - b. shares, debentures, and cash including bank deposits inherited by him (or similar) owned, acquired, or hold by him;
  - c. other movable property inherited by him or similarly owned, acquired or held by him if the value of such property exceeds Rs. 2,500/-.
  - d. debts and other liabilities incurred by him directly or indirectly;
  - e. every employee shall, beginning 1st January, submit a return of immovable property inherited/owned/acquired once in every two years.
5. The competent authority may, at any time, by general or special order require an employee to submit, within a period specified in the order a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the competent authority, include details of the means by which, or the source from which such property was acquired.

**Rule 17. Canvassing of non-official or other influence**

No employee shall bring or attempt to bring any outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service in the Corporation/Company.

**Rule 18. Bigamous marriages**

1. No employee shall enter into, or contract, a marriage with a person having a spouse living; and
2. No employee, having a spouse living, shall enter into, or contract, a marriage with any person;

Provided that the Board may permit an employee to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2) if it is satisfied that-

- a. such marriage is permissible under the personal law applicable to such employee and the other party to the marriage; and
- b. There are other grounds for so doing.

**Rule 19. Consumption of intoxicating drinks and drugs**

An employee of the Corporation/Company shall take due care that the performance of his duties is not affected in any way by the influence of any intoxicating drink or drug.

**Rule 20. Suspension**

1. The appointing authority or any authority to which it is subordinate or the disciplinary authority or any authority empowered in that behalf by the management by general or special order may place an employee under suspension-
  - a. Where disciplinary proceeding against him is contemplated or is pending; or

b. Where case against him in respect of any criminal offence is under investigation or trial.

2. An employee who is determined in custody, whether on a criminal charge or otherwise for a period exceeding 48 hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders.

3. Where a penalty of dismissal or removal from service imposed upon an employee under suspension is set aside on appeal or on review under these rules and the case is remitted for further inquiry 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.

4. Where a penalty of dismissal or removal from service imposed upon an employee 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 consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, the employee shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders.

5. 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 or is deemed to have made the order or by any authority to which that authority is subordinate.

#### **Rule 21. Subsistence Allowance**

1. An employee under suspension shall be entitled to draw subsistence allowance equal to 50 percent, of his basic pay provided the disciplinary authority is satisfied that the employee is not engaged in any other employment or business, or profession or vocation. In addition he shall be entitled to Dearness Allowance admissible on such subsistence allowance and any other compensatory allowance of which he was in receipt on the date of suspension provided the suspending authority is satisfied that the employee continues to meet the expenditure for which the allowance was granted.

2. Where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows:-

i. The amount of subsistence allowance may be increased to 75 percent of basic pay and allowances thereon if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the employee under suspension;

ii. the amount of subsistence allowance may be reduced to 25 percent of basic pay and allowances thereon if in the opinion of the said authority, the period of suspension has been prolonged due to the reasons to be recorded in writing directly attributable to the employee under suspension.

3. If an employee is arrested by the Police on a criminal charge and bail is not granted, no subsistence is payable. On grant of bail, if the competent authority decides to continue the suspension, the employee shall be entitled to subsistence allowance from, the date he is granted bail.

#### **Rule 22. Treatment of the period of suspension**

1. When the employee under suspension is reinstated, the competent authority may grant to him the following pay and allowances for the period of suspension:

a. If the employee is exonerated and not awarded any of the penalties mentioned in Rule 23 the full pay and allowances which he would have been entitled to if he had not been suspended, less the subsistence allowance already paid to him; and

b. If otherwise, such proportion of pay and allowances as the competent authority may prescribe.

2. In a case falling under sub-clause (a) the period of absence from duty will be treated as a period spent on duty. In case falling under sub-clause (b) it will not be treated as a period spent on duty unless the competent authority so directs.

#### **Rule 23. Penalties**

The following penalties may be imposed, on an employee, as hereinafter provided, for misconduct committed by him or for any other good and sufficient reasons.

#### Minor Penalties

- (a) Censure;
- (b) withholding of increments of pay with or without cumulative effect;
- (c) withholding of promotion;
- (d) recovery from pay of the whole or part of any pecuniary loss caused to the Corporation/Company by negligence or breach of order;
- (e) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his terminal benefits.

#### Major Penalties

- (f) save as provided in clause (e), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increment of pay;
- (g) reduction to a lower time scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the employee to the time-scale of pay, grade, post from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post from which the employee was reduced and his seniority and pay on such restoration to that grade or post;
- (h) compulsory retirement;
- (i) removal from service which shall not be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;
- (j) dismissal from service which shall ordinarily be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;

Provided that, in every case in which the charge of possession of assets disproportionate to known sources of income or the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (i) or (j) shall be imposed:

Provided further that in any exceptional case and for special reasons recorded in writing, any other penalty may be imposed.

All administrative Ministries/Departments concerned with CPSUs are requested to advise PSUs under their administrative control to carry out changes in their CDA Rules on the above lines.

#### **Rule 24. Disciplinary Authority**

The Disciplinary Authority, as specified in the schedule, or any authority higher than it may impose any of the penalties specified in Rule 23 on any employee.

#### **Rule 25. Procedure for imposing major penalties**

1. No order imposing any of the major penalties specified in Clauses (e), (f) and (g) of Rule 23 shall be made except after an inquiry is held in accordance with this rule.
2. Whenever the disciplinary authority 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 itself enquire into, or appoint any public servant (hereinafter called the inquiring authority) to inquire into the truth thereof.
3. Where it is proposed to hold an inquiry, the disciplinary authority shall frame definite charges on the basis of the allegations against the employee. The charges, together with a statement of the allegations, on which they are based, a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained, shall be communicated in writing to the employee, who shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days) a written statement whether he admits or denies any of or all the Articles of Charge.

Explanation—It will not be necessary to show the documents listed with the charge-sheet or any other document to the employee at this stage.

4. On receipt of the written statement of the employee, or if no such statement is received within the time specified, an enquiry may be held by the Disciplinary Authority itself, or by any other public servant appointed as an Inquiring Authority under sub-clause (2)

Provided that it may not be necessary to hold an inquiry in respect of the charges admitted by the employee in his written statement. The disciplinary authority shall, however, record its findings on each such charge.

5. Where the disciplinary authority itself inquires or appoints an inquiring authority for holding an inquiry, it may, by an order appoint a public servant to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

6. The employee may take the assistance of any other public servant but may not engage a legal Practitioner for the purpose.

7. On the date fixed by the inquiring authority, the employee shall appear before the Inquiring Authority at the time, place and date specified in the notice. The inquiring authority shall ask the employee whether he pleads guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee concerned thereon. The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the employee concerned pleads guilty.

8. If the employee does not plead guilty, the inquiring authority 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 the documents listed with charge-sheet.

ii. submit a list of additional documents and witnesses that he wants to examine; and

iii. be supplied with the copies of the statements of witnesses, if any, listed in the charge-sheet.

*Note :* Relevancy of the additional document and the witnesses referred to in sub-clause 8 (ii) above will have to be given by the employee concerned and the documents and the witnesses shall be summoned if the inquiring authority is satisfied about their relevance to the charges under inquiry.

9. The inquiring authority shall ask the authority in whose custody or possession the documents are kept, for the production of the documents on such date as may be specified.

10. The authority in whose custody or possession the requisitioned documents are, shall arrange to produce the same before the inquiring authority on the date, place and time specified in the requisition notice.

Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Corporation/Company. In the event, it shall inform the inquiring authority accordingly.

11. On the date fixed for the inquiry the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the employee. The Presenting Officer shall be entitled to re-examine the witness on any points on which they have been cross-examined, but not on a new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.

12. Before the close of the prosecution case, the inquiring authority may, in its discretion allow the Presenting Officer to produce evidence not included in the charge sheet or may itself call for new evidence or recall or re-examine any witness. In such case the employee shall be given opportunity to inspect the documentary evidence before it is taken on record; or to cross-examine a witness, who has been so summoned.

13. When the case for the disciplinary authority is closed, the employee may 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.

14. The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf 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 according to the provision applicable to the witnesses for the disciplinary authority.

15. The Inquiring Authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any circumstances appearing in the evidence against him.

16. After the completion of the production of the evidence, the employee and the Presenting Officer may file written briefs of their respective cases within 15 days of the date of completion of the production of evidence.

17. If any employee does not submit the written statement of defence referred to in sub-rule (3) on or before the date specified for the purpose or does not appear in person, or through the assisting officer or otherwise fails or refuses to comply with any of the provisions of these rules, the inquiring authority may hold the enquiry ex parte.

Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall examine, cross-examine and re-examine any such witnesses as herein before provided.

19. (i) After the conclusion of the inquiry report shall be prepared and it shall contain-

- a. a gist of the articles of charge and the statement of the imputations of misconduct or misbehaviour;
- b. a gist of the defence of the employee in respect of each article of charge;
- c. and assessment of the evidence in respect of each article of charge;
- d. the findings on each article of charge and the reasons therefor.

Explanation—If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles of the charge, it may record its findings on such article of charge.

Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

ii. The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include-

- a) The report of the inquiry prepared by it under sub-clause (i) above;
- b) The written statement of defence if any submitted by the employee referred to in sub-rule (13)
- c) The oral and documentary evidence produced in the course of the inquiry;
- d) Written briefs referred to in sub-rule (16) if any; and
- e) The orders if any made by the disciplinary authority and the inquiring authority in regard to the inquiry.

#### **Rule 26. Action on the inquiry report**

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reason to be recorded by it in writing remit the case to the inquiring authority for fresh or further inquiry and report and the inquiry authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 25 as far as may be .

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties that any of the penalties specified in Rule 23 should be imposed on the employee it shall, notwithstanding anything contained in Rule 27 make an order imposing such penalty.

(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the employee concerned.

#### **Rule 27. Procedure for imposing minor penalties**

(1) Where it is proposed to impose any of the minor penalties specified in clauses (a) to (d) of Rule 23, the employee concerned shall be informed in writing of the imputations of misconduct or misbehaviour against him and give an opportunity to submit his written statement of defence within a specified period not exceeding 15 days. The defence statement, if any, submitted by the employee shall be taken into consideration by the disciplinary authority before passing orders.

(2) The record of the proceedings shall include –

(i) A copy of the statement of imputations of misconduct or misbehaviour delivered to the employee;

(ii) His defence statement, if any; and

(iii) The orders of the disciplinary authority together with the reason therefor.

#### **Rule 28. Communication of orders**

Orders made by the Disciplinary Authority under Rule 26 or Rule 27 shall be communicated to the employee concerned, who shall also be supplied with a copy of the report of inquiry, if any.

#### **Rule 29. Common proceedings**

Where two or more employees are concerned in a case, the authority competent to impose a major penalty on all such employees may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings and the specified authority may function as the disciplinary authority for the purpose of such common proceedings.

#### **Rule 30. Special procedure in certain cases**

Notwithstanding anything contained in Rule 25 or 26 or 27, the disciplinary authority may impose any of the penalties specified in Rule 23 in any of the following circumstances:–

(i) the employee has been convicted on a criminal charge, or on the strength of facts or conclusions arrived at by a judicial trial ; or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these Rules; or

(iii) where the Board is satisfied that in the interest of the security of the Corporation/Company, it is not expedient to hold any inquiry in the manner provided in these rules.

#### **Rule 31. Employees on deputation from the Central Government or the State Government, etc.**

(i) Where an order of suspension is made or disciplinary proceeding is taken against an employee, who is on deputation to the Corporation from the Central or State Government, or another public undertaking, or a local authority, the authority leading his services (hereinafter referred to as the "lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension, or the commencement of the disciplinary proceeding, as the case may be.

(ii) In the light of the findings in the disciplinary proceeding taken against the employee:–

(a) If the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on him, it may pass such orders on the case as it deems necessary after consultation with the Lending Authority; provided that in the event of a difference of opinion between the Disciplinary and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority.

(b) If the Disciplinary Authority is of the opinion that any of the major penalties should be imposed on him, it should replace his services at the disposal of the Lending Authority and transmit to it the proceedings of the enquiry for such action as it deems necessary.

(iii) If the employee submits an appeal against an order imposing a minor penalty on him under sub-rule (ii) (a), it will be disposed of after consultation with the Lending Authority;

Provided that if there is a difference of opinion between the Appellate Authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority, and the proceedings of the case shall be transmitted to that authority for such action as it deems necessary.

### **Rule 32. Appeals**

(i) An employee may appeal against an order imposing upon him any of the penalties specified in rule 23 or against the order of suspension referred to in Rule 20. The appeal shall lie to the authority specified in the schedule.

(ii) An appeal shall be preferred within one month from the date of communication of the order appealed against. The appeal shall be addressed to the Appellate Authority specified in the schedule and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the appellate authority within 15 days. The appellate authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders within three months of the date of appeal. The appellate authority may pass order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

Provided that if the enhanced penalty which the appellate authority proposes to impose is a major penalty specified in clauses (e), (f) and (g) of Rule 23 and an inquiry as provided in Rule 25 has not already been held in the case, the appellate authority shall direct that such an enquiry be held in accordance with the provisions of Rule 25 and thereafter consider the record of the inquiry and pass such orders as it may deem proper. If the appellate authority decides to enhance the punishment but an enquiry has already been held as provided in Rule 25, the appellate authority shall give a show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The appellate authority shall pass final order after taking into account the representation, if any, submitted by the employee.

### **Rule 33. Review**

Notwithstanding anything contained in these rules, the reviewing authority as specified in the schedule may call for the record of the case within six months of the date of the final order and after reviewing the case pass such orders thereon as it may deem fit.

Provided that if the enhanced penalty, which the reviewing authority purposes to impose; is a major penalty specified in clauses (e), (f) or (g) of Rule 23 and an enquiry as provided under Rule 25 has not already been held in the case, the reviewing authority shall direct that such an enquiry be held in accordance with the provisions of Rule 25 and thereafter consider the record of the enquiry and pass such order as it may deem proper. If the appellate authority decides to enhance the punishment but an enquiry has already been held in accordance with the provisions of Rule 25, the reviewing authority shall give show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The reviewing authority shall pass final order after taking into account the representation, if any, submitted by the employee.

### **Rule 34. Service of orders, notices, etc.**

Every order, notice and other process made or issued under these rules shall be served in person on the employee concerned or communicated to him by registered post at his last known address.

### **Rule 35. Power to relax time-limit and to condone delay**

Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rule for anything required to be done under these rules or condone any delay.

### **Rule 36 Savings**

1. Nothing in these rules shall be constructed as depriving any person to whom these rules apply, of any right of appeal which had accrued to him under the rules, which have been superseded by these rules.

2. An appeal pending at the commencement of these rules against an order made before the commencement of these rules shall be considered and orders thereon shall be made, in accordance with these rules.

3. The proceedings pending at the commencement of the rules shall be continued and disposed as far as may be, in accordance with the provisions of these rules, as if such proceedings were proceedings under these rules.

4. Any misconduct, etc., committed prior to the issue of these rules which was a misconduct under the superseded rules shall be deemed to be a misconduct under these rules.

**Rule 37. Removal of doubts**

Where a doubt arises as to the interpretation of any of these rules, the matter shall be referred to the Board for final decision.

**Rule 38. Amendments**

The Board may amend, modify or add to these rules, from time to time, and all such amendments, modifications or additions shall take effect from the date stated therein.