

The
BALUCHISTAN CIVIL SERVANTS
(EFFICIENCY AND DISCIPLINE)
RULES, 1983

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5th May, 1983

In exercise of the powers conferred by section 25 of the Baluchistan Civil Servants Act, 1974 (IX of 1974), the Government of Baluchistan is pleased to make the following rules, namely: -

1. Short title, commencement and application.-(1) These rules may be called the Baluchistan Civil Servant (Efficiency and Discipline) Rules, 1983.

(2) They shall come into force at once and shall apply to all civil servants wherever they may be and shall also apply to or in relation to a person in temporary employment in the service of Baluchistan.

2. Definitions.- (1) In these rules, unless the context otherwise requires, the following expressions shall have meanings hereby respectively assigned to them, that is to say:-

- (a) **"Accused"** means a civil servant against whom action is taken under these rules;
- (b) **"Authority"** means the Government or an officer or authority designated by it to exercise the powers of the authority under these rules in respect of any category of officer;
- (c) **"Authorized Officer"** means an officer authorized or designated by Government to perform the functions of an Authorized Officer under these rules:

Provided that where in the case of a civil servant no authorized Officer has been so Authorized or designated, the authority shall have power to appoint an officer to act as authorized officer in that case.

Provided further that in relation to a civil servant, the authority may be authorized to act Authorized Officer;

(d) **"Appellate Authority"** means the authority specified in the Balochistan Civil Servants (Appeal) Rules, 1983.

- (e) **"Misconduct"** means conduct prejudicial to good order or service discipline or contrary to the Balochistan Government Servants (Conduct) Rules, 1979 or unbecoming of an officer and a gentleman and includes any act on the part of a civil servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a civil servant;

- (f) **"Penalty"** means a penalty which may be imposed under these rules.

(2) Words and expressions used but not defined shall have the same meanings as assigned to them in the Balochistan Civil Servants Act, 1974.

3. Grounds for penalty.-Where a civil servant, in the opinion of the authority;

- (a) is inefficient or has ceased to be efficient; or

- (b) is guilty of gross negligence; or

- (c) is guilty of misconduct; or

- (d) is corrupt, or may reasonably be considered corrupt because-

- (i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or

- (ii) he has assumed a style of living beyond his ostensible means; or

- (iii) he has a persistent reputation of being corrupt; or

(e) is engaged or is reasonably suspected of being engaged, in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is, therefore, prejudicial to national security,

the authority may impose on him one or more of the penalties prescribed in rule 4.

4. Penalties. "(I) The following are the penalties, namely:--

- (a) censure;
- (b) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement, in accordance with rules or orders pertaining to the service or post;
- (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
- (d) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;
- (e) reduction to a lower post or time-scale, or a lower stage in a time scale;
- (f) compulsory retirement;
- (g) removal from service; and
- (h) dismissal from service; and

(2) Removal from service does not, but dismissal from service does disqualify for future employment with the Government or any body or corporation established, owned or controlled by the Government.

(3) In this rule, removal or dismissal from service does not include in discharge of a person-

- (a) appointed on probation, during the period of probation or in accordance with the probation or training rules applicable to him ; or
- (b) appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
- (c) engaged under a contract, in accordance with the terms of contract.

5. Initiation of proceedings and summary action.-(1) If on the basis of its own knowledge or information placed before it, the authority is of the opinion that there are sufficient grounds for proceeding against a civil servant it may:--

- (a) by order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action ;
- (b) give him, a reasonable opportunity of showing cause against that action within a period of fourteen days from the date of receipt of the order under clause (a), and if so requested by the accused afford him an opportunity of being heard in person:

Provided that no such opportunity shall be given where the authority is satisfied that in the interest to the security of Pakistan or any part thereof it is not expedient to give such opportunity, and

- (c) if not satisfied by the written explanation of the accused and the hearing, if afforded to him, or if no explanation is furnished by the accused, after considering the circumstances and the facts of the case, award him one or more of the penalties prescribed in rule 4.

(2) The authority may, if it so deems expedient, with respect to a category of officers, by an order in writing, direct the Authorized Officer to perform the functions under clauses (a) and (6) of sub-rule (1) on its behalf.

(3) If in the opinion of the authority the circumstances of the case so warrant it may order an inquiry into the allegations made or noticed against the accused, and if it so decides the procedure indicated in rule 6 shall apply.

6. Inquiry procedure. -(1) In case where a civil servant is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of the authority, suspend him:

Provided that any continuation of such leave or suspension shall require approval of the authority after every three months.

(2) The authorized officer shall, by an order in writing, appoint an Inquiry Officer or an Inquiry Committee consisting of two or more persons who or one of whom shall be senior to that of the accused or if there are more than one accused, senior to all the accused.

(3) After an Inquiry Officer or Inquiry Committee is appointed, the authorized officer shall-

- (a) frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration;
- (b) require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him to put in a written defence and to state at the same time whether he desires to be heard in person.

(4) If two or more civil servants are proceeded against jointly, the authority or authorized officer in respect of the senior most civil servant amongst them shall be the authority or authorized officer, as the case may be in respect of all such civil servants.

(5) until the inquiry is completed, neither the Inquiry Officer, nor any member of the Inquiry Committee, if appointed, or the accused or any of the witnesses shall be allowed to proceed on leave or on a training course or be transferred within or beyond Pakistan, except for unavoidable reasons to be recorded in writing.

(6) The Department/office to which the inquiry pertains shall provide the Inquiry Officer or the Committee, as the case may be, the services of an officer to procure and ensure that the required witnesses and the documents as far as practicable, are made available during the inquiry when required.

(7) The authorised officer, immediately after communicating the charge to the accused under sub-rule (3), shall forward such record or copies thereof and such other material as is necessary for the conduct of the inquiry to the Inquiry Committee, as the case may be.

7. Procedure to be observed by the Inquiry Officer or Inquiry Committee. -(1) On receipt of the record and the explanation of the accused referred to in the preceding rule, the Inquiry Officer or the Inquiry Committee, as the case may be, shall enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary, and where any witness is produced by any party, the other party shall be entitled to cross-examine that witness.

(2) If the accused fails to furnish his explanation within the period specified, the Inquiry Officer or the Inquiry Committee, as the case may be shall proceed with the inquiry without waiting, for the explanation.

(3) The Inquiry Officer or the Inquiry Committee, as the case may be shall hear the case from day to day and no adjournment shall be granted except for reasons to be recorded in writing and where any adjournment is granted-

(a) it shall not be for more than a week ; and

(b) the reasons therefor shall be reported forthwith to the authorized officer.

(4) Where the Inquiry Officer or the Inquiry Committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning, and if thereafter he or it is satisfied that the accused is acting in disregard of the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he or it thinks best suited to be substantial justice.

(5) If the accused absents himself from the inquiry on medical ground he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave applied for by him is sanctioned or on recommendation of a Medical Board. Where the accused may not be in a position to appear before the Medical Board due to his illness, the Board shall examine him at his residence of which complete address must then be given in the leave application and at which he must be available:

Provided that the authorized officer may, in his discretion, sanction medical leave for seven days without the recommendation of the Medical Board

(6) The Inquiry Officer or the Inquiry Committee, as the case may be, shall complete the inquiry proceedings within a period of one month commencing from the last date of submission of the written defence by the accused and if it is prolonged, the Inquiry Officer or the Inquiry Committee, shall submit weekly reports to the authorized officer explaining the reasons for the delay.

(7) The Inquiry Officer or the Inquiry Committee; as the case may be, shall be within ten days of the conclusion of the proceedings or within such further period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the authorized officer.

(8) The authorized officer, on receipt of the report of the Inquiry Officer or Inquiry Committee, shall determine whether the charge has been proved. If it is proposed to impose a penalty, he shall forward the case to the authority alongwith the charge-sheet, a statement of allegations served on the accused, explanation of the accused, the findings of the Inquiry Officer or the Inquiry Committee, as the case may be, and his own recommendations regarding the penalty to be imposed. In case it is proposed to drop the proceedings, the authorized officer shall submit the case with all relevant material/documents to the authority for appropriate orders. The authority in either case shall pass such orders as it may deem proper.

8. Power of the Inquiry Officer or Inquiry Committee.-(1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters, namely;-

(a) summoning and enforcing the attendance of any person and examining, him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits; and

(d) issuing commission for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meanings of sections 193 and 228 of the Pakistan Penal Code (XLV of 1860).

9. Rules 5 and 6 not to apply in certain cases. "Nothing in rules 5 and 6 shall apply to a case:

(a) where the accused is dismissed or removed from service or reduced in rank on the ground of committing an offence involving moral turpitude which has led to a sentence of fine or imprisonment ;
or

(b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

(c) where the accused is dismissed on the ground of remaining absent wilfully despite notice in newspaper on the recommendation of the authorized officer.

(d) Notwithstanding the other provisions of these rules where the Government or Authority is satisfied that one or more civil servants, individually or collectively, as the case may be, have taken part in agitational and subversive activities, resorted to strike, abandoned his or their official duty or incited others to do so, the Government or the authority may after serving upon him or them a notice through a publication in a daily newspaper or in any other manner, asking him or them to resume duty, and on his or their failure or refusal to resume his or their duty, impose upon the defaulting civil servant the penalty of dismissal or removal from service without following the procedure as laid down in rules 5, 6, 7 and 8 *ibid*.

10. Procedure of inquiry against officers lent to other Government or authority.-(1)
Where the services of a civil servant to whom these rules, apply are lent to any other Government or to local or other authority, in the rules referred to as the borrowing authority, the borrowing authority shall have the powers of authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules:

Provided that the borrowing authority shall forthwith inform the authority which has lent his service, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceeding, as the case may be:

Provided further that the borrowing authority shall obtain prior approval of the Government before taking any action under these rules against a civil servant holding a post in Grade-17 or above.

(2) If in the light of the findings in the proceedings taken against the civil servant in terms of sub-rule(1), the borrowing authority is of the opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.

(3) Notwithstanding anything to the contrary contained in sub-rules⁽¹⁾ and (2), the Government may in respect of certain civil servants, authorize the borrowing authority to exercise all the powers of authority and authorized officer under these rules.

11. Powers to order medical examination as to mental or bodily infirmity.-(1) Where it is proposed to proceed against a civil servant on the ground of inefficiency by reasons of infirmity of mind or body, the authority may, at any stage, whether or not an authorized officer has been directed to proceed against him, require the civil servant to undergo a medical examination by a Medical Board or a Medical Superintendent as the authority may direct, and the report of the Board or the Medical Superintendent shall form part of the proceedings.

(2) If a civil servant refuses to undergo such an examination, his refusal may, subject to the consideration of such ground as he may give in support of it, be taken into consideration against him showing that he had reason to believe that the result of the examination would prove unfavorable to him.

12. Appearance of counsel. "No party shall be represented by a lawyer, advocate or pleader in any proceedings under these rules.

13. Miscellaneous.-(1) A civil servant shall automatically stand dismissed from service, if he is convicted for criminal offence involving moral turpitude and awarded imprisonment by a Court or Tribunal, with effect from the date he is committed to jail and becomes a prisoner.

Explanation I.--Moral turpitude means anything that injures the moral fibre of a person lowers and him down in moral values.

Explanation II.--The Government shall be sole authority to determine whether any conviction for criminal offence involves moral turpitude or not.

(2) Departmental proceedings against an accused shall not be barred because any judicial proceedings have also been initiated against him of the same facts or vice versa. Similarly, acquittal of an accused civil servant in criminal proceedings shall not bar disciplinary action under these rules against him on the same facts.

14. Appeal.-(1) A civil servant on whom a penalty is imposed shall have such right of appeal to the authority specified in the Balochistan Civil Servants (Appeal) Rules, 1983:

Provided that, where the penalty is imposed by order of the Chief Minister, there shall be no appeal but civil servant may apply for review of the orders.

(2) Every appeal shall be preferred, processed and disposed of in the manner laid down in the Balochistan Civil Servants (Appeal) Rules, 1983.

15. Revision.-(1) The Chief Minister or any officer or authority empowered by him may call for the examination of the record of any proceeding under these rules for the purpose of satisfying himself as to the correctness, or propriety of any finding, penalty or order, or as to the regularity of such proceedings.

(2) On examining any record under sub-rule(1), the Chief Minister or any officer or authority empowered by him, as the case may be, may direct further inquiry into the charges from which the civil servant has been exonerated, and may exercise any of the powers of appellate authority:

Provided that an order made under this rule, if prejudicial to the civil servant, shall not be passed unless he has been given opportunity of showing cause:

Provided further that an order imposing penalty shall not be revised suo motu or otherwise after the lapse of a period of three months from the date of its communication to the civil servant, if no appeal is preferred.

(3) No proceeding by way of revision shall be entertained at the instance of the civil servant who had a right of appeal under these rules but has not filed the appeal.

16. Repeal. -The Balochistan Civil Servants (Efficiency and Discipline) Rules, 1981, in their application to the civil servants to whom these rules apply are hereby repealed.

(2) Notwithstanding the repeal of the Balochistan Civil Servants (Efficiency and Discipline) Rules, 1981"

- (a) any departmental inquiry or proceedings pending immediately before the coming into force of these rules, shall be completed and orders passed thereon as if the said rules had not been repealed, and
- (b) any notification or instructions issued thereunder so far as they are not inconsistent with these rules, shall be deemed to have been issued under these rules.