

**The
North-West Frontier Province Civil Servants (Appeal)
Rules, 1986**

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**THE
NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPEAL)
RULES, 1986**

2nd June, 1986

In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973, (N.W.F.P. Act XVIII of 1973), read with section 22 thereof the Governor of the North-West Frontier Province is pleased to make the following rules, namely:-

1. Short title, commencement and application.-(1) These rules may be called the North-West Frontier Province Civil Servants (Appeal) Rule 1986.

(2) They shall come into force at once and shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with the affairs of the Province.

2. Definitions.- In these rules, unless there is any thing repugnant in the subject or context;

(a) 'appellate authority' means the officer or authority next above the competent authority;

(b) 'competent authority' means the authority or authorized officer, as the case may be as defined in the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973 or the authority competent to appoint a civil servant under the rules applicable/to him; and

(c) 'penalty' means any of the penalties specified in rule 4 of the North-West Frontier Province Government Servants (Efficiency and Discipline), Rules, 1973.

3. Right of appeal. -(1) A civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of his service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority:

Provided that where the order is made by the Government, there shall be no appeal but the civil servant may submit a review petition

[Provided further that the appellate or the reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority].

Explanation.- For the purposes of the first proviso, the expression 'appeal', where the context so requires, shall mean the 'review petition' as well.

(2) Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately;

(3) Where the aggrieved civil servant has died, the appeal may be filed, or if already filed by such civil servant before his death, may be pursued, by his legal heir or heirs; provided that the benefit likely to accrue on the acceptance of such appeal is admissible to such legal heir or heirs under any rules for the time being applicable

to civil servants.

4. Form of memorandum.-(1) Every memorandum of appeal shall--

- (a) contain full name and address, official designation and place of posting of the appellant.
- (b) state in brief the facts leading to the appeal.
- (c) be accompanied by a certified copy of the order appealed against and copies of all other documents on which the appellant wishes to rely.

Explanation.- Where an aggrieved civil servant has died, his legal heir or heirs while filing the appeal or applying for review as the case may be, shall also add documents in support of his or their relationship with the deceased civil servant.

- (2) The appeal shall be submitted through the head of the office in which the appellant is posted at the time of filing the appeal or in the case of a deceased civil servant where he was last posted before his death. The head of the office shall forward the appeal to the competent authority shall after adding his own comments if any, transmit the appeal to the appellate authority for necessary orders.
- (3) No appeal shall be entertained if it contains abusive, disrespectful or improper language.

5. Action by appellate authority.- (1) The appellate authority after making such further inquiry or calling for such information or record or giving the appellant an opportunity of being heard as it may consider necessary, shall determine'

- (a) Whether the facts on which the order appealed against was based have been established;
 - (b) Whether the facts established afford sufficient ground for taking action ; and
 - (c) Whether the penalty is excessive, adequate or inadequate, and after such determination, shall confirm, set aside or pass such order as it thinks proper, provided that no order increasing the penalty shall be passed without giving the appellant an opportunity of showing cause as to why such penalty should not be increased.
- (2) The competent authority against whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority and shall cause the order so passed to be communicated to the appellant without undue delay.

6. Withholding of appeal in certain cases.-(1) An appeal may be withheld by competent authority if-

- (a) it is an appeal in a case, in which no appeal lies under these rules; or
- (b) it does not comply with the requirements of rule 4; or
- (c) it is not preferred within the time limit specified in sub-rule(1) of rule 3 and no reason is given for the delay; or
- (d) it is addressed to an authority of officer to whom no appeal lies under these rules:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it:

Provided further that an appeal withheld for failure to comply with the requirements of rule 4 or clause (d) of this sub-rule may be resubmitted within thirty days to the date on which the appellant is informed of the withholding of the appeal and, if resubmitted properly in accordance with the requirements of the rules, shall be deemed to be an appeal under rule 3 and shall be dealt with in accordance with the provisions of these rules.

(2) No appeal shall lie against the withholding of an appeal under this rule.

7. Disposal of appeal.-(I) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority alongwith the comments by the competent authority from whose order the appeal is preferred.

- (2) A list of appeals withheld under rule 6, with reasons for with-holding them, shall be forwarded quarterly by the withholding authority to the appellate authority.
- (3) The appellate authority may call for any appeal admissible under these rules which has been withheld by the competent authority and may pass such order thereon as it considers fit.

8. Savings. -- Nothing in these rules shall operate -to deprive any person of any right of appeal which he would have had if these rules had not been made , in respect of any order passed before they came into force.

9. Pending appeals.- All appeals pending immediately before the coming into force of these rules shall be deemed to be appeals under these rules.

10. Repeal.-The North-West Frontier Province Civil Services (Punishment and Appeal) Rules, 1943 are hereby repealed.