

THE
NORTH-WEST FRONTIER PROVINCE GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 1973

Contents

- Preamble
- 1 Short title, commencement and application
 - 2 Definitions
 - 3 Grounds for penalty
 - 4 Penalties
 - 5 Inquiry procedure
 - 6 Procedure to be observed by the Inquiry Officer and Inquiry Committee
 - 7 Powers of Inquiry Officer and Inquiry Committee
 - 8 Rule 5 not to apply in certain cases
 - 9 Procedure of inquiry against Officers lent to other Provincial Government or the Federation
 - 10 Appeal
 - 11 Repeal

THE
NORTH-WEST FRONTIER PROVINCE GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 1973

21st December, 1973

In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P Act No. XVIII of 1973), 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 Government Servants (Efficiency and Discipline) Rules, 1973. (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 affairs of the Province.

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

- (a) 'accused' means a Government servant against whom action is taken under these rules ;
- (b) 'authority' means the Governor or an officer or authority designated by him to exercise the powers of the authority under these rules;
- (c) 'authorized officer' means an officer authorized by the authority to perform functions of an authorized officer under these rules;
- (d) 'Government' means the Government of the North-West Frontier Province;
- (e) 'misconduct' means conduct prejudicial to good order or service discipline or contrary to the [North-West Frontier Province Government Servants (Conduct) Rules, 1987] or unbecoming of an officer and a gentleman and' includes any act on the part of a Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government servant; and
- (f) 'penalty' means a penalty which may be imposed under these rules, and
- (g) 'Province' means the North-West Frontier Province.

[(2) In case two or more Government servants are to be proceeded against jointly under these rules, the authority or, as the case may be, the authorized officer, designated or authorized, for the Government servants senior-most in rank shall be the authority or, as the case may be, the authorized officer in respect of all such accused.

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

- (a) is inefficient or has ceased to be efficient; or
- (b) is guilty of misconduct; or
- (c) is corrupt, or may reasonable 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
- (d) 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 penalties.

4. Penalties.-(1) The following are the minor and major penalties, namely:-

- (a) Minor penalties:
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post;
 - (iii) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;

(iv) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;

(b) Major penalties :

(i) reduction to a lower post or time-scale, or to a lower stage in a time-scale ;

(ii) compulsory retirement;

(iii) removal from service ; and

(iv) dismissal from service.

(2) Removal from service does not, but dismissal from service does, disqualify for future employment.

(3) In this rule, removal or dismissal from service does not include the 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 the contract.

5. Inquiry procedure.- The following procedure shall be observed when a Government servant is proceeded against under these rules:-

(1) In case where a Government 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 decide whether in the light of facts of the case or the interests of justice an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. If he so decides, the procedure indicated in rule 6 shall apply.

(3) If the authorized officer decides that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry Committee, he shall-

(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; and

(b) give him a reasonable opportunity of showing cause against that action :

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

(4) On receipt of the report of the Inquiry Officer or Inquiry Committee or, where no such Officer or Committee is appointed, on the receipt of the explanation of the accused, if any, the authorized officer shall determine whether the charge has been proved. If it is proposed to impose a minor penalty he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charge and statement of allegations served on the accused, the explanation of the accused, the findings of the Inquiry Officer or Inquiry Committee, if appointed and his own recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

6. Procedure to be observed by the Inquiry Officer and Inquiry Committee.-(1) Where 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 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.

(2) The Inquiry Officer or the 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 the accused shall be entitled to cross-examine the witness against him.

(3) The Inquiry Officer or the Committee, as the case may, shall hear the case from day-to-day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons therefor, shall be reported forthwith to the authorized officer. Normally no adjournment shall be for more than a week.

(4) Where the Inquiry Officer or the 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 finding to that effect and proceed to complete the inquiry in such manner as he or it thinks best suited to do substantial justice.

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

7. Powers of Inquiry Officer and 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 (Act 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 ;
- (d) issuing commissions for the examination of witnesses or documents.

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

8. Rule 5 not to apply in certain cases.-Nothing in Rule 5 shall apply to a case.

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to the sentence of fine or of 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.

9. Procedure of inquiry against officers lent to Provincial Government or the Federation.-(1) Where the services of a Government servant to whom these rules apply are lent to the Federation or to any other Provincial Government or to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension of requiring him to proceed on leave and of initiating proceedings against him under these rule: Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his

suspension of the commencement of the proceedings, as the case may be:

Provided further that the borrowing authority shall obtain prior approval of the [Chief Minister] before taking any action under these rules against a member of such Civil Service of the Province or the holder of such civil post as Government may by notification specify.

(2) If in the light of the findings in the proceedings taken against the Government servant in terms of sub-rule (a) the borrowing authority is of 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 contained in these rules, Government may, by order in writing, authorize the borrowing authority or any subordinate officer to such authority to exercise all or any of the powers of 'authorized officer', 'authority' and 'appellate authority' in respect of civil servants whose services have been lent to the borrowing authority.

10. Appeal.-A person on whom a penalty is imposed shall have such right of appeal as prescribed in the North-West Frontier Province Civil Servants (Appeal), Rules, 1986

11. Repeal.-The West Pakistan Government Servants (Efficiency and Discipline) Rules, 1960 in their application to the Government servants to whom these rules apply are hereby repealed, but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.