

THE MAHARASHTRA CIVIL SERVICES (Discipline and Appeal) Rules, 1979

As modified up to 1-08-2017

Important Note

The Maharashtra Civil Services (Discipline & Appeal) Rules) 1979 came into force on 12th July 1979. Thereafter number of amendments has been made to these rules from time to time. The State Government regularly publishes Marathi booklet containing the amended rules. However no such booklet in English is published regularly. The last Marathi book published by the State government contains the rules modified up to 31-12-2016.

The enclosed rules are therefore as modified on 1-08-2017. It will be ensured that the amendments made hereafter in future are incorporated in the uploaded version

Hope this uploaded version will prove to be useful to all concerned including State Government employees.

S.D.JOSHI, IAS (R)
Ex-Vice Chairman, M.A.T.

THE MAHARASHTRA CIVIL SERVICES
(Discipline and Appeal)
Rules, 1979
(As Amended up to 1.08.2017)

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**THE MAHARASHTRA CIVIL SERVICES
(Discipline and Appeal) Rules, 1979**

No. MDA-1078-RMC. - In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Maharashtra is hereby pleased to make the following rules, namely:-

PART I – GENERAL

1. Short title and commencement

These rules may be called the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

They shall come into force on the 12th day of July 1979.

2. Interpretation

In these rules, unless the context otherwise requires-

a) **"Appointing authority"** in relation to a Government servant means-

- (i) The authority competent to make appointments to the Service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or
- (ii) the authority competent to make appointments to the post which the Government servant for the time being holds, or
- (iii) the authority which appointed the Government servant to such Service, grade or post, as the case may be, or
- (iv) where a Government Servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to

that Service or to any grade in that Service or to that post, whichever authority is the highest authority;

b)"Commission" means the Maharashtra Public Service Commission;

c)"Disciplinary authority" means the authority competent under these rules to impose on a Government servant any of the penalties specified in rule 5;

d)1["Head of Department" shall have the meaning assigned to it in clause (22) of rule 9 of the Bombay Civil Services, Rules 1958;]

e)"Head of Office" means the authority declared to be such under clause (X-a) of rule 2 of the Bombay Financial Rules 1959;

f)"Government" means the Government of Maharashtra;

g)"Government servant" means a person who-

- i. is appointed to any Civil Service or post in connection with the affairs of the State, and include such Government servant whose services are temporarily placed at the disposal of any other Government in India, or a company, or corporation owned or controlled by Government, or a local authority or other authority, notwithstanding that his salary is drawn from sources other than the Consolidated Fund of the State;
- ii. is a member of a Service of or holds a civil post under, any other Government in India and whose services are temporarily placed at the disposal of Government or
- iii. is in the service of a local or other authority and whose services are temporarily placed at the disposal of Government;

h)"Legal Practitioner" means an advocate, vakil or attorney of any High Court, mukhta or revenue agent;

2[(i) "Major penalty" means any of the penalties specified in item (v) to (ix) (both inclusive) of sub-rule (1) of rule 5;

3[(j)"Minor penalty" means any of the penalties specified in item (i) to (iv) (both inclusive) of sub-rule (1) of rule 5;

4[(k)"Regional Head of Department" means any of the officers specified in the Appendix to these rules.

j) "Service" means a Civil Service of the State;

k) "State" means the State of Maharashtra;

l) "Service" means a Civil Service of the State;

m) "State" means the State of Maharashtra

1 substituted by G.N. No. VASHIA-1213/C.R.43/11 dated 16th July 2016 for clause 9d)

2 substituted, *ibid*, for clause (i). (The earlier Clause (i) was substituted by notification no. CDR-1005/C.R.24/05/11 dated 29/12/2006.)

3 substituted, *ibid*, for clause j). (The earlier Clause (i) was substituted by notification no. CDR-1005/C.R.24/05/11 dated 29/12/2006.)

4 substituted, *ibid*, for clause (k)

3. Application

- (1) Except as otherwise provided by or under these rules, these rules shall apply to every Government servant not being,
 - (a) any member of an All India Service,
 - (b) person in casual employment of Government,
 - (c) an Inspector of Police or a member of the subordinate ranks as defined in clause (16) of section 2 of the Bombay Police Act, 1951,
 - (d) any person for whom special provision is made in respect of matters covered by these rules, by or under any law for the time being in force or under any agreement entered into by or with previous approval of the Governor before or after the commencement of these rules, in regard to matters covered by such special provisions,
- (2) Notwithstanding anything contained in Sub-rule (1), the Governor may, by order exclude any class of Government Servants from the operation of all or any of these rules.

- (3) If any doubt arises
 - (a) whether these rules or any of them apply to any person or
 - (b) whether any person to whom these rules apply belongs to a particular service, the matter shall be referred to the Governor who shall decide the same.

PART II - SUSPENSION

4. Suspension

- (1) The appointing authority or any authority to which the appointing authority is subordinate or the disciplinary authority or any other authority empowered in the behalf by the Governor by general or special order may place a Government servant under suspension-
 - (a) where a disciplinary proceeding against him is contemplated or is pending, or
 - (b) where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State, or
 - (c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that, where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority, the circumstances in which the order was made.

- (2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority-
 - (a) with effect from the date of his detention, if he is detained in police or judicial custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
 - (b) With effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

Explanation -

The period of forty eight hours referred to in clause (b) of this sub-rule shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from Service imposed upon a Government servant under suspension is set aside in 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, removal or compulsory retirement and shall remain in force until further orders.

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

1 [Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.]

1 Added by G.N. No. CDR-1188/I582/CR-38-88/XI, dt.12.10.1990.

(5) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a Government servant is suspended or is deemed to have been suspended (Whether in connection with any disciplinary proceeding or other -wise), and any other disciplinary proceeding is commenced against him during the continuance of that

suspension, the authority competent to place him under suspension may, for reasons to be recorded by it in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority, which made or is deemed to have made the order or by any authority to which that authority is subordinate.

* Provided that, where a criminal offence is registered against a Government Servant, the recommendation of the Suspension Review Committee constituted by the Government, in this behalf, shall be obtained by the authority which has made or is deemed to have made the suspension order or by any authority to which that authority is subordinate, before revoking or modifying the order of suspension of such Government."

* **Added by G.N. by GAD No.. CDR-1011/C.R.-109/11, dated 11th October, 2011.**

PART III - PENALTIES AND DISCIPLINARY AUTHORITIES

5. Penalties

+ [(I) Without prejudice to the provisions of any law [or the time being in force, the following penalties may, for good and sufficient reasons and as hereinafter, provided, be imposed on a Government servant, namely -

Minor Penalties -

- (i) Censure;
- (ii) Withholding of his promotion;
- (iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to Government, by negligence or breach of orders;
- (iv) Withholding of increments of pay;

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Major Penalties

- (v) Reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period,

the reduction will or will not have the effect of postponing the future increments of his pay;

- (vi) ** reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time scale of pay, grade, post or service from which he was reduce with direction as to whether or not, on promotion on the expiry of the said specified period, -
 - a) the period of reduction to time scale of pay, grade, post or service shall operate to future increments of his pay, and if so, to what extent; and
 - b) the Government Servant shall regain his original seniority in the higher time scale of pay, grade, post or service;
- (vii) compulsory retirement;
- (viii) removal from Service which shall not be a disqualification for future employment under Government;
- (ix) dismissal from Service which shall ordinarily be a disqualification for future employment under Government:

**** This Sub Clause (vi) is substituted in place of earlier sub clause (vi) vide GAD Notification No. CDR-1010/CR 20/10/11, dated 1st September, 2010.**

++ Provided that, in every case in which 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 (viii) or (ix) shall be imposed;

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

++ **Both the provisos shown in the brackets below the Major Penalty of dismissal were added vide notification number CDR 1188/1582/CR.38-88/XI dated 12- 10-1990**

Explanation -

The following shall not amount a penalty within the meaning of this rule, namely -

- (i) Withholding of increments of pay of Government servant for his failure to pass any departmental examination or the * [Hindi and Marathi language examination] in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a Government servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of a Government servant, whether in a substantive or officiating capacity, after consideration of his case, to a Service, grade or post for promotion to which he is eligible, on administrative grounds unconnected with his conduct;
- (iv) reversion of a Government servant officiating in a higher Service grade or post to a lower Service, grade or post, on the ground that he is considered to be unsuitable for such higher Service, grade or post or on any administrative ground unconnected with his conduct;
- (v) reversion of a Government servant appointed on probation to any other Service, grade or post, to his permanent Service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- (vi) replacement of the services of a Government servant, whose services had been borrowed from any Government in India or any authority under its control, at the disposal of such Government, or authority;
- (vii) compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;
- (viii) termination of the services –
 - (a) of a Government servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation; or
 - (b) of a temporary Government servant unconnected with his conduct; or
 - (c) of a Government servant employed under an agreement, in accordance with the terms of such agreement.
- (ix) any compensation awarded on the recommendation of the Complaints Committee referred to in the proviso to sub-rule(2) of rule 8 and established in the Department of the Government for inquiring into any complaint of sexual harassment within the meaning of rule 22A of the Maharashtra Civil Services (Conduct) Rules 1979

*** The words in the bracket in explanation (I) below sub- rule (1) were earlier inserted vide notification number CDR.1187/246/5/XI dated 04-02- 1987**

(2) Where a penalty mentioned in item (v) or (vi) in sub-rule (1) is imposed on a Government servant, the authority imposing the penalty shall expressly state in the order imposing the penalty that the period for which the reduction is to be effective will be exclusive of any interval spent on leave before the period is completed.

+ Substituted by G.N., G.A.D. No. VASHA-1213/C.R. 43/11 dated 16th July 2016 for sub-rule (1) (The earlier Sub-rule (1) was substituted by Notification No. 1097/CR No. 32/97/XJ dated 5-2-1998.

6. Disciplinary authorities

(1) The Governor may impose any of the penalties specified in rule 5 on any Government servant.

(2) Without prejudice to the provisions of sub-rule (1), Appointing Authorities may impose any on the penalties specified in rule 5 upon members of *[Group-“C”] and **[Group-“D”] Services serving under them, whom they have power to appoint:

Provided that the Heads of Offices shall exercise the powers of imposing minor penalties on the *[Group-“C”] and **[Group-“D”] Government servants under their respective administrative control:

Provided further that Heads of Departments and Regional Head of Departments shall exercise the powers of imposing minor penalties only in relation to Government servants of State Service ***[Group-“B”]) under their respective control:

#[Provided also that, the Heads of Departments shall exercise the powers of imposing minor penalties only in relation to Government servants of State service ****(Group-A) under their respective administrative control who draw Grade pay of Rs.6600 or less, excluding those who were sanctioned a pay scale of Rs.10650-15850 in the unrevised pay-scales.].

*** Substituted by G.N., G.A.D. No CDR 1008/C.R. 17/08/1143/11, dated 18th July 2008 for “class III”**

**** Substituted, ibid, for “class IV”.**

***** Substituted, ibid, for “class II**

Substituted by G.N. G.A.D. No. VASHA-1213/C.R.43/11 dated 16th July 2016 for the proviso. (Proviso was added by G.N.by G.N., G.A.D. No. CDR. 1185/2777/3/XI dated 17th April 1986 and further amended by G.N. G.A.D.,No. CDR.

1189/1258/20/XI dated 18th October 1989 and G.N., No. CDR-1001/773/C.R. 13/01/XI dated 29th October 2004

****** Substituted by G.N., No. CDR. 1008/C.R. 17/08/11, dated 18th July 2008, for "class I"**

#[(3) Without prejudice to the provisions of sub-rule (1), the Commissioners of Divisions shall, in the course of implementation of the Employment Guarantee Scheme under the Maharashtra Employment Guarantee Act, 1977 (Mah.XX of 1978), exercise the powers of imposing minor penalties only in relation to Government servants of State Service, *(Group-A) who draw a Grade pay of Rs.6600 or less, excluding those who were sanctioned a pay scale of Rs. 10650-15850 in the unrevised pay scales and in relation to Government servants of State service *(Group-'B'), and also exercise the powers of imposing any of the penalties specified I rule 5 in relation to Government servants of *(Group-'C') and ****(Group-'D') services serving in the said scheme.]

Substituted by G.N. G.A.D., No. VASHA-1213/C.R. 43/11, dated 16th July 2016, for sub-rule (3).(Sub--rule (3) was inserted by Notification No. CDR 1187/1351/27- XI dated 18/6/1987 and further amended by G.N., CDR-1001/773/C.R. 13/01/XI dated 29th October 2004.

*** Substituted by G.N. G.A.D. NO., CDR, 1008/C.R. 17/08/11 dated 18th July 2008 for 'Class I'.**

**** Substituted, *ibid*, for 'class II'**

***** Substituted, *ibid*, for 'class III'**

****** Substituted, *ibid* for 'class IV'**

7. Authority to institute proceedings

(1) The Governor or any other authority empowered by him by general or special order may -

(a) institute disciplinary proceedings against any Government servant;

(b) direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose under these rules any of the penalties specified in rule 5.

+ (c) [direct the transfer of any pending enquiry from any enquiring authority, appointed by the disciplinary authority under sub-rule (2) of rule 8, to any other enquiring authority if he is satisfied that it is necessary for timely completion of enquiry].

(2) A disciplinary authority competent under these rules to impose any of the penalties specified in rule 5 may institute disciplinary proceeding against any Government servant on whom the disciplinary authority is competent to impose any of the penalties specified in rule 5.

+ Inserted by Notification No. CDR 1097/ CR-I0/ 97/XI dated 6.2.1998.

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PART IV - PROCEDURE FOR IMPOSING PENALTIES 8.

Procedure for imposing major penalties

- (1) No order imposing any of the major penalties shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 9, or where such inquiry is held under the Public Servants (Inquiries) Act 1850 (37 of 1850), in the manner provided in that Act.
- (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 a Government servant it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

*[Provided that, where there is a complaint of sexual harassment within the meaning of Rule 22 A of Maharashtra Civil Service (Conduct) Rules, 1979, the Complaints Committee established in each Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the enquiry into the complaints of sexual harassments, the enquiry as far as practicable in accordance with the procedure laid down in these rules.]

*** Added by G.N. No. CDR. 1008/C.R. 45/08/11 dated 1st April 2010**

Explanation-

Where a disciplinary authority itself holds an inquiry under this rule, any reference to an inquiring authority in this rule shall, unless the context otherwise requires, be construed as reference to the disciplinary authority.

- (3) Where it is proposed to hold an inquiry against a Government servant under this rule, the disciplinary authority shall draw up or cause to be drawn up-

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- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
- (ii) a statement of the imputation of misconduct or misbehaviour in support of each article of charge, which shall contain-
- (a) a statement of all relevant facts including any admission or confession made by the Government servant; and
- (b) a list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be sustained.
- (4) The disciplinary authority shall deliver or cause to be delivered to the Government servant, a copy of articles of charge the statement of the imputations of misconduct or misbehaviour, and a list of documents and of the witnesses by which each article of charge is proposed to be sustained, and shall by a written notice require the Government servant to submit to it within such time as may be specified in the notice, a written statement of his defence and to state whether he desires to be heard in person.
- (5) (a) On receipt of the written statement of defence the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary as to do, appoint, under sub-rule (2) an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in rule 9 of these rules.

(b) If no written statement of defence is submitted by the Government servant, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary to do so appoint under sub-rule (2) of these rules an inquiring authority for the purpose.

(c) Where the disciplinary authority appoints an inquiring authority it may, by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present the case in support of the articles of charge before the inquiring authority.

(6) The disciplinary authority shall where it is not the inquiring authority, forward to the inquiring authority-

(i) a copy of each of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any, submitted by the Government servants;

(iii) copies of statements of witnesses if any, referred to in sub-rule (3) of this rule;

(iv) evidence proving the delivery of the documents referred to in sub-rule (3) to the Government servant; and

(v) a copy of the order appointing the presenting Officer.

*[(7) The Government servant shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by the inquiring authority of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf, *(or within such further time), not exceeding ten days, as the inquiring authority may allow.]

* **Substituted by G.N., G.A.D., No., CDR. 1008/C.R.43/11 dated 1st April 2010**

** **Substituted by G.N., G.A.D., No., VASHA-1213/C.R. 43/11, dated 16th July 2016**

+[(8) a) The Government Servant may take the assistance of any other Government Servant posted in any office either at his headquarters or at the place where the enquiry is held, to present the case on his behalf, but may not engaged a legal practitioner for the purpose, unless

the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits.

Provided that the Government Servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing, so permits.

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Note- The Government servant shall not take the assistance of any other Government servant who has three pending disciplinary cases on hand in which he has to give assistance.

+ Substituted by G.N., G.A.D., No., CDR , 1008/C.R. 45/08/11 dated 1st April 2010

(b)++[The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the Governor from time to time, by general or special order in this behalf.]

++Substituted by G.N., G.A.D., No., VASHA-1213/C.R. 43/11, dated 16th July 2016

(9) If the Government servant who has not admitted any of the articles of charge in his written statement of defence, or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is 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 signature of the Government servant thereon.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Government servant pleads guilty.

(11) The inquiring authority shall, if the Government servant fails to appear within the specified time or refuses or admits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove article of charge and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government servant may, for the purpose of preparing his defence,

- (i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (3) of this rule.
- (ii) submit a list of witnesses to be examined on his behalf.
- (iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the list referred to in sub-rule (3) of this rule, indicating the relevance of such documents.

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- (12) Where the Government servant applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3) of this rule, the inquiring authority shall furnish him with such copies as early as possible, and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.
- (13) Where the inquiring authority receives a notice from the Government servant for the discovery or production of documents, the inquiring authority shall forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.

Provided that, the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

- (14) On receipt of the requisition referred to in sub-rule (13), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that, if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the State, it shall inform the inquiring authority and the inquiring authority shall, on being so informed,

communicate the information to the Government servant and withdraw the requisition made by it for the production of discovery of such documents.

- (15) The inquiry shall be commenced on the date fixed in that behalf by the inquiring authority and shall be continued thereafter on such date or dates as may be fixed time to time by that authority.
- (16) 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 Government

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servant. The Presenting Officer shall be entitled to re-examine, the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

- (17) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government servant or may itself call for new evidence or recall and re-examine any witness and in such case the Government servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the Government servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Government servant to produce new evidence, if it is of the opinion that the production of such evidence is necessary in the interests of justice:

Provided that no new evidence shall be permitted or called for or any witness shall be recalled to fill up any gap in the evidence unless there is an inherent lacuna or defect in the evidence which has been produced originally.

(18) When the case for the disciplinary authority is closed, the Government servant shall 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 Government servant shall be required to sign the record. In either case a copy of the statement of defence shall be given to the Presenting Officer appointed, if any.

(19) The Evidence on behalf of the Government servant shall then be produced. The Government servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government servant shall then be examined and shall be liable to cross- examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

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(20) The inquiring authority may, after the Government servant closes his case and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant to explain any circumstances appearing in the evidence against him.

(21) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, appointed, if any, and the Government servant, or permit them to file the written briefs of their respective case, if they so desire.

(22) If the Government servant to whom a copy of the articles of charge has been delivered, does not submit a written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring may hold the inquiry ex-parte.

(23) (a) Where a disciplinary authority competent to impose any of the minor penalties but not competent to impose any of the major penalties has itself inquired into or caused to be inquired into any of the articles of charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that any of the major penalties should be imposed on the Government servant, that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose such major penalty.

(b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witness and examine, cross-examine and re-examine the witness, and may impose on the Government servant such penalty as it may deem fit in accordance with these rules.
Provided that if any witnesses are recalled, they may be cross-examined by or on behalf of the Government servant.

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(24) 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 interests of justice, it may recall, examine cross-examine and re-examine any such witnesses as hereinbefore provided.

Provided that, if any witnesses are recalled, they may be cross-examined by or on behalf of the Government servant.

(25) After conclusion of the inquiry, a report shall be prepared by the inquiring authority, such report shall contain-

- (a) the articles of the charge and the statement of the imputations of misconduct or misbehaviour;
- (b) the defence of the Government servant in respect of each article of charge;
- (c) an assessment of the evidence in respect of each article of charge;
- (d) the findings on each article of charge and the reasons therefor;

+ Clause (e) of Sub-rule (25) deleted by Notification No. CDR 1096/ CR-58-96/XI dated 1-12-1997.

(26) Where, in the opinion of the inquiring authority, the proceedings of the inquiry establish any article of charge, different from the original article of the charge and it may record its finding on such article of charge:

Provided that, the findings on such article of charge shall not be recorded unless the Government servant has 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.

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

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(a) the report prepared by it under sub-rule (25);

(b) the written statement of defence, if any, submitted by the Government servant;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs, if any, filed by the Presenting Officer or the Government servant or both during the course of the inquiry; and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

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9. Action on the inquiry report

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry

and report, and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 8 of these rules as far as may be.

** (2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the enquiry, if any, held by the disciplinary authority or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority together with its own tentative reasons for disagreement, if any, with the findings of inquiring authority or any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the disciplinary authority within 15 days, irrespective of whether the report is +[favourable or not to the said Government servant.]

*** (2) A – The disciplinary authority shall consider the representation, if any, submitted by the Government servant and record its findings before proceeding further in the matter as specified in Sub Rules (3) and (4).

+ Substituted by G.N., G>A>D>, No. VASHIA-1213/C.R. 43/11 dated 16th July 2016, for "favourable or not the said Government servant.

**** This sub Rule (2) has been substituted in place of earlier sub Rule (2) vide GAD Notification No. CDR-1009/C.R. 56/09/11, dated 10th June, 2010.**

***** This Sub Rule (2 A) has been inserted vide GAD Notification No. CDR-1009/C.R. 56/09/11, dated 10th June, 2010 published in Maharashtra Govt. Gazette for the period July 1-7, 2010**

(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 minor penalties should be imposed on the Government servant, it shall, notwithstanding anything contained in rule 10 of these rules on the basis of the evidence adduced during the inquiry held under rule 8 determine what penalty, if any should be imposed on the, Government servant and make an order imposing such penalty:

Provided that, in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice, and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant.

+ [(4) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry, is of the opinion that any of the penalties specified in [clauses *(v) to (ix) of sub-rule

(1) of rule 5], should, be imposed on the Government servant, it shall make an

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order imposing such penalty and it shall not be necessary' to give. the Government servant any opportunity of making representation on the penalty proposed to be imposed

Provided that, in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary authority to the Commission for its advice, and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant.]

+ **Substituted for earlier Sub-rule (4) by Notification No. CDR.**

1184/1380/27/XI dated 15.11.1985.

- **Substituted by G.N., No., VASHIA. 1216/C.R. 82 (Part-II)/111 dated 1st October 2016, for the text " clauses(vii) to (ix) of sub-rule(1) of rule 5"(The text "clauses (vii) to (ix) of sub-rule (1) of rule 5 was substituted for the earlier text "clauses(vii) to (ix) of sub-rule (1) of rule 5 by G.N.,G.A.D.,No.,CDR. 1009/C.R. 56/09/11, dated 10th June 2010**

10. Procedure for imposing minor Penalties

(1) Save as provided in sub-rule (3) of rule 9, no order imposing on a Government servant any of the minor penalties shall be made except after

(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking into consideration the representation, if any, submitted by the Government servant under clause (a) of this rule and the record of inquiry, if any, held under clause

(b) of this rule;

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- (d) recording a finding on each imputation of misconduct or misbehaviour; and
 - (e) consulting the Commission where such consultation is necessary.
- (2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation if any, made by the Government servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government's servant or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period +[or to impose any of the penalties specified in clauses (v) and (vi) of sub-rule (1) of the rule (5)], an inquiry shall be held in the manner laid down in sub- rule (3) to (27) of rule 8, before making any order of imposing on the Government servant any such penalty.
- (3) The record of the proceeding in such cases shall include-
- (i) a copy of the intimation to the Government servant of the proposal to take action against to him;
 - (ii) a copy of the statement or imputations of misconduct or misbehaviour delivered to him;
 - (iii) his representations, if any;
 - (iv) the evidence produced during the inquiry;
 - (v) the advice of the Commission, if any;
 - (vi) the findings on each imputation of misconduct or misbehaviour; and
 - (vii) the orders on the case together with the reasons therefor.

+ The words shown in the bracket in sub- rule (2) inserted vide notification no. CDA-1005/C.R.24/05/11 dated 29/12/2006.

11. + Communication of orders

+ Orders made by the disciplinary authority shall be communicated to the Government servant, who shall also be supplied with a copy of its finding on each article of charge, or whether the disciplinary authority is not the inquiring authority, a statement of the finding of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority and also a copy of the advice, if any, given by the Commission, and where the disciplinary authority, has not accepted the advice of the Commission, a brief statement of the reasons for such non -acceptance.

+ **This Sub Rule has been substituted for earlier Sub Rule (11) vide GAD Notification No. CDR-1009/C.R. 56/09/11, dated 10th June, 2010.**

12. Common proceedings

- (1) Where two or more Government servants are concerned in any, case, the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.
- (2) Where the authorities competent to impose the penalty of dismissal on such Government servants are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.
- (3) Every order for taking disciplinary action in a common proceeding shall specify -
 - (i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;
 - (ii) the penalties specified in rule 5 which such disciplinary authority shall be competent to impose; and
 - (iii) whether the procedure laid down in rule 8 and rule 9 or rule 10 shall be followed in the proceeding.

13. Special procedure in certain cases

Notwithstanding anything contained in rules 8 to rule 12 of these rules.

- (i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge; 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 inquiry in the manner provided in these rules, or

(iii) where the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules, or the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit.

* [Provided that the Government Servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i)

Provided further that the Commission shall be consulted. Where such consultation is necessary before any orders are made in any case under this rule].

** (iv) Disciplinary proceeding comes to an end immediately on the death of the delinquent Government servant. No disciplinary proceedings under these rules, can therefore, be continued after the death of the concerned Government servant.

*** Both Provisos below clause (iii) were inserted in place of earlier provisos by Notification No. CDR.1188/1582/CR. 38.88/XI, dated 12.10.1990.**

**** Sub-rule (iv) is added vide notification no. CDR 1199/C.R.13/99/11 dated 23/2/2000.**

14. Provisions regarding Officers lent to any Government in India, Local authority, etc.

(1) Where the Services of a Government servant are lent by one department of Government to another department of Government or to any other Government in India or to an authority subordinate thereto or to a local or other authority (including any Company or corporation owned or controlled by Government) (hereinafter in this rule referred to as "the borrowing authority") the borrowing authority shall have the powers of the appointing authority for the purpose of placing such Government servant under suspension and of the disciplinary authority for the purpose of conducting a disciplinary proceeding against him:

Provided that, the borrowing authority shall forthwith inform the authority which lent the services of the Government servant (hereinafter in this rule referred to as "the lending authority") of the circumstances leading to the order of suspension of such Government servant or the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the Government servant, -

(i) if the borrowing authority is of the opinion that any of the minor penalties should be imposed on the Government servant it may after consultation with the lending authority, make such orders on the case as it deems necessary:

Provided that, in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the Government servant shall be replaced at the disposal of the lending authority;

(ii) if the borrowing authority is of the opinion that any of the major penalties should be imposed on the Government servant, it shall replace his services at the disposal of the lending authority and transmit to it, the proceedings of the inquiry; and thereupon the lending authority may, if it is the disciplinary authority, pass such orders therein as it may deem necessary or if it is not the disciplinary authority, submit the case to the disciplinary authority which shall pass such orders on the case as it may deem necessary

Provided that, before passing any order, the disciplinary authority shall comply with the provisions of sub-rules (3) and (4) of rule 9 of these rules.

(3) The orders under clause (ii) of sub-rule (2) of this rule may be passed by the disciplinary authority either on the basis of the record of the inquiry transmitted to it by the borrowing authority or after holding such further inquiry as it may deem necessary, as far as may be in accordance with the provisions of rule 8 of these rules.

15. Provision regarding Officers borrowed from any Government in India, local authority etc

(1) Where an order of suspension is made or a disciplinary proceeding is conducted against a Government servant whose services have been borrowed by one department of Government from another department of Government or from any Government in India or from any authority, subordinate thereto or from a local or other authority, (including a company or corporation owned or controlled by Government) the authority lending his services (hereinafter in this rule referred to as "the lending authority") shall forthwith be informed of the circumstances leading to

the order of the suspension of the Government servant or of the commencement of the disciplinary proceeding, as the case may be.

(2) In the light of the findings in the disciplinary proceeding conducted against the Government servant-

(i) if the disciplinary authority is of the opinion that any of the minor penalties should be imposed on him, it may, subject to the provisions of sub-rule (3) of rule 9 of these rules after consultation with the lending authority, pass such orders on the case as it may deem necessary.

Provided that, in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the Government servant shall be replaced at the disposal of the lending authority;

(ii) if the disciplinary authority is of the opinion that any of the major penalties should be imposed on the Government servant, it shall replace the services of such Government servant at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it may deem necessary.

PART V – APPEALS

16. Orders against which no appeal lies

Notwithstanding anything contained in this part, no appeal shall lie(s) against -

- (i) any order made by the Governor;
- (ii) any order of an interlocutory nature or of the nature of a step- in-aid or the final disposal of a disciplinary proceeding, other than an order of suspension;
- (iii) any other order passed by an inquiring authority in the course of an inquiry under rule 8 of these rules.

17. Orders against which appeal lies

Subject to the provisions of rule 16, a Government servant may prefer an appeal against all or any of the following orders, namely :-

- (i) an order of suspension made or deemed to have been made under rule 4 of these rules;
- (ii) an order imposing any of the penalties specified in rule 5 of these rules, whether made by the disciplinary authority or by any appellate or reviewing authority;
- (iii) an order enhancing any penalty, imposed under rule 5 of these rules;

(iv) an order which-

- a) denies or varies to his disadvantages his pay allowances, pension or other

- conditions of. service as regulated by rules or by agreement; or
- (b) denies promotion to which he is otherwise eligible according to the recruitment rule and which is due to him according to his seniority;
 - (c) interprets to his disadvantage the provisions of any such rule or agreement;
- (v) an order
- (a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar;
 - (b) reverting him while officiating in a higher Service, "grade or post to a lower Service, grade 'or post, otherwise 'than as a penalty;
 - (c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules governing pension;
 - (d) determining the subsistence and the other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;
 - (e) determining his pay and allowances
 - (i) for the period of suspension, or
 - (ii) for the period from the date of his dismissal, removal, or compulsory retirement from service, or from the date of his reduction to a lower Service, grade, post, time-scale or stage in a time-scale of pay, to the date of his reinstatement or restoration to his Service, grade or post, or
 - (f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower Service, grade, post, time- scale of pay or stage in a time-scale of pay to the date of his re-instatement or restoration to his Service, grade or post shall be treated as a period spent on duty for any purpose.

Explanation- In this rule,

- (i) the expression "Government Servant" includes a person who has ceased to be in Government service.
- (ii) the expression "Pension includes additional pension, gratuity and any other retirement benefits.

18. Appellate authorities

(1) Subject to the provisions of any law for the time being in force,

* (i) a member of class I or class II services ******[Group A] or *******[Group B] service, ********[including a person who belonged to any of these classes immediately before he ceased to be in service], may appeal to

a) Government against the orders passed by the authorities subordinate to Government, imposing penalties on him or

b) The Governor, against the orders passed by the Government or any authority not subordinate to Government imposing penalties on him.

(ii) a member of class III or Class IV Service (including a person who belonged to any of those classes immediately before he ceased to be in Service), may appeal to the immediate superior of the Officer imposing a penalty upon him under rule 5 of these rules; ******and no further appeal shall be admissible to him.]

+ [Provided that - - - - -]

(2) Notwithstanding anything contained in sub-rule (1) of this rule-

(i) an appeal against an order in a common proceeding held under rule 12 of these rules shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate:

++ [Provided that where such authority is subordinate to the Governor in respect of a Government servant for whom Governor is the appellate authority in terms of clause (i) of sub-rule (1), the appeal shall lie to the Governor.]

(ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

*** The clause (i) in sub- rule (1) substituted vide notification NO. CDR.1199/CR-16/99/XI/dated 18- 04- 2001**

**** Substituted by G.N. G.A.D., CDR.1008/C.R. 17/08/11 dated 18th July 2008 for "class I"**

***** Substituted , ibid, for "class II"**

****** "Group A or Group B service was deleted by G.N., G.A.D., No., VASHIA-1213/C.R. 43/11 dated 16th July 2016* The text in bracketed words in clause (ii) of sub- rule (1) inserted by Notification No. CDR.1188/1582/CR-38-88/XI, dated 12-10-1990**

+ Proviso deleted by Notification No. CDR, 1188/1582/CR-38-88/XI, dated 12-10-1990.

+ + Proviso inserted by Notification, No. CDR. 1188/1582/CR-38-88/XI, dated 12.10.1990.

19. Period of limitation for appeals

No appeal preferred under this Part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellant:

Provided that, the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

20. Mode, form and contents of appeal

(1) Every person preferring an appeal shall do so separately and in his own name and shall address it to the authority to which the appeal lies.

(2) The appeal shall be complete in itself-and shall contain all material statements and arguments on which the appellant relies, but shall not contain any disrespectful or improper language.

21. Submission of appeals

(1) Every appeal shall be submitted to the authority which made the order appealed against:
Provided that:

- (a) where such authority is not the Head of the Office in which the appellant may be serving, or
- (b) where the appellant has ceased to be in service and such authority was not the Head of the Office in which the appellant was serving immediately before he ceased to be in Service or
- (c) where such authority is not subordinate to any Head of Office referred to in clause (a) or (b) the appeal shall be submitted to the Head of Office referred to in clause (a) or (b) of this sub- rule accordingly, as the appellant is or is not in service;

22. Transmission of appeals

- (1) The authority which made the order appealed against shall, on receipt of copy of the appeal, without any avoidable delay, and without waiting for any direction from the appellate authority, transmit to the appellate authority every appeal together with its comments thereon and the relevant records.

23. Consideration of appeal

- (1) In the case of appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 4 of these rules and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order, accordingly.
- (2) In the case of an appeal against an order imposing any of the penalties specified in rule 5 of these rules or enhancing any penalty imposed under that rule, the appellate authority shall consider-
 - (a) whether the procedure laid down in these rules has been followed, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
 - (b) whether the findings of the disciplinary authority are warranted by the evidence of the record; and
 - (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate, or severe; and pass orders-
 - (i) confirming, enhancing, reducing, or setting aside the penalty; or
 - (ii) remitting the case to the authority which had passed the order appealed against, with such directions as it may deem fit in the circumstances the case:

(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;

(ii) the Commission shall be consulted in all cases where such consultation is necessary;

*(iii) [if the enhanced penalty which the appellate authority proposes to impose is one of the major penalties and an inquiry under rule 8 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 13, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 8, and thereafter, on a consideration of the proceedings of such inquiry, make such orders as it may deem fit;]

(iv) If the enhanced penalty which the appellate authority proposes to impose is one of the major penalties and an inquiry under rule 8 of these rules has already been held in the case, the appellate authority shall * * [give to the Government servant a notice stating the enhanced penalty proposed to be imposed on him and calling upon him to submit within 15 days of receipt of notice or such further time not exceeding 15 days, as may be allowed, such representation as he may wish to make on the enhanced penalty] make such orders as it may deem fit; and

+ (V) [no order imposing an enhance penalty shall be made in any other case unless the appellate has been served with a notice stating the enhance penalty proposed to be imposed on him and calling upon him to submit within 15 days of receipt of the notice or such further time not exceeding 15 days, as may be allowed, such representation as he may wish to make on the proposed enhanced penalty].

(3) In an appeal against any other order specified in rule 17 of these rules, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

*** This proviso (iii) is substituted for earlier proviso (iii) by Notification No. CDR. 1188/1582/ CR-38-88/XI, dated 12.10.1990.**

**** The words in the bracket in clause (iv) of sub- rule (2) deleted by notification CDR.1188/1582/CR-38-88/XI,dated 12.10.1990.**

+ The entire clause (v) deleted by Notification No. CDR.1188/1582/CR-38-88/XI,dated 12.10.1990.

24. Implementation of orders in appeal

The authority, which made the order appealed against, shall give effect to the orders passed by the appellate authority.

PART VI - * [REVISION AND REVIEW]

25. *[Revision]

- (1) Notwithstanding anything contained in these rules, the Governor or any authority subordinate to him to which an appeal against an order imposing any of the penalties specified in rule 5 of these rules lies may, at any time, either on his or its own motion or otherwise call for the records of an inquiry and *[revise] any order made under these rules or under the rules repealed by rule 29 of these rules from which an appeal lies but against which no appeal has been preferred or orders against which no appeal lies, after consultation with the Commission where such consultation is necessary, and may -
- (a) confirm, modify or set aside the order; or
 - (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
 - (c) remit, the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or
 - (d) pass such other orders as it may deem fit

*** The heading of Part IV "REVIEW" substituted by the heading "REVISION AND REVIEW", in the marginal note the words "Review" is substituted by the word "Revision" and in sub-rule (1) the words "review" substituted by**

the words "revise" by the Notification No. CDR. 1184/1380/27/XI, dated 15.11.1985.

Provided that, no order imposing or enhancing any penalty shall be made by any ** [revising authority], unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed, and where it is proposed to impose any of the major penalties or to enhance the penalty imposed by order sought ** [to be revised] to any of the major penalties, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 8 of these rules + [and after giving a reasonable opportunity to the Government servant concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry and trial] except after consultation with the Commission where such consultation is necessary:

Provided further that, no ** [power of revision] shall be exercised by the authority to which an appeal against an order imposing any of the penalties specified in rule 5 of these rules, lies unless --- -

- (i) the authority which made the order in appeal, or
- (ii) the authority to which an appeal would lie, where no appeal has been preferred is subordinate to it.

(2) No proceeding for [revision] shall be commenced until after

- (i) the expiry of the period of limitation for an appeal,
- (ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for ** [revision] shall be dealt with in the same manner as if it were an appeal under these rules, except that the period of limitation for its consideration shall be six months commencing from the date on which a copy of the order under * [revision] is delivered to the applicant -

**** The words "reviewing authority" substituted by the words "revising authority", the words "to be reviewed" substituted by the words "to be revised", the words "power of review" substituted by the words "power of revision" And the word "review" substituted by the words "revision" by Notification No. COR. 1184/1380/27/XI, dated 15.11.1985.**

+ The words shown in the bracket deleted by Notification No. CDR. 1188/1582/CR-38-88./XI, dated 12-10-1990.

- **25A. Review**

The Governor may, at any time, either on his own motion or otherwise, review any order passed under these rules, when any new material or evidence which could not be produced or was not available at the time of the order under review and which has the effect of changing the nature of the case, has come or has been brought, to his notice:

Provided that, no order imposing or enhancing any penalty shall be made by the Governor unless the Government servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed, or where it is proposed to impose any of the major penalties specified in rule 5 or to enhance the minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an inquiry under rule 8 has not already been held in the case, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 8, subject to the provision of rule 13, and except after consultation with the Commission where such consultation is necessary.

*** This rule is inserted by Notification NO. CDR 1184/I380/27/XI, dated 15.11.1985.**

PART VII - MISCELLANEOUS

26. Service of orders, notices, etc

Every order, notice and other process made or issued under these rules shall be served in person on the Government servant concerned or communicated to him by registered post.

27. Power to relax 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 is sufficient cause is shown, extend the time specified in these rules for any thing required to be done under these rules or condone any delay.

28. Supply of copy of Commission's advice

Whenever the Commission is consulted as provided in these rules, a copy of the advice by the Commission and where such advice has not been accepted, also a brief statement of the reasons for such non- acceptance, shall be furnished to the Government servant concerned along with a copy of the order passed in the case by authority making the order.

29. Repeal and saving

(1) On the commencement of these rules, the following rules, that is to say -

(i) the Bombay Civil Services Conduct, Discipline and Appeal Rules in so far as they relate to matters provided by these rules;

(ii) the rules made under rule 54 of the Civil Services (Classification Control and Appeal) Rules as applicable to non-gazetted servants of the Government of Maharashtra who were allocated to that Government from the pre-Reorganisation State of Madhya Pradesh,

(iii) the Civil Services (Classification, Control and Appeal) Rules as applicable to gazetted servants other than those to whom the Hyderabad Civil Services (Classification, Control and Appeal) Rules are applicable;

(iv) the Hyderabad Civil Services (Classification, Control and Appeal) Rules applicable to the servants of the Government of Maharashtra who were allocated to that Government from the pre- Reorganisation State of Hyderabad; and any rules corresponding to the rules referred to in clauses (i), (ii). (iii) and (iv) and in force immediately before the commencement of these rules and applicable to Government servants to whom these rules apply are hereby repealed :-

Provided that -

(a) such repeal shall not affect the previous operation of any notifications or orders made, or anything done, or any action taken under the rules so repealed;

(b) any proceedings under the rule so repealed which were pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules, as if such proceedings were proceedings under these rules.

(2) Nothing in these rules shall be construed as depriving any person to whom these rules apply of any right of appeal which had accrued to him under the rules, notifications or orders in force before the commencement of these rules.

(3) An appeal pending at the commencement of these rules against an order made before such commencement shall be considered and orders thereon shall be made, in accordance with these rules, as if such orders were made under these rules.

(4) As from the commencement of these rules any appeal or application for review against any order made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules:

Provided that nothing in these rules shall be construed as reducing any period of limitation for any appeal or review provided by any rule in force before the commencement of these rules.

30. Removal of doubt

Where a doubt arises as to whether any authority is subordinate to, or higher than, any other authority or as to the interpretation of any of the provisions of these rules, the matter shall be referred to Government whose decision thereon shall be final.

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+Appendix deleted by G.N., G.A.D., No., VASHIA- 1213/C.R.43/11 dated 16TH July 2016.

