



HARYANA GOVERNMENT

LAW AND LEGISLATIVE DEPARTMENT

GUIDELINES REGARDING PROCEDURE

IN

DISCIPLINARY CASES

TENTH EDITION

120

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PREFACE TO TENTH EDITION

Guidelines regarding procedure in disciplinary cases, prescribed by the Government under relevant laws and statutory rules are required to be followed in letter and spirit by the implementing officers and agencies. But it has been observed that while dealing with cases of employees, some officers do not adhere to these prescribed guidelines culminating into huge litigation. Therefore, in majority of cases the orders passed in disciplinary cases against the Government employees are challenged in the Court of Law and such orders of the Government are quashed for non compliance of prescribed procedure. Therefore, it results in loss of considerable time and funds due to litigations. Such unhealthy lapses also make a dent in the authority of the Government thus bringing ill name to its functionaries as well as the Government. Such unpleasant situations can be avoided by strictly following the prescribed guidelines. The fair decisions can set precedents for future decisions and would also ensure fair justice, save time and funds and prevent employees from harassment. Keeping in view the above object in mind, these guidelines have been revised from time to time so as to ensure quick redressal of the grievances of the employees.

It is earnestly hoped that this publication which is a sort of ready referencer on the subject will be found extremely useful. Suggestions for improvements, if any, are welcome.

Dated Chandigarh,
The 21st May, 2009

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PENALTIES AND PROCEDURE IN DEPARTMENTAL ENQUIRIES

1. (1) Penalties which can be imposed under the rules.

According to rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, the following penalties enumerated therein can be for good and sufficient reasons imposed upon the members of the Service to whom the said rules are applicable.

1. (2) Penalties provided in rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Minor Penalties

- (i) warning with a copy in the personal file (character roll);
- (ii) censure;
- (iii) withholding of promotion;
- (iv) recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders, to the Central Government or a State Government or to a Company and association or a body of individuals whether incorporated or not, which is wholly or substantially owned or controlled by the Government or to a local authority or University set up by an Act of Parliament or of the legislature of a State; and
- ¹[(v) withholding of increments of pay without cumulative effect].

Major Penalties

- ²[(v-a) withholding of increments of pay with cumulative effect].
- (vi) 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 employee 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;
- (vii) reduction to a lower scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service;
- (viii) compulsory retirement;
- (ix) removal from service which shall not be a disqualification for future employment under the Government;

1 Substituted by G.S.R. 77/const/Art./187, 309 and 318/92 dated 19-11-92.

2 Inserted by G.S.R. 77/const/Art./187, 309 and 318/92 dated 19-11-92.

- (x) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Explanation: The following shall not amount to a penalty within the meaning of this rule, namely: —

- (i) withholding of increments of pay of a Government employee for his failure to pass any departmental 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 employee 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 employee, 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;
- (iv) reversion of a Government employee 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 on any administrative ground unconnected with his conduct;
- (v) reversion of a Government employee 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 order governing such probation;
- (vi) compulsory retirement of a Government employee in accordance with the provisions relating to his superannuation or retirement;
- (vii) termination of the service—
 - (a) of a Government employee appointed on probation, during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probations; or
 - (b) of a temporary Government employee appointed otherwise than under contract, on the expiration of the period of the appointment, or on the abolition of the post or before the due time in accordance with the terms of appointment; or
 - (c) of a Government employee employed under an agreement in accordance with the terms of such agreement.

Notes. — (1) Punishing authorities have full discretion to publish in the *Haryana Government Gazette* reasons for dismissal where such publication is considered desirable in the public interest.

(2) In order to guard against the inadvertent re-employment of persons dismissed from Government service, the authority passing an order of dismissal shall intimate to the Deputy Inspector General, Police, Haryana, Criminal Investigation Department, Deputy Commissioner, and the Superintendent of Police of the district of which the person concerned is a permanent resident, the name of such a person and any other particulars required for purposes of identification, unless the dismissal has been notified in the *Haryana*

Government Gazette. Similarly, if a person happens to be a resident of another State the aforesaid officers of that State should be informed accordingly.

(3) The provisions of this rule shall not be construed to derogate from the provisions of section 36 of the Punjab Courts Act, 1918, the Payment of Wages Act, 1936, or any other law authorizing the imposing of fines on the ministerial establishment governed by these laws and the authority competent to award the punishment of the fine may do so in addition to the punishments aforesaid.

(4) The discharge of a person appointed to hold a temporary appointment, otherwise than in accordance with the provisions of the Explanation (vii) (b) amounts to removal or dismissal and is, therefore, appealable under these rules.

(5) The distinction between censure, the withholding of promotion and non-selection to a selection post, is of considerable importance. Both censure and the withholding of promotion are appealable under these rules. On the other hand non-selection for a selection post is not appealable.

If a Government employee because of unsatisfactory record and unfavourable confidential reports, is not selected for a selection post and some other government employee junior to him is selected in preference, this does not amount to the withholding of promotion. If any inquiry is held against a government employee and an order of censure is passed on him, it is open to him to appeal; if he does not appeal or his appeal is rejected, and if subsequently because of the existence of this censure in his record, he is not selected for a selection post, and some other government employee junior to him is selected in preference, this also does not amount to the withholding of promotion. If however, an enquiry is held against a government employee, and an order is passed that he should not be promoted to a selection post for a definite period or until he has obtained good reports, this order would amount to the infliction of the penalty of withholding promotion. This distinction between non-selection for a selection post and the withholding of a promotion may be summed up as being, that in the former case the government employee in question is considered for selection but some other government employee is preferred on his merits, while in the later case the government employee in question has been declared before hand, as a disciplinary measure, to be ineligible for selection, irrespective of the merits of the other government employees available.

(6) (i) While reduction of seniority as an independent penalty is not provided for in rule 4, and cannot be imposed as such, the loss of seniority as a result of an order of reduction to a lower post or time-scale being inherent in the order of reduction cannot be avoided.

(ii) The seniority or re-promotion of a government employee reduced to a lower post or time scale, should be determined by the date of such repromotion in accordance with the orders issued by the competent authority on the subject of seniority. Such government employee should not be restored to his original position unless this is specifically laid down at the time punishment is passed, or is revised on appeal.

(7) Unauthorised desertion of his post by a public servant in the face of enemy action, or threat of enemy action clearly amounts to grave misconduct and would therefore, constitute a good and sufficient reason within the meaning of rule 4, for removal or dismissal in addition to any penalty provided in the Haryana Essential Services (Maintenance) Act, 1974. Loss of pension would then follow automatically by virtue of the provisions of rule 2.5 of the Punjab Civil Services Rules, Volume II, and it would also

be possible to forfeit the Government contribution, if any, to the individuals provident fund.

2. Preliminary enquiry (General)

- (a) It is not obligatory in every case to hold a preliminary enquiry or what is known as fact-finding enquiry. However, when a complaint is received against a Government employee or otherwise some act of commission or omission on the part of the Government employee comes to the notice of the appropriate authority, it may be desirable to know as to how far the imputations or allegations levelled against the employee concerned have some substance and warrant initiation of disciplinary action against him. With this end in view, a preliminary enquiry may be conducted. The sole purpose of preliminary enquiry is to decide whether or not there is a *prima facie* case against the employee for proceeding against him.
- (b) This object can be achieved by holding a preliminary enquiry in different ways. It may be done by asking for the explanation of the employee concerned or by holding an enquiry through a departmental officer or by referring the matter for enquiry to some other agency such as Vigilance Department or C.I.D.
- (c) There is no element of punitive proceedings in a preliminary enquiry and as such it does not attract the provisions of article 311 of the Constitution of India. It should not, therefore, be mistaken for a regular departmental enquiry. The Government employee has no right to be associated with this preliminary enquiry. However, there is no bar against questioning the Government employee for the purpose of clarification and even oral evidence can be recorded at this stage at his instance or otherwise. It would be found useful to associate the complainant, if any, with the enquiry as the latter may be able to give information in support of the accusations. A brief record of the proceedings should be prepared in writing. The enquiry should conclude into a report which should contain the findings as to whether there seems to be some substance in all or some of the allegations and to what extent, a particular Government employee is responsible.
- (d) The circumstances in which a preliminary enquiry should be held cannot be exhaustively enumerated. However, to illustrate the point, it may be said that in the following cases such an enquiry can be held with advantage: —
 - (i) Where it is not immediately known as to who was responsible for a particular loss.
 - (ii) Where it is considered desirable before initiating departmental proceedings to have *prima facie* evidence against the Government official concerned.
 - (iii) Where the allegations are vague or indefinite and it is necessary to find out all the acts of commission or omission to form the basis of the charges.

3. Action on preliminary enquiry report

The Competent Authority should examine the report and should decide whether action should be taken for imposing one of the major penalties. In the absence of specific provision in the Service Rules to the contrary, the Competent Authority means the

Punishing Authority. If it is so decided then an enquiry into the allegations against the employee should be held, keeping in view the provisions of article 311(2) and rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, which are given in Appendices 'A' and 'B' respectively.

The Haryana Civil Services (Safeguarding of National Security) Rules, 1971 are produced in Appendix B after the Haryana Civil Services (Punishment & Appeal) Rules, 1987 for ready reference in the context of Note (2) under sub-rule (5) of rule 7 thereof.

4. (1) Issue of Statement of charges and allegations

The grounds on which it is proposed to initiate formal departmental proceedings should be reduced to the form of definite charge or charges. The charges should not be vague and should be expressed in a language that is clearly understandable. These should give full details of the incident. The charges should be communicated in writing to the delinquent together with statement of allegations on which each charge is based. The delinquent should be required to submit, in writing, his explanation, if any, within a reasonable time (say fifteen days) and to state whether he desires to be heard in person. For the purpose of preparation of his explanation, he should also be permitted to inspect documents relevant to the enquiry and to take extracts therefrom provided that such permission may be refused in respect of a document if the Punishing Authority for special reasons considers it against the public interest to allow access thereto. The charge-sheet and the statement of allegations should be sent to the delinquent along with the forwarding memorandum, the model form of which is given in Appendix 'C'.

4. (2) Requisite of a valid charge

The charge should be based either on breach of the Government Employees (Conduct) Rules, 1966*, or on "good and sufficient reason" such as incompetence, inefficiency and insubordination, infidelity, neglect of duty, absence from duty, conduct unbecoming of an officer, malfeasance, misfeasance, exercise of usually bad judgement, disloyalty, derogatory remarks against a superior or other employees, absence without leave, soliciting bribes, false statements made in the course of employment, failure to report when ordered to do so, unprofessional conduct, uncooperativeness, fraud in examination and the like. What is good and sufficient reason, is, of course for the competent authority to decide.

4. (3) Facilities for copies of records and statements

- (a) The Government employee may like to inspect or require copies of the documents for submitting his explanation to the charge sheet. Competent Authority is not bound to supply copies of documents where the Government employee has been granted permission to inspect and take extracts from documents. He should be permitted to inspect and take extracts from such official records as he may specify. The competent authority may refuse to allow inspection of such records or the taking of such extracts as are not relevant for the purpose of enquiry or are not to be used against him. Privilege can also be claimed in respect of certain documents. The main purpose of this is to apprise the Government employee regarding the material which is being used against him in the enquiry and thus to afford him reasonable opportunity to defend himself.

* These rules have been published in the Punjab Government Gazette dated 8th July, 1966 vide No. G.S.R. 143/Const./Arts. 309 and 318/66 dated the 5th July, 1966, Appendix 'D'.

- (b) The Government employee cannot make a blank demand for copies of "all statements recorded during the preliminary enquiry". He is called upon to discredit only those witnesses who are to be examined in the departmental enquiry and can ask for copies of their statements only.
- (c) Though the Evidence Act does not apply to these enquiries, its principles apply to them. The Government employee involved in the departmental proceedings usually asks for copies of or access to—
 - (i) documents to which reference has been made in the statement of allegations;
 - (ii) documents and records not so referred to in the statement of allegations but which the Government employee considers relevant for purpose of his defence;
 - (iii) statements of witnesses recorded in the course of —
 - (a) a preliminary enquiry conducted by the department; or
 - (b) an investigation made by the police;
 - (iv) reports submitted to the Government or other competent authority (including the disciplinary authority) by an officer appointed to hold a preliminary enquiry to ascertain facts;
 - (v) reports submitted to the Government or other competent authority (including the disciplinary authority) by the police after investigation;
- (d) Doubts often arise regarding documents at (iv) and (v) above. Reports made after preliminary enquiry or investigation are usually confidential and the Government employee has no right to have access to them. It is, therefore, necessary to avoid strictly any reference to such reports in the statement of allegations.

4. **(4) Reply of the delinquent and its examination**

- (a) The delinquent official has to submit his written reply within the time specified, unless it is extended by the Competent Authority. It is not incumbent on the Competent Authority to wait indefinitely for the reply or to give extension of time whenever requested. It is open to such authority to proceed to hold the enquiry in the absence of any reply.
- (b) In the reply the official is expected to meet the various allegations on the basis of which the charges had been framed and to give his own version. If he admits the charges and asks for mercy, there is an end of the matter and no enquiry need to be held. If the Punishing Authority decides not to award any penalty, the proceedings should be dropped. If, however, it decides to the contrary, it would be necessary to give the delinquent a second show cause notice in order to afford him an opportunity to urge against the proposed penalty. No second show cause notice of the proposed penalty is however required to be served under rule 7(6) of Haryana Civil Services (Punishment & Appeal) Rules, 1987 after its amendment vide notification dated 6-7-07.

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- (c) The explanation of the Government employee to the charge-sheet should be scrutinized with the utmost care. Rule 7(2) (e) of Haryana Civil Services (Punishment & Appeal) Rules, 1987, lays down that in case the competent authority is satisfied with the explanation given by the charged person, it may drop the charge-sheet without resorting to the procedure of conducting enquiry. Similarly if the competent authority, after considering the reply of the charged person, is of the opinion that awarding of minor punishment shall meet the end of justice, then the authority competent may award minor punishment without following the procedure of conducting the enquiry. If the Punishing Authority after considering the explanation of the Government employee to the charge sheet, however, decides that he deserves the imposition of a major penalty then an enquiry officer should be appointed to hold a regular departmental enquiry in respect of charges which are not admitted and in respect of which a satisfactory explanation is not forthcoming.
- (d) After the receipt of the reply to the charge-sheet, the delinquent should be personally heard if he has so requested. This should be done before it is decided to hold a regular departmental enquiry.

5. (1) **Appointment of Enquiry Officer and the procedure to be followed—**

- (a) The punishing authority may himself conduct the enquiry in which case all the principles applicable to the enquiry officer as a tribunal, will apply to it or, as is often the case, it may appoint another officer to enquire into the charge. Care should be taken in selecting the enquiry officer so as to avoid any genuine suspicion of bias. The enquiry officer must be an impartial officer. The appointment of an enquiry officer shall be made under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. A model form for appointment of enquiry officer is given in Appendix 'E'. The punishing authority can, however, appoint a new enquiry officer in case the first enquiry officer becomes unable to discharge his duties and in the event of his retirement from service or death etc.
- (b) The punishing authority should supply to the enquiry officer a copy of the charge-sheet and the explanation of the Government employee. The relevant record should be placed by the departmental representative before the enquiry officer during the course of enquiry in the presence of the delinquent. The enquiry officer should act independently without any interference or instructions or pressure from any quarter.
- (c) Due notice of the time, date and place of enquiry should be given by the enquiry officer to the delinquent. This notice should be communicated at least a week before the date fixed for the enquiry. It should be made clear in the notice that if the delinquent does not attend at the time and place mentioned in the notice, the enquiry would be held *ex parte*. If the delinquent avoids service, or is not available for service of notice, or refuses to accept service, then a copy of the notice should be affixed at his permanent address and at his last known address and a notice at both the addresses should also be sent by Registered post A.D. The enquiry officer should, however, satisfy himself that service in the above manner has been affected and an order in writing should be made to that effect.

If the delinquent does not appear at the time of the enquiry and due notice has been given as indicated above, the enquiry may be held *ex parte*. If for any reason the service of the notice is not affected about a week before the date of enquiry it would be expedient to adjourn the enquiry, if the delinquent makes a request in that behalf.

Rule 7(2) (c) of the Haryana Civil Services (Punishment & Appeal) Rules, 1987, lays down that the Inquiry Officer appointed to conduct enquiry shall issue maximum two notices to the charged person to appear before him for presenting his/her case. In case charged persons do not appear after the communication of two notices, the Inquiry Officer shall be competent to proceed *ex-parte* in the matter. However, after considering the circumstances to be recorded, the Inquiry Officer may issue third notice also.

(d) It would, however, be the discretion of the enquiry officer to adjourn the enquiry if he deems it proper for any sufficient reason. If the enquiry officer declines to adjourn the enquiry at the request of the delinquent, he should pass an order stating briefly the reasons therefor.

5. (2) Official conducting the prosecution

The punishing authority may nominate any person as Presenting officer to present the case in support of the charges before the enquiry officer.

5. (3) Legal Assistance for defence

No person in the service of the Government who is called upon to produce his defence to the charges against him shall be allowed to engage a counsel; provided that if the charge or charges are likely to result in his dismissal, the Government employee may, with the permission of the enquiry officer be represented by a counsel. If a counsel is engaged on behalf of the department, the Government employee shall be entitled to engage a counsel.

5. (4) Attendance and examination of witnesses

Under the Punjab Departmental Enquiries (Powers) Act, 1955, an officer conducting an enquiry has the power of summoning witnesses. The processes to be issued for causing attendance of witnesses in all these enquiries may as nearly as practicable be in the form prescribed for a summon under the Code of Criminal Procedure.

5. (5) (a) The Punjab Departmental Enquiries (Powers) Act, 1955

"1. (1) This Act may be called the Punjab Departmental Enquiries Powers Act, 1955.

(2) It shall extend to the whole of the State of ¹[Haryana].

(3) It shall come into force at once ²[in the principal territories and on the 30th May, 1960, in the transferred territories.]

2. For the purposes of an enquiry under the Punjab Civil Services (Punishment and Appeal) Rules ³[or the Punjab Police Rules] ⁴[or the Punjab Tehsildars Rules, 1932]

1. Substituted for the word "Punjab" by the Haryana Adaptation of Laws (State and Concurrent subjects) Order, 1968.

2. Added by the Haryana Adaptation of Laws (State and Concurrent subjects) Order, 1968.

3. Inserted vide Punjab Act 17 of 1958.

4. Added by Haryana Act 4 of 1968.

for the time being in force, the officer conducting such an enquiry shall be competent to exercise the same powers for the summoning of witnesses, and for compelling the production of documents as are exercisable by a commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act XXXVII of 1850), and all persons disobeying any process issued by such officer in this behalf shall be liable to the same penalties as if the same had issued from a Court."

(b) Sections 8 and 9 of the Public Servants (Inquiries) Act, 1850, lays down the powers which are exercisable by a commission and for facility of reference, these sections are reproduced below: —

5. (6) Sections 8 and 9 of the Public Servants (Inquiries) Act, 1850

Section 8. Powers of Commissioners, their protection, service of their process. Powers of court etc., acting under Commission. —

The Commissioners shall have the same powers of punishing contempts and obstructions to their proceedings, as is given to Civil and Criminal Courts by the Code of Criminal Procedure, 1898 and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duties under the Commission, and shall be entitled to the same protection as the Zila and City Judges, except that all process to cause the attendance of witnesses or other compulsory process, shall be served through and executed by the Zila or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of judicature thereto. When the commission has been issued to a court or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such powers for the purposes of the commission.

Section 9. Penalty for disobedience to process —

All persons, disobeying any lawful process issued as aforesaid for the purposes of the commission shall be liable to the same penalties as if the same had been issued originally from the Court or other authority through whom it is executed."

5. (7) Comments on para 5

(a) The enquiry officer should ensure that during the enquiry full opportunity is given to the delinquent to inspect the relevant record, to cross examine the witnesses and to lead his defence. The enquiry officer should take oral evidence as may be relevant or material in regard to the charges, if the enquiry officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing. The record of the enquiry proceedings including the statements of the witnesses in support of the charges and of the witnesses produced by the delinquent in his defence, his own statement and other relevant material brought on record should be signed by the enquiry officer. It will be appropriate for the enquiry officer to sign every page of the record.

(b) It is settled law that in the departmental proceedings provisions of the Evidence Act are not strictly applicable as the officers holding such enquiries are not

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expected to act like trained lawyers or judges. The right allowed to a delinquent to cross-examine a witness, who has given evidence against him, is a safeguard which is implicit in affording a reasonable opportunity as envisaged by article 311(2). There are indeed no forms of cross-examination, other than those provided under the Evidence Act. It follows therefore, that the cross-examination in departmental proceedings should as far as possible conform to the accepted principles of cross-examination under the Evidence Act. The enquiry officer can also disallow unnecessary cross-examination. The Government employees cannot insist that he should be allowed to cross-examine only after all the witnesses have been examined.

- (c) The Government employee must have an adequate opportunity of producing his own witnesses and documentary evidence in his defence. He is entitled to ask the enquiry officer to summon the witnesses. The enquiry officer has powers to do so under the Punjab Departmental Enquiries (Powers) Act, 1955. The enquiry officer may disallow the production or summoning of irrelevant evidence. If the delinquent does not desire to produce any witness or documentary evidence, the statement of the delinquent should be recorded to that effect and if he refuses to give such a statement, a note should be given accordingly.

Rule 7(2) (d) of the Haryana Civil Services (Punishment & Appeal) Rules, 1987, as amended vide Notification No. G.S.R. 20/Const./Art.309, 187 and 318/2007 dated 6th July, 2007, refers to the Punjab Departmental Enquiries (powers) Act, 1955 (Punjab Act 3 of 1955) as per which the officer conducting enquiry under these rules shall be competent to exercise the same powers for summoning of witnesses and for compelling the production of documents as are exercisable by a Commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act 37 of 1850).

6. Report and Findings

- (a) After the close of the enquiry, the enquiry officer should prepare his report which should *inter-alia* indicate the following:—
- (i) the statement of charges and the allegations framed against the Government employee;
 - (ii) his explanation, if any;
 - (iii) the oral and documentary evidence produced in support of the charges;
 - (iv) the oral and documentary evidence led in defence;
 - (v) findings on the charges.
- (b) The enquiry officer should give clear findings on each of the charges so that the Government employee should know from the findings on what ground he has been found guilty. Each finding must be supported by evidence and reason. The findings are in the nature of a report to the competent authority empowered to pass final orders. Such findings are to assist but do not bind the competent authority, who alone has to come to a final decision. Moreover, the enquiry officer should not in any case recommend or propose any penalty.

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- (c) When the competent authority gives a finding on any of the charges contrary to the finding of the enquiry officer, he will give detailed reasons thereof. However, in cases of the agreement with the findings of the enquiry officer, no separate reasons need be recorded unless he wishes to support the findings of the enquiry officer by supplementary reasons available from the record of the enquiry. While concurring with the findings of the enquiry officer, no reasons need be recorded by the punishing authority but still his order should show that he has applied his mind to the matter. It is the punishing authority who must be satisfied that the charges against the delinquent are proved and then he must tentatively decide about the penalty to be inflicted on the Government employee. It is only thereafter that the second show cause notice should be issued. However, no second show cause notice of the proposed penalty is required to be served under rule 7(6) of Haryana Civil Services (Punishment & Appeal) Rules, 1987, after its amendment vide notification dated 6-7-07.
- (d) When the report of the enquiry officer is received, the punishing authority should pass an order after applying his own mind to the whole case and should come to his own independent conclusions un-influenced by any other person. Mere acceptance of the proposal made in the noting by the subordinates will not be sufficient and such an order will not stand the scrutiny of the court.

7. (1) Second Show cause notice.

Position before amendment dated 6-7-07 in rule 7(6) of Haryana Civil Services (Punishment & Appeal) Rules, 1987

- (a) Where the punishing authority provisionally decides that one of the major penalties i.e. dismissal, removal or reduction in rank, reduction to a lower stage in the time scale of pay or compulsory retirement should be awarded, it should proceed to give the second show cause notice mentioning therein the proposed penalty. A copy of the enquiry report should accompany the show cause notice. Moreover, where the competent authority disagrees with any findings of the enquiry officer recorded in favour of the delinquent, the notice of dissent recorded by the competent authority should also accompany the show cause notice. So also the additional reasons, if any, given by the competent authority in support of the finding arrived at by the enquiry officer, should be communicated to the delinquent. The show cause notice must be issued and signed by the competent authority who is to take action against the Government employee. The Government employee should be given a reasonable time (say fifteen days) to submit his reply. A model form show cause notice is given in Appendix 'F'.

Article 311 of the Constitution as it stood before the Constitution (42nd Amendment) of 1976, made it obligatory for the competent authority to issue a second show cause notice to a delinquent Government servant before inflicting a major punishment upon him. This obligation of second show cause notice stands dispensed with under proviso to Article 311(2) which was added by 42nd Amendment of 1976. The result is that at present there is no constitutional obligation for the competent authority to issue second show cause notice to a delinquent Government employee before inflicting a major punishment upon him.

The second show cause notice, if issued, inspite of the amendment in Article 311 will not vitiate the departmental proceedings. Should any law or rule having the force of law makes it incumbent upon the competent authority to issue a second show cause notice before awarding a major punishment, the same will not be illegal or unconstitutional. Rule 7(6) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, makes it obligatory for the competent authority to give a second show cause notice. These rules are statutory and have the force of law. Sub-rule (6) of rule 7 cannot be stamped as unconstitutional. It is, therefore, opined that so long as sub-rule (6) of rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 stands and is not abrogated, it will be obligatory for the competent authority to give a second show cause notice to delinquent Government servant before awarding a major punishment irrespective of the change made in Article 311 of the Constitution by 42nd Amendment of 1976.

- (b) On receipt of the reply to the show cause notice, the competent authority should examine it carefully and if he wishes to inspect any document or to examine any witness in order to dispose of the explanation effectively he has the power to do so. The delinquent has no right to adduce any oral evidence. However, if he produces any document along with the reply, the competent authority is not precluded from considering it, if it has any relevance.

Position after amendment dated 6-7-07 in rule 7(6) and Rule 7(7) of Haryana Civil Services (Punishment & Appeal) Rules, 1987

Rule 7(6) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, has been amended vide notification No. G.S.R. 20/Cost./Art.309, 187 and 318/2007 dated 6th July, 2007, to bring it in consonance with 42nd amendment of the Constitution. After the amendment, it is not obligatory for competent authority to give a second show cause notice to a delinquent Government servant before awarding a major punishment. Rule 7(6) and Rule 7(7) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, after its amendment vide notification dated 6-7-2007 read as under:—

“7(6) After the enquiry against a Government employee has been completed, the disciplinary authority shall forward or cause to be forwarded a copy of the enquiry report, and where the disciplinary authority does not agree with the enquiry report or any part thereof, the reasons for such disagreement shall be communicated alongwith the enquiry report, to the Government Employee who may submit, if he so desires, a written representation to the disciplinary authority within a period of one month from the date of such communication.

7(7) The disciplinary authority shall consider the representation, if any, submitted by the Government Employee and record its findings before proceeding further in the matter as specified in rule 4.”

7. (2) Reference to Haryana Public Service Commission/Haryana Staff Selection Commission

- (a) If the competent authority decides that the delinquent is not to be exonerated, the matter should be referred to the Public Service Commission/Haryana Staff

selection Commission as laid down in Article 320 of the Constitution of India, Regulation 6 of the Haryana Public Service Commission (Limitation of Functions) Regulations and Notification No. G.S.R. 45/Const./Art.309 Amd. 71, dated the 21st May, 1971 (Appendices 'G' and 'H').

While doing so, the Competent Authority should give its own view point regarding the establishment of the charges and the quantum of the penalty to facilitate the examination of the case by the Haryana Public Service Commission/Haryana Staff Selection Commission.

- (b) *vide* notification No. G.S.R.40/Const./Art.320/Amd/71, dated the 14th May, 1971, all disciplinary matters pertaining to non-gazetted Class III and IV Government employees which have been taken out of the purview of the Haryana Public Service Commission, should be referred to the Haryana Subordinate Services Selection Board (now Haryana Staff Selection Commission) as provided in notification No. G.S.R.45/Const./Art.309.Amd.71, dated the 21st May, 1971.

The following table shows the cases in which consultation with the Public Service Commission is necessary:—

***ORIGINAL ORDER**

Authority making the order	Penalty proposed	Whether consultation with the Commission is necessary
1	2	3
An authority subordinate to the Haryana Government	Immaterial	No
The Haryana Government	Censure Suspension for not more than one year Withholding of increment or promotion including stoppage at an efficiency-bar for not more than one year with non- continuing effect	No
The Haryana Government	Remaining minor penalties	Yes
The Haryana Government	Major penalties	Yes

* A similar table is given in the instructions issued by the Government but it is not correct in every respect

APPELLATE ORDER

Authority making the appellate order	Penalty imposed in the original order	Penalty imposed in the appellate order	Whether consultation with the Commission is necessary
1	2	3	4
Authority subordinate to Haryana Government	Immaterial	Immaterial	No
The Haryana Government	Censure		
	Suspension for not more than one year, with holding of increments or promotions including stoppage at an efficiency-bar for not more than one year with non-continuing effect.	Censure, Suspension for not more than one year, withholding of increments or promotion including stoppage at an efficiency-bar for not more than one year with non-continuing effect (whether by way of confirmation enhancement or reduction of penalty)	No
The Haryana Government	Remaining minor penalties	Remaining minor penalties	Yes
The Haryana Government	Remaining minor penalties	Major penalties	Yes
The Haryana Government	Major Penalties	Immaterial	Yes

7. (3) Consideration of the past record

A competent authority while passing a final order imposing a penalty on delinquent after the charges have been proved, some times makes a reference and take into consideration his past record in order to justify the awarding of a severe penalty. It is not permissible unless in the show cause notice, a mention of the past record calling for a severe penalty had been made. Thus where a competent authority is of the opinion that the past record of a Government employee should be taken into consideration for awarding a severe penalty, it must mention it in the show cause notice.

8. Penalty

On receipt of the advice, the competent authority should consider the whole matter including the advice of the Haryana Public Service Commission and determine the actual penalty to be imposed. After considering the whole matter it is in the discretion

the punishing authority to award any of the penalties mentioned in rule 4 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987.

9. Final Order

The order of penalty is struck down by courts many a time for not being a speaking one i.e. not supported by reasons. This is necessary as the delinquent may have to file an appeal or revision before the higher administrative authority or he may desire to invoke the writ jurisdiction of the High Court. He will not be able to decide whether to take further action in the matter unless he knows the grounds on which the impugned order was based. This is also necessary for proper disposal of an appeal or revision against the order because the appellate authority or the revisional authority should be able to find out by reading the order the grounds on which the order is based. In the reply to the representation, the delinquent may put forward some explanation or point out some defects in the enquiry causing prejudice to him. All such objections should be disposed of by the punishing authority by a process of reasoning, so that it is clear that the authority had fully applied his mind to the case. It should be possible to find out from the order the approach and mind of the punishing authority and the grounds on which the impugned order was passed. The basic idea is that from perusal of the order it should be obvious that the punishing authority had applied its own mind fully to all the aspects of the case.

10. Speaking Order

There is no prescribed form for a speaking order but it should fulfil the requirements of para 9 and should be self-contained. It should indicate clearly the points for consideration, the decisions thereon, and the reasons on which those decisions are based.

If it appears that it would be inconvenient to record a self contained order, a brief order awarding the penalty may be passed but it should be accompanied by a note giving detailed reasons in support of the order.

11. Authorities competent to award penalties

- (a) The penalty of removal or dismissal from service can be inflicted by the appointing authority or a superior authority, but not by an authority subordinate to the appointing authority. The rest of the penalties can be awarded by the authorities mentioned, if any, in the relevant statutory rules, or in the absence of any such named authorities, by the appointing authority or by an authority superior to him. However, when there is a provision of appeal against the order of disciplinary authority and the appellate authority or the higher authority against whose order there is no appeal itself exercises the power of disciplinary authority it patently results in discrimination against the employee concerned besides depriving him of the substantive rights of appeal given to him under the rules; surely such a situation cannot savour of legality. [1995 (2) SLR 11 (SC)]. The following points have an important bearing and should be kept in view:—

- (i) If at the time of dismissal or removal, no officer of the rank equal to the appointing authority is available, then the order should be passed by an officer superior in rank to the appointing authority.

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Yes

Yes

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- (ii) The order of removal or dismissal passed by the appointing authority does not become bad merely on account of the fact that it was communicated by some subordinate officer.
- (iii) If on account of amendments or changes in the statutory rules, the rank of the appointing authority for a particular post is changed so that a lower authority becomes competent to appoint an official, Government employee cannot be removed or dismissed from service by the new appointing authority which is junior in rank to the previous appointing authority of the official.
- (iv) Where a person is appointed "to perform the current duties or to exercise the powers of a particular authority", but is not appointed to officiate in the rank of that authority, an order of dismissal or removal passed by such a person regarding a Government employee who was appointed by the said authority, is illegal and void because the said person is not clothed with the rank of the appointing authority. Instead he is merely performing the current duties of the appointing authority or is merely exercising his powers. For example where the appointing authority of a Government employee is the Deputy Inspector General of Police, but his post is not filled and the S.S.P. is vested in addition to his duties, with the powers of the D.I.G. of Police, his dismissal by the S.S.P. would be in contravention of article 311(1) of the Constitution of India on the ground that the rank of the S.S.P. was always subordinate to that of the D.I.G.
- (v) The question as to who is the appointing authority in the case described below is not free from difficulty. Supposing 'A' is initially appointed to a post by a particular authority and is confirmed in that post by a superior authority. The question is whether the appointing authority for the purpose of dismissal or removal is the authority who initially appointed him or the authority who confirmed him. It has been held in A.I.R. 1963 Punjab 370 that the appointing authority for such a purpose is the authority who made the initial appointment. However, a contrary view has been taken in A.I.R. 1957 Rajasthan 148. This controversy can be settled by an authoritative pronouncement by the Supreme Court of India. Until it is done, it will be advisable that in such cases the order should be passed by the higher of the two authorities under reference.
- (b) In cases where the President or the Governor, as the case may be, makes appointment to a particular post, the persons appointed to such a post cannot be dismissed or removed from service by any authority other than the President or the Governor as the case may be and if there is any rule providing for dismissal or removal of such persons by any authority other than the President or the Governor such a rule is *ultra vires* the Constitution. The reason is that such a rule would be in contravention of article 311(1) of the Constitution, as no person in service can be removed or dismissed by an authority subordinate to the appointing authority [A.I.R. 1961 S.C. 751, paras 12,22 and A.I.R. 1966 S.C. 447 (454) (para 16)]

12. Second Enquiry

It appears that consensus of the opinion is that ordinarily a second enquiry cannot be held where there is no flaw in the first enquiry unless there is a provision to the contrary in the statutory rules. In this connection the observations made by the Supreme Court in the case cited as A.I.R. 1971 S.C. 1447 (*K.R. Deb. versus the Collector of Central Excise, Shilong*) have an important bearing and are reproduced below. It was a case under Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, which is almost to the rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987:—

“It appears to us that rule 15, on the face of it, really provided for one enquiry but it may be possible if in a particular case, there has been no proper enquiry because some serious defect has crept into the enquiry or some important witnesses were not available at the time of the enquiry or were not examined for some other reason, the Disciplinary Authority may ask the Enquiry Officer to record further evidence. But there is no provision in rule 15 for completely setting aside previous enquiry on the ground that the report of the Enquiry Officer or Officers does not appeal to the Disciplinary Authority. The Disciplinary Authority has enough powers to reconsider the evidence itself and come to its own conclusion under rule 9.”

From the above observations of the Supreme Court it would appear that the punishing authority cannot supersede an enquiry already conducted by the enquiry officer. However, it can direct the enquiry officer to take further or supplementary evidence or remove the defects, if any, found in the enquiry. The punishing authority can also ask the enquiry officer to hold further enquiry from the stage from where the defect has crept in. It can also reconsider the evidence recorded by the enquiry officer and can come to its own conclusions. If need be, it can itself record further or supplementary evidence. The only requirement is that the punishing authority must record reasons for disagreeing with the findings of enquiry officer and convey the same to charged employee before framing its final opinion 1998(2) RSJ 154 SC; and 1999(7) SCC 739.

13. Common defects/mistakes in enquiries

The courts can interfere in the following cases, but the list is in no way exhaustive: —

- (1) Where the requirements of clauses (1) and (2) of article 311 of the Constitution of India have not been complied with.]
- (2) Where the procedure prescribed by statutory rules in regard to disciplinary proceedings has not been followed.
- (3) Where the procedure followed in the enquiry is opposed to the principles of natural justice in the absence of specific rules in that regard.
- (4) Where the enquiry officer has arrived at a decision by taking into consideration facts extraneous to the evidence or has been influenced by irrelevant considerations.
- (5) Where there is no legal evidence at all to support the findings.

- (6) Where the conclusion is on the face of it so arbitrary and capricious that no reasonable person could have arrived at it on the basis of the same or similar material.
- (7) Where the order does not comply with the other requirements of law such as article 166 of the Constitution.
- (8) Where the order has been passed without jurisdiction by an authority not being empowered in the rules or where the enquiry officer did not fulfil the prescribed qualifications.
- (9) Where the proceedings have been initiated by a person having no jurisdiction under the relevant rules.
- (10) Where the penalty order is not authorised by rules.
- (11) Where the order is vitiated by mala fides.
- (12) Where the order is passed by an authority without applying his mind or upon extraneous considerations. In AIR (1998) SC 788 the Hon'ble Supreme Court held that conviction can be taken into account for removing a convict from service and release of convict under probation of offenders Act, 1958 shall not remove disqualification attached to conviction.
- (13) Where the order appointing the enquiry officer is not issued by the competent authority, but by some subordinate authority.
- (14) Where the statement recorded during the investigation or the preliminary enquiry are taken into consideration by the enquiry officer, without the deponents of the said statements being examined in the presence of the delinquent.
- (15) Where adequate opportunity to cross-examine prosecution witnesses or adduce evidence in defence is not afforded to the delinquent.
- (16) Where the defence witnesses are not summoned by the enquiry officer without cogent reasons.
- (17) Where the enquiry officer imports his own personal knowledge or impressions or imports the result of a private or secret enquiry.

14. Cases where no enquiry should be held

There are following three exceptions to the requirements of clause (2) of article 311 of the Constitution of India, where no enquiry need be held: —

(i) Where a Government employee has been convicted by a criminal court, it is neither necessary to hold any enquiry nor to give any show-cause notice for the proposed action. Proviso(a) to article 311(2) of the Constitution of India relieves the punishing authority to hold any enquiry or to serve a show-cause notice for imposing any penalty. The Punishing Authority has to consider all the circumstances of the case and then decide—

- (a) whether the conduct of the delinquent official which led to his conviction is such as to render his further retention in public services undesirable;
- (b) if so, whether to dismiss him or to remove him from service or to compulsory retire him;

- (c) if the said conduct of the official is not such which renders his further retention in service undesirable, whether the minor punishment, if any, should be inflicted upon him.

The order of the punishing authority should show that it has applied its mind before passing the order. The order should be on the basis of conduct which led to his conviction.

(ii) (a) The second exception under proviso(b) provides that where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold an enquiry, no such enquiry need be held.

(b) The satisfaction must be of the authority, who has the power to dismiss, remove or reduce the officer in rank. The second constitutional requirement is that such an authority must record in writing the reasons as to why it is not practicable to hold an enquiry.

(iii) The third exception applies in those cases where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such enquiry. In this connection attention is also invited to rule 7(2) (b) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 Appendix "B". The President or the Governor is not bound to give any reason where the action is proposed to be taken under proviso (c) to article 311(2) of the Constitution. The President or the Governor, as the case may be, must, however, be personally satisfied before passing such an order. These powers can not be delegated to any other officer.

15. Release under the Probation of Offenders Act, 1958

Where a Government employee has been released under the Probation of Offenders Act, 1958 and it is proposed to punish him, the procedure given in para 14(i) should be followed. Discussing the effect of the order of the Magistrate releasing the accused on probation and the effect of section 12 of the Probation of Offenders Act, 1958, it was laid down by the Hon'ble Supreme Court in the case cited as **Divisional Personnel Officer Northern Railway vs. T.R. Challappan and another AIR 1975 SC 2216** that the mere fact that the accused is released on probation does not obliterate the stigma of conviction. It was further laid down that the factum of guilt on the criminal charge is not swept away merely by passing the order releasing the offender on probation. Rejecting the contention that the order of Magistrate releasing the offender on probation obliterates the stigma of conviction, it was further laid down by the Hon'ble Supreme Court that under sections 1, 4 or 6 of the Act, the stigma continues and the finding of the misconduct resulting in conviction must be treated to be a conclusive proof.

In a later decision also, the Hon'ble Supreme Court in its judgment rendered in **Haril Chand vs. Director of School Education AIR 1998 SC 788**, while discussing the scope of the provisions of section 12 of the Act and the meaning of the words "disqualification, if any, attaching to a conviction of an offence under such law" used therein, has laid down in para No. 7 of its judgment as under:-

"In our view, Section 12 of the Probation of Offenders Act would apply only in respect of a disqualification that goes with a conviction under the law which provides for the offence and its punishment. That is the

plain meaning of the words "disqualification, if any, attaching to a conviction of an offence under such law" therein. Where the law that provides for an offence and its punishment also stipulates a disqualification, a person convicted of the offence and released on probation does not, by reason of Section 12, suffer his disqualification. It cannot be held that, by reason of Section 12, a conviction for an offence should not be taken into account for the purposes for dismissal of the person convicted from Government service."

in view of the proposition of law laid down by the Hon'ble Supreme Court in the aforesaid cases, it is for the competent authority to decide whether or not to proceed against the employee concerned under Article 311 (2) and to pass an order of his dismissal, removal or reduction in rank considering his conduct which led to his conviction by the criminal court in the aforesaid criminal case.

16. Whether departmental proceedings can be initiated or continued when criminal proceedings are pending.

There is no legal bar against initiating or continuing departmental proceedings where it is proposed to launch criminal proceedings or where criminal proceedings are pending on the same charges. The yardstick and standard of proof in a criminal case is different from the disciplinary proceeding. While the standard of proof in a criminal case is a proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. It is well settled that if an employee has been acquitted of a criminal charge, the same by itself would not be a ground not to initiate a departmental proceeding against him or to drop the same. Acquittal in a criminal case would, thus, be no bar for drawing up a disciplinary proceeding against the delinquent officer as has been held by Hon'ble Supreme Court in a case *Suresh Pathrella vs. Oriental Bank of Commerce* AIR 2007 Supreme Court 199, *Nelson Motis vs. Union of India* and another (1992) 4 SCC 711 and *Commissioner of Police, New Delhi s. Narender Singh* (2006) 4 SCC 265.

17. (1) Minor Penalties

Apart from major penalties the rules provide for the imposition of minor penalties, which are set out at serial No. (i), (ii), (iii), (iv) and (v) of rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, referred to earlier.

17. (2) Rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987

Rule 8 of the aforesaid rules, which reads as under, lays down the procedure which should be followed while imposing any of the minor penalties.

"8. Without prejudice to the provisions of rule 7 no order for imposing a minor penalty shall be passed on a Government employee unless he has been given an adequate opportunity of making any representation that he may desire to make and such representation has been taken into consideration:

Provided that this condition shall not apply in a case where an order based on fact has led to his conviction in a criminal court or an order has been passed superseding him for promotion to a higher post on the grounds of his unfitness for that post on account of the existence of unsatisfactory record:

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Provided further that the requirements of this rule may, for sufficient reasons to be recorded in writing be waived where it is not practicable to observe them and where they can be waived without injustice to the Government employee concerned."

17. (3) Comments regarding minor penalties

Supreme Court in the
or not to proceed
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(a) It is clear from the above rule that a minor penalty can be imposed after calling for the explanation of the Government employee and two opportunities as in the case of major penalty are not necessary. In this connection the observations of the Supreme Court in 1973 S.L.R. 913 (Shadi Lal vs State of Punjab) are reproduced: —

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"Under this rule the only requirement is that the officer concerned should be given an adequate opportunity of making representation that he may desire to make. There is no provision for cross-examination of witnesses and furnishing a copy of the report, all requirements which we find in Rule 7. Rule 8 does not require anything more than that the allegation on the basis of which the officer concerned is charged should be made known to him and he should be given an opportunity to make any representation with regard to them. He need not be told the punishment which is sought to be imposed on him either at the time the charge-sheet is served on him or at any other stage. There is no question of his being given an opportunity a second time after the enquiry is completed in respect of the punishment sought to be imposed on him."

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(b) Thus where a penalty under rule 8 is to be imposed it is sufficient to serve a show-cause notice containing a statement of allegations on which the charges are based. It is not necessary to mention the specific punishment which is sought to be imposed or to give a second show-cause notice mentioning therein the quantum of punishment. Previous view of the High Court has been over-ruled by the Supreme Court in the case mentioned in para (a) above. The punishing authority can make a fact finding enquiry if it is deemed necessary, but no reference of it should be made in the show-cause notice. If any reference is made to any document or of an enquiry in the show cause notice it would be necessary to show these documents (enquiry report) and to supply the copies of the same to the employee if it may be feasible. After the receipt of the reply to the show cause notice the punishing authority may some time feel the necessity of making further enquiry regarding the points raised in the reply in order to satisfy itself as to whether the same are tenable and if so, to what extent. However, a copy of the report of such an enquiry is not required to be supplied to the delinquent. It may be made clear here that the order imposing the penalty should be based on the basis of allegations mentioned in the show-cause notice already served on the employee and no reference in respect of any additional allegation or changed nature of allegations, flowing from the enquiry referred to above should be made, but if it is felt that the reference is necessary a fresh show-cause notice shall have to be given to the employee. A model form of show-cause notice is given in Appendix 'I'.

- (c) However, it may be pointed out that where a Government employee has been charge sheeted under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, and on receipt of the reply it is considered that the imposition of a minor penalty would be appropriate, an order awarding one of the minor penalties can validly be passed without following the procedure prescribed for major penalty.

17. (4) Consultation with the Public Service Commission/Staff Selection Commission

Para 7 above deals with this matter and a reference may be made to it.

18. Probationers and their discharge

(a) A probationer is usually a direct recruit appointed in or against a substantively vacant post with a definite condition of probation. A Government employee can also be on probation when he is promoted to a higher post and a condition is set out in the promotion order or in the service rules that he will remain on probation.

(b) Usually the terms of appointment contain a clause that on appointment the employee will be on probation for certain period. Where the rules provide that all appointments in the services are to be on probation, the Government employee appointed to such service becomes a probationer according to the rules even though the appointment letter does not mention the words "on probation". The appointing authority can extend the probationary period from time to time according to the service rules which usually provide for extension of probation for one or more terms, the maximum period generally being three years.

(c) The probationer or a person on probation has no right to hold his post. The Government employee is taken on trial and the employment on probation can come to an end if during or at the end of probation he is found unsuitable and a simple order of discharge/reversion, or an order of dismissal or removal from service or reduction in rank is passed as a measure of punishment by complying the provisions of Article 311(2).

(d) It is neither necessary to serve a show-cause notice nor to hold any formal enquiry where a probationer is to be discharged or reverted by a simple order, unless there exists a contrary provision in the relevant service rules or in letter/order of appointment. However, where it is decided to remove, dismiss or reduce in rank a probationer, as a measure of punishment then the provision of Article 311(2) of the Constitution of India should be complied with. The result would be that the probationer will be out of employment if he is a direct recruit or he shall stand reverted to his previous post from which he was promoted if he is a promotee. No exception can be taken if in the order of discharge it is mentioned that during the period of probation his performance was not satisfactory, since in the case of a probationer it is the implied term of appointment that if his work was not found satisfactory during the period of probation, he will be discharged or reverted as the case may be. Thus the use of the words like "unsatisfactory performance" or "unfit to hold the job" do not amount to attaching any stigma to or cast aspersions" against him.]

(e) However, where it is decided to dismiss or remove a probationer from service or to reduce him in rank as a measure of penalty on the ground of misconduct i.e., disloyalty, dishonesty or incorrigibility or the like reasons, then the provisions of Article 311(2) of the Constitution of India would be attracted, the requirements of which should be met

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strictly before passing the final order. Equally when it is decided to hold regular departmental enquiry and the probationer has been charged-sheeted on account of any misconduct on his part, it would be necessary to complete the enquiry in accordance with the provisions of Article 311(2) of the Constitution of India before passing a final order. It would not be permissible in such a case to drop the proceedings and to pass a simple order of discharge or reversion because the court would not be debarred to look into the attending circumstances which led to the passing of the order of discharge or reversion and to infer that the real motive for passing such an order was the accusations on the basis of which a charge sheet was framed and as such the order will be deemed to have been passed as a measure of penalty which could only be done by meeting with the requirements of Article 311(2).

19. Officiating appointment

The appointment of a person to officiate in a permanent post is usually made when the incumbent of the post is on leave or when the permanent post is vacant and no substantive appointment has yet been made. Such officiating appointment comes to an end with the return of the permanent incumbent or with the filling of the substantive post. An employee does not acquire any substantive right to hold the higher post. For passing an order of reversion, the same considerations and procedure would apply as in the case of a probationer, indicated above.

CHAPTER-II

SUSPENSION

20. (1) Suspension

What is the meaning of suspension? The literal meaning of the word 'suspension' is to debar, usually for the time being, from the exercise of a function, specially to deprive temporarily of one's office.

20. (2) Forms of suspension

Rule 4-A of the Haryana Civil Services(Punishment and Appeal) Rules, 1987, provides as under: —

4A. Suspension-(1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government employee under suspension—

- (a) where a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial:

Provided that where a Government Employee against whom disciplinary proceedings are contemplated is suspended, such suspension shall not be valid, unless before the expiry of a period of ninety days from the date from which the employee was suspended, disciplinary proceedings are initiated against him.

Provided further that the competent authority in the matter may, at any time before the expiry of the said period of ninety days and after considering the special circumstances for not initiating disciplinary proceedings, to be recorded in writing and after seeking the approval of next higher authority allow continuance of the suspension beyond the period of ninety days without the disciplinary proceedings being initiated.

Provided further 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 employee shall be deemed to have been placed under suspension by an order of the appointing authority: —

- (a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours; and
- (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 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 employee 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 employee is set aside or declared or rendered void in consequence of or by a decision of a court of law and the punishing authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed the Government employee 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.

(5) 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.

(6) Where a Government employee is suspended or is deemed to have been suspended whether in connection with any disciplinary proceeding or otherwise 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 employee shall continue to be under suspension until the termination of all or any of such proceedings.

(7) 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.

Suspension can take two forms. — When it is imposed as penalty for some misconduct or an act of commission or omission, it is called suspension by way of penalty; and secondly where the employee is merely asked not to function during the course of pendency of any departmental enquiry or criminal proceedings against him in order to facilitate such enquiry, it is called interim suspension.

20 (3) Rule 7.5 and 7.6 of the Punjab Civil Services Rules, Volume I, Part I (Interim suspension)

Rule 7.5 and 7.6 of the Punjab Civil Services Rules, Volume I, Part I, read as under :

"7.5 An employee of Government against whom proceedings have been taken either for his arrest for debt on a criminal charge or who is detained under any law providing for preventive detention should be considered as under suspension for any period during which he is detained in custody or is undergoing imprisonment and not allowed to draw any pay and allowances (other than any

subsistence allowance that may be granted in accordance with the principles laid down in rule 7.2) for such periods until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. An adjustment of his allowances for such periods should thereafter be made according to circumstances of the case the full amount being given only in the event of the officer being acquitted of blame or (if the proceedings taken against him were for his arrest for debt) of its being proved that the officer's liability arose from circumstances beyond his control or the detention being held by the competent authority to be unjustified."

- ["7.6 (1) A Government servant against whom a criminal charge is pending may, at the discretion of the competent authority, be placed under suspension by the issue of a specific order to this effect during the periods when he is not actually detained in custody or imprisoned (e.g. while released on bail), if the charge made against him is connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties as such or involves moral turpitude. However, as soon as a criminal charge is framed by a court against a Government servant in a case involving moral turpitude, suspension should follow automatically.
- (2) A Government servant against whom a proceeding for arrest for debt is pending should be placed under suspension by the issue of specific order to this effect during the period when he is not actually detained in custody or imprisoned (e.g. while released on bail) if the proceeding taken against him is connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties as such.
- (3) In regard to pay and allowances in the cases, referred to in sub-rules (1) and (2), the provisions of rule 7.5 shall apply."]

20. (4) Authority competent to suspend

Normally the authority who appoints the Government employee is competent to suspend him. However, such a power can be given to an authority subordinate to the appointing authority by making a provision to that effect in the service rules. The Government have the inherent power to suspend a Government employee.

20. (5) Comments regarding interim suspension

(a) Under rule 7.5 quoted above, a Government employee shall be automatically considered as under suspension during the period he is detained in custody or is under going imprisonment where proceedings have been taken either for his arrest for debt or on a criminal charge or who is detained under any law providing for preventive detention.

(b) Where a criminal charge or a proceeding for arrest for debt is pending and the Government employee is not detained in actual custody or imprisonment or has been released from custody and if the charge made or proceeding taken against him is connected with his position as a Government employee or is likely to embarrass him in the discharge of his duties as such or involves moral turpitude, he should be placed under suspension by the issue of specific order to that effect.

1. Substituted vide H.G. Notification No. 6/1(1) 80-IPR (1) dated 8th July, 1980.

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(c) The Government have issued from time to time executive instructions regarding interim suspension of employees. It is stated that each case involving a proposal for suspension should be carefully considered and suspension should be ordered sparingly and only when the circumstances are found to justify it. Ordinarily suspension should not be ordered unless the allegations made against the official concerned are of serious nature and on the basis of evidence available there is a *prima facie* case for his dismissal or removal or there is reason to believe that his continuance in service is likely to embarrass or hamper the investigation of the case. As a matter of firm principle, to be deviated from only in cases of rare urgency, an official should be suspended only when a proper charge sheet has been served upon him and his explanation has been obtained and found unsatisfactory.

Hon'ble Punjab and Haryana High Court in 1986(3) SLR-3-Ramesh Chander Chug V/S The Haryana State Electricity Board held that 'an employee under suspension cannot be forced to undergo harassment of attending office daily and incurring expenses on his journey to and from the place of his residence. For this purpose, the competent authority has to devise some other proper and legal method.'

(d) Since casual leave cannot be granted to a Government employee under suspension, it is obvious that if he wants to absent himself from the headquarter, he need only apply for station leave and in cases where he has been directed to attend the office he should also apply for exemption from that direction for the period during which he wants to absent himself from the headquarter.

(dd) Order of suspension becomes effective when it is issued and not from the date of its receipt by the Government Servant [1969 S.L.R. 833 (S.C.)].

(e) An order of suspension cannot be made with retrospective effect. However, a person on leave can be placed under suspension as leave is revocable under the service rules at the discretion of the granting authority. An order of suspension thus can be passed after revoking leave.

(f) Rule 4A of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 and rules 7.5 and 7.6 of the Punjab CSR Vol. I Part I provide for suspension of a Government employee. According to the said rule 4A, the punishing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor by general or special order may place a Government employee under suspension where a disciplinary proceeding against him is contemplated or is pending where a case against him in respect of any criminal offence is under investigation, enquiry or trial. Sub-rule (2) of rule 4A further provides that a Government employee shall be deemed to have been placed under suspension by an order of the appointing authority with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours; and 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. According to sub-rule (7) of the said rule, 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.

Rule 7.5 of the Punjab CSR Vol. I Part I provides that a Government employee against whom proceedings have been taken either for his arrest for debt or on a criminal

charge or who is detained under a law providing for preventive detention should be considered as under suspension for the period during which he is detained in custody or is undergoing imprisonment. An order should be drawn for pay and allowances (other than any subsistence allowance) which can be granted in accordance with the principles laid down in rule 7.2.2 for such period until the final termination of the proceedings taken against him or until he is released from detention and allowed to rejoin duty, as the case may be. Rule 7.6(1) of the said rules provides as under:—

“7.6(1) A Government servant against whom a criminal charge is pending may, at the discretion of the competent authority be placed under suspension by the issue of a specific order to this effect during the period when he is not actually detained in custody or imprisoned (e.g. while released on bail) if the charge is made against him is connected with his position as Government servant or is likely to embarrass him in the discharge of his duties, or such or involves moral turpitude. However, as soon as a criminal charge is framed by a court against a Government servant in a case involving moral turpitude, suspension should follow automatically.

A report relating to the provisions contained in rule 4A of the Haryana Civil Services (Promotion and Appeal) Rules, 1987 and rules 7.5 and 7.6 of Punjab CSR Vol. I Part I would thus clearly reveal that although there is a provision in sub-rule (7) of the aforesaid rule 4A to modify or revoke an order of suspension passed under rule 4A (ibid) by the competent authority, yet there is no provision in Punjab CSR Vol. I Part I to modify or revoke an order of suspension when a Government servant is automatically suspended on account of framing of a criminal charge by a court against him in a case involving moral turpitude.

21. (1) Rule 7.2 of the Punjab Civil Services Rules Volume I, Part I (Allowances during the period of suspension).

Rule 7.2 of the Punjab Civil Services Rules, Volume I, Part I, deals with the grant of subsistence allowance during suspension. This rule has been reproduced in Appendix 'I'.

21. (2) Rule 7.3 of the Punjab Civil Service Rules Volume I, Part I (Allowances on re-instatement).

Rule 7.3 of the Punjab Civil Services Rules, Volume I, Part I, deals with the grant of pay and allowances on re-instatement. This rule has been reproduced in Appendix 'K'.

21. (3) Comments on Rule 7.3 of Punjab Civil Services Rules Volume I, Part I.

Perusal of the rule would show that the competent authority will have to make a specific order in respect of pay and allowances which are to be allowed to a Government employee on re-instatement. He will also have to pass a specific order whether the period of suspension will be treated as a period spent on duty or not. A Government employee may be dismissed or removed from service as a result of disciplinary action taken against him and during the course of disciplinary proceedings he may have remained under suspension, and then his dismissal or removal may be set aside. In such a case the Government employee will have to be allowed full pay and allowances from the date of dismissal including the period of suspension and the period will also have to be treated as period spent on duty. In other cases also where the Government employee is fully exonerated or where the competent authority is of the opinion that the suspension of the Government

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The Supreme Court in AIR 1997 SC 1434 has observed that it would be deleterious to the maintenance of the discipline if a person suspended on valid consideration is given full back wages as a matter of course, on his acquittal. Two courses are open to the disciplinary authority, viz., it may enquire into misconduct unless, the self-same conduct was subject of charge and on trial this acquittal was recorded on a positive finding that the accused did not commit the offence at all; but acquittal is not on benefit of doubt given. Appropriate action may, be taken thereon. Even otherwise, the authority may, on reinstatement after following the principles of natural justice, pass appropriate order including treating suspension period as period not on duty (and on payment of subsistence allowance etc.)

Punjab and Haryana High Court 1992 (1) RSJ 574: Om Phal V/s State of Haryana and others held that 'for depriving an employee of his emoluments and pay during the suspension period a separate show-cause notice independent of the notice of the charges of the enquiry being held or already held against him has to be given.'

Where a Government employee is reinstated without enquiry or without serving a charge-sheet on him, he is entitled to full pay and allowances.

II. (4) Cause of action for pay and allowances

It has been held by the Supreme Court in the case *Mainmoona Khataun and another V/s. State of U.P. and others* (A.I.R. 1980 S.C. 1773) that in cases where an employee is dismissed or removed from service and is re-instated either by virtue of order of dismissal or removal being set aside by a civil court, the starting point of limitation under Art. 102 of the Limitation Act of 1908 would be not the date of the order of dismissal or removal but the date of re-instatement by the appointing authority where no suit is filed or the date of decree where the suit is filed and decreed.

CHAPTER III

APPEAL, REVISION, ETC.

22. (1) Rule 9 of the Haryana Civil Services (Punishment and Appeal) Rules, 1956 (Right of Appeal).

Rule 9 of the Haryana Civil Services (Punishment and Appeal) Rules, 1956 provides for appeal against the order of the punishing authority. It reads as under: —

"9. (1) Every person to whom these rules apply, shall be entitled to appeal hereinafter provided, to such superior authority, as may be prescribed by Government, against the rules regulating his conditions of services against an order, not being an order of Government:

- (a) imposing upon him any of the penalties specified in rule 4;
- (b) discharging him in accordance with the terms of his contract, if he has been engaged on a contract for a definite, or for an indefinite period and has rendered under either form of contract continuous service for a period exceeding five years at the time when his services are terminated;
- (c) reducing or withholding the amount of ordinary or additional pension admissible under the rules governing pension;
- (d) terminating his appointment, otherwise than upon his reaching the age fixed for superannuation;
- (e) an order which denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement."

22. (2) Comments regarding appeal

(a) Perusal of the above rule would show that an appeal can be made to such superior authority as may be prescribed by the Government in the rules regulating the condition of service, against an order of the punishing authority provided that such order has not been passed by the Government in respect of the matters mentioned in clauses (a) to (e).

(b) In a case where an order has been passed by the Government, no appeal can be filed.

(c) Where an appeal is filed by a Government employee, the appellate authority has to consider all the relevant materials and decide: —

- (i) Whether the facts on which the order was based have been established;
- (ii) Whether the facts established afford sufficient ground for taking action and
- (iii) Whether the penalty is excessive, adequate or inadequate; and after such consideration and consultation with the Commission, where necessary, the appellate authority should pass an order either setting aside, reducing, confirming or enhancing the penalty or remit the case to the subordinate authority with such directions as it may deem fit in the circumstances.

circumstances of the case. No order enhancing the penalty should be passed unless the appellant is given an opportunity of making a representation against any such proposed enhanced penalty.

(d) It may be pointed out that the order which is passed by the appellate authority should also be a speaking order as mentioned in para 10 above.

(e) It may also be made clear that the appellate authority is, on the basis of principles of natural justice, prohibited from deciding the appeal where original order was passed by him. In such a case, he should forward the appeal to the next higher authority.

12. (3) Rule 12 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (Second Appeal).

Normally there is no right of second appeal. However, rule 12 provides that a second appeal can be filed in the cases mentioned therein. Rule 12 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, reads as under: -

"12. In every case in which an appellate authority, other than Government increases the penalty inflicted by an authority subordinate to it upon a person to whom these rules apply, such person shall be entitled to submit a second appeal within sixty days to the authority prescribed in the rules regulating his conditions of service."

12. (4) Comments regarding second appeal.

From the above rule, it is clear that a Government employee can file a second appeal within sixty days to such authority as may be prescribed by the Government in the Rules regulating his conditions of service against the order of the appellate authority by whom the penalty has been increased. There is no right of second appeal where the appellate authority is the Government.

12. (5) Rule 13 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (Right of revision).

Rule 13 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, reads as under: —

"13. After an appeal or the second appeal provided in rule 12 has been rejected, a person to whom these rules apply, may apply for revision to such superior authority as may be prescribed in the rules regulating his condition of service."

Provided that the powers of revision shall be exercised only—

- (a) if the appellate authority is one other than Government; and
- (b) on the ground of material irregularity in the proceedings of the Enquiry Officer or appellate authority, or on the discovery of new and important matter of evidence, which after the exercise of diligence was not within the knowledge of the petitioner, or could not be produced by him when the orders were passed against him or on account of some mistake or error on the face of the record."

12. (6) Comments regarding revision.

From the above it is clear that a Government employee can exercise the right of filing a revision where his appeal has been rejected and such a provision exists in the

service rules applicable to him. Further it is also provided in the rules that right of revision can be exercised, if the appellate authority is one other than the Government and only on the ground of material irregularity in the proceedings of the enquiring officer or appellate authority or the discovery of new and important matter of evidence which after exercise of due diligence was not within the knowledge of the petitioner or could not be produced by him when the orders were passed against him or on account of some mistake or error on the face of the record. However, where the appellate authority is the Government, the authority can review the order, but that power should be exercised only in exceptional circumstances.

22. (7) Rule 14 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (Power to call for records).

Rule 14 (1) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, which deals with this subject, reads as under: —

“14. (1) The Government or the Head of Department may call for and examine the records of any case in which a subordinate authority passed an order under rule 9 or has inflicted any of the penalties specified in rule 10 or in which no order has been passed or penalty inflicted and after making further investigation, if any, may confirm, remit, reduce or subject to the provisions of sub-rule (1) of rule 11, increase the penalty or subject to the provisions of rules 7 and 8 inflict any of the penalties specified in rule 4”.

22. (8) Memorials.

The Government have issued instructions for the submission of memorials by Government employees. These instructions are executive in nature and lay down the procedure for submitting the memorials. The instructions also empower the authority to withhold memorials in certain circumstances. Those are contained in notification N 6369-G-51/681, dated the 12th February, 1952, which is attached as in Appendix ‘L’.

23. (1) Rule 18 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (withholding of appeals or applications for revision).

Rule 18 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, lays down that an authority subordinate to Government can withhold any appeal or application for revision. For facility of reference, rule 18 is reproduced below: —

“18. (1) An appeal or application for revision may be withheld by the Head of the office, if—

- (a) it is an appeal or application for revision in a case in which under these rules, an appeal or application for revision lies; or
- (b) it does not comply with the provisions of rule 17; or
- (c) it is an appeal and is not preferred within forty five days after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; or
- (d) it is a repetition of a previous appeal or application for revision and is made to the same appellate or revisionary authority by which such appeal or application

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for revision has been decided and no new facts or circumstances are adduced
 which afford ground for a reconsideration of the case:

Provided that in every case in which an appeal or application for revision is
 withheld, the appellant or applicant shall be informed of the fact and the reasons for it and
 a copy thereof forwarded to the appellate authority, if any, together with a copy of the
 appeal or application for revision so withheld.

Provided further that an appeal or application for revision withheld on account
 only of failure to comply with the provisions of rule 17 may be re-submitted at any time
 within one month of the date on which the appellant or applicant has been informed of the
 withholding of the appeal or application, and if re-submitted in a form which complies
 with those provisions, shall not be withheld.

(2) Any appellate or revisional authority may call for the record of any appeal or
 application for revision withheld by an authority subordinate to it, which under these
 rules may be made to it and may pass such order thereon as it considers fit."

2A. (2) Comments on para 23(1).

- (a) From the above it is clear that the subordinate authority would be competent to
 withhold an appeal or application for revision in the circumstances mentioned
 in clauses (a) to (d).
- (b) Sub rule (2) of this rule authorises the appellate or revisionary authority to call
 for the record of any appeal or application for revision withheld by any
 subordinate authority and to pass such order as he considers fit.

CHAPTER-IV

RETIREMENT AND GRANT OF PENSION

24. Premature retirement.

(a) Premature retirement means retiring a Government employee from service according to the Service Rules, after he has completed a certain fixed period of employment but before the age of superannuation. Note 2, below rule 5.32 A (b) of the Punjab Civil Services Rules, Volume II, required that notice should be served on the Government employee for showing cause against such retirement. The Government employee will be entitled to pension proportionate to the length of service put in by him. Such an order of retirement differs from an order of dismissal or removal as it is not a form of penalty prescribed by rules and also involves no penal consequences in as much as the person retired is entitled to pension proportionate to the period of service put in by him. The real test for deciding whether premature retirement would amount to dismissal or removals is to ascertain whether it entails any penal consequences such as the loss of any benefits, already accrued or any stigma of inefficiency or misconduct. It does not matter whether misconduct or inefficiency was the reason for ordering the retirement.

(b) The basis for ordering premature retirement may be the employee's adverse service record, inefficiency or dishonesty etc., which should be communicated to him in the show-cause notice, but the formal order of retirement communicated to him should not contain any such aspersion or stigma as that would entail penal consequences, making the provisions of Article 311(2) of the Constitution applicable. The provisions of Article 311 are not applicable in such a case. A penalty is generally founded on some charge of misconduct, in-efficiency or the like, but an order of premature retirement in the terms of specific rules is not founded on any charge of misconduct or the like, even though the rules provide that action should be taken only in cases of inefficiency, misconduct etc. Premature retirement is usually ordered only for some default or deficiency on the part of the Government employee.

(c) Where an order requiring a Government employee to retire prematurely contains express words from which a stigma can be inferred, that order may amount to removal within the meaning of Article 311. Where there are no express words in the order itself which attach any stigma to the Government employee, the Court cannot look into the file to know the basis of the order and to infer that there was some kind of stigma.

25. Retirement under rule 5.32A (c) of the Punjab Civil Services Rules, Volume II.

Rule 5.32A(c) (relating to retirement after attaining fixed period of age) of the Punjab Civil Services Rules, Volume II, requires that Government employees should be given a notice of not less than three months in writing, by the appointing authority. Note below this rule provides that the appointing authority retains an absolute right to retire a

Government employee after he has attained prescribed age. No show-cause notice is, therefore, required if action is taken under the above rule. What is needed is to give an employee a simple notice of three months in the order of his retirement. A model form of such order is given in Appendix "M". Retirement can also be ordered straight way by paying three months pay in lieu of three months notice. Model form of such an order is given in Appendix "N".

26. Punishment after retirement.

Retirement means actual retirement. So if a person is on leave preparatory to retirement he can be recalled to duty and action can be taken. Similarly he himself may also resume duty in certain cases. The right of the Government to impose various penalties under rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, on a Government employee is available only so long as he is in service. However, special provision has been made in rule 2.2(b) of the Punjab Civil Services Rules, Volume II, regarding withholding or withdrawing the pension or to effect recoveries from pension upto a certain period even after retirement. The procedure applicable for withholding or withdrawing the pension or for effecting recoveries is the same as is applicable to proceedings in which an order of dismissal from service may be made.

27. Rule 2.2 (b) of the Punjab Civil Services Rules, Volume II (withholding or withdrawing of pension).

Rule 2.2(b) of Punjab Civil Services Rules, Volume II, deals with withholding or withdrawing of pension. This rule has been reproduced in Appendix 'O'.

28. Comments on para 27.

Perusal of the above rule would show that the Government can withhold or withdraw a pension or any part of it, whether permanently or for a specified period and can also order recovery from pension for any pecuniary loss caused to Government if in a departmental or judicial proceedings a Government employee is found guilty of grave misconduct or to have caused pecuniary loss to Government by misconduct or negligence during his service. However, where it is proposed to take action under the above rule, the proceedings if not instituted while the Government employee was in service shall not be instituted except with the sanction of the Government and shall be in respect of an event which took place not more than four years before the institution of such proceedings. These proceedings shall be conducted by such authority and in such place or places as the Government may direct. The procedure to be followed is the same as is applicable in cases in which an order of dismissal has to be passed. It would also be necessary to consult Public Service Commission before passing the final orders. Where it is proposed that pensions or such should not be withheld or withdrawn but only the loss caused to the Government should be recovered from the pension, such recovery shall not be made at a rate exceeding one-third of the gross pension which was originally sanctioned including any amount which may have been commuted.

CHAPTER-V

PROMOTION

29. (1) Consideration of past record for promotion.

The scales for allowing to cross the efficiency bar and for giving promotion are different. What is sufficient for the former may be wholly insufficient for the latter (1974(2) S.L.R. 899). Adverse entries prior to the date of crossing of efficiency bar if such a public servant is not completely wiped out can be taken into consideration while judging his suitability for promotion to the higher rank. [1978(1) S.L.R. 450]. In [1994(2) RSJ 21] it has been clearly held that the crossing of efficiency bar does not obliterate the previous adverse remarks but it is one of the events in the employees' service that has to be taken into consideration for determining suitability for promotion.

29. (2) Promotion Pending Departmental Proceedings.

(a) According to the instructions issued by the Government, the cases of promotion of Government employee against whom disciplinary proceedings under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, are pending should be considered but he should not be promoted till disciplinary enquiry has been completed and he has been exonerated. In a case in which the Government employee has been chargesheeted but his explanation in response to the chargesheet has not been received, the case of promotion should be kept pending and should be decided after the decision as to whether regular departmental proceedings should or should not be held. If it is decided that an enquiry should be held, then the Government employee should not be promoted until he has been exonerated. If he is ultimately exonerated of all the charges without the imposition of any penalty and is otherwise fit for promotion in every respect, he should be promoted with retrospective effect, i.e. from the date on which he was due for promotion and an official junior to him was promoted.

(b) In the case of a Government employee against whom action is proposed to be taken under rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, the matter should be considered in the light of the nature of allegations and the quantum of penalty that is proposed to be awarded. The criterion should be whether or not if the allegations were to be proved and the proposed penalty was to be imposed, the promotion of the employee would still be justified on the basis of his entire record. In other words promotion should not be withheld only because disciplinary action under rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, is pending against the Government employee. If promotion is withheld on the basis, but on completion of the departmental proceedings the Government employee is exonerated without imposition of a penalty or is administered a warning then he should, if he is otherwise fit for promotion in every respect, be promoted with retrospective effect i.e. from the date on which he was due for promotion and an official junior to him was promoted.

(c) It should, however, be kept in mind that while deciding a case of promotion, it would be incumbent to consider for promotion those Government employees as well

against whom enquiry proceedings are contemplated or are pending, but the decision should be taken according to the instructions stated in the above paras. The employee upon being exonerated of the charges in the enquiry, if otherwise found fit for promotion, cannot however, be deprived of his due promotion merely on the ground that another enquiry was in the meanwhile started against him concerning some other charges and that the same was yet pending (JT 2000 (10) SC 158)

29. (3) Promotion during the currency of stoppage of increments.

In a judgement of the Hon'ble Supreme Court in the case of State of Tamilnadu versus Thiru K.S. Muragesan and others (C.A. Nos. 3432-33 of 1995) decided on 28.2.1995, reported as 1995(3) RSJ 271, this Hon'ble Court has held that: -

"..... Unless the period of punishment gets expired by efflux of time, the claim for consideration during the said period cannot be taken up. Otherwise, it would amount to retrospective promotion which is impermissible under the Rules and it would be a premium on misconduct. Doctrine of double jeopardy has no application and non-consideration is neither violative of Article 21 nor Article 14 read with Article 16 of the Constitution....."

The State Government vide letter No. 2/5/2006-2GSI dated 31.5.2006, has considered the matter in the light of aforesaid judgement and it has been decided that no promotion should be allowed to any employee during the currency of punishment of stoppage of his grade increment(s).

CHAPTER-VI

PROMOTION

Grant of T.A. in Departmental proceedings and Costs of Disciplinary Proceedings**30. (1) Grant of T.A. in Departmental Proceedings.**

(a) A Government employee, whether under suspension or otherwise performing a journey to attend Police, Vigilance/Central Bureau of Investigation, in connection with cases, may be allowed T.A. for the journey as on tour provided the same was performed under the directions or with the approval of the Head of Office.

Punjab Govt. letter
No. 447 F.R. (1)
60/1183, dated
10-2-60.

(b) Where a Government employee undertakes a journey during suspension for appearing in a court of law as an accused and is later on acquitted or reinstated, no T.A. as such is admissible.

It would, however, be open to him to include his traveling expenses in any claim for reimbursement of the costs incurred by him for defending legal proceedings against him. Such a claim may be accepted subject to the condition that the amount of the T.A. will not exceed the T.A. as for a journey on tour.

(c) T.A. for a journey on tour without any allowance for halts on journeys or at the out-stations is allowed to a Government employee whether on duty or on tour or under suspension for the journey undertaken to stations for purposes of inspection of documents and for preparation of his defence.

Punjab Govt. letter
No. 10739 F.R.
(1) 59/912, dated
2-2-1960

The grant of T.A. in such a case is subject to the conditions that: —

- (1) the inquiry officer certifies that the records to be consulted are relevant and essential for defence.
- (2) the competent authority certifies that the original records could not be made available to the officer at the place of his headquarters.
- (3) the journey is performed with the approval of the Head of Office.

30. (2) Costs of disciplinary cases.

Punjab Govt. letter
No. 5222-G III/
59/15035, dated
17-9-1959.

- (a) Expenses of defence witnesses as are considered necessary by the enquiry officer are to be met by the Government.
- (b) Reimbursement of fees of counsel, if allowed, during the enquiry is required to be allowed in cases where the Government employee, under suspension is successful in clearing himself. In other cases the requests for reimbursement of fees of counsel is required to be considered on its merits.
- (c) Reimbursement of fees of counsel should be allowed at the rates laid down in Chapter II of Punjab Law Department Manual for payment of fees to counsel in criminal cases.

Punjab Govt.
letter No. 4319
G1-58/16255,
dated 30-5-
1958.

- (d) Payment of expenses to non-official witnesses summoned for prosecution or defence, is to be made according to the rates specified in Chapter 5(c) of Volume 1 of the High Court Rules and Orders in respect of witness attending Civil Courts.
- (e) Government employees should be given the usual certificate of attendance to enable them to draw their T.A.
- (f) The expenditure on non-official witnesses should be debited to the same head of account to which the pay of the Government employees concerned is debitable and payment should be made out of the contingent grant of that office.

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CHAPTER VII

CONFIDENTIAL REPORTS

31. (1) Instructions regarding Confidential reports

- (i) The Government have issued instructions regarding confidential reports which are contained in Appendix "P".
- (ii) These instructions contain the procedure which should be followed while recording confidential remarks about the work and conduct of a Government employee, conveying of adverse remarks and expunction thereof on the representation of a Government employee, issuance of appreciation letter, *grant of honorarium and special leave on the basis of good work done by a Government employee.

31. (2) Object of Confidential reports

A confidential report reflects the assessment made regarding qualities, performance and progress of a Government employee by the superior authority. It is essentially an estimate of the character and capacity of the official concerned by the reporting authority. Such an assessment should be made in dispassionate and objective manner. It is not essential to hear the Government employee or to give specific instance or details upon which assessment is based. Such reports are maintained for the purpose of serving as data of comparative merit when question of promotion and confirmation arise. Such reports are not ordinarily to contain specific incidents upon which assessments are made except in cases where as a result of any specific incident a censure or a warning is issued and when such warning is by an order to be kept in the personal file of the Government employee.

31. (3) Effect of non-communication of Confidential reports.

Adverse remarks, against the Government employee in the confidential report should invariably be communicated so that he may make an attempt to remove the defects or get an opportunity of making representation if he so likes. Such a representation would be considered by higher authority, who, if satisfied, would either amend, correct or even expunge adverse remarks.

Making of an adverse entry is thus not equivalent to imposition of a penalty which would necessitate an enquiry or the giving of reasonable opportunity of being heard to the concerned employee. There can be cases in which adverse remarks have not been communicated to the Government employee. The question arises whether these adverse remarks which have not been communicated to the Government employee can be taken into consideration when his case for promotion or confirmation arises. There is no legal bar to do so. It cannot be said that as merely adverse remarks were not conveyed to the Government servant, he should be deemed to be fit for promotion or confirmation. This view finds support from the decisions of the Supreme Court reported as 1970 S.L.R. 116, 1970 S.L.R. 926, 1989(2) R.S.J. 258 and 1988(4) R.S.J. 690(SC).

* The incentives regarding monetary reward and the reward of special leave has since been withdrawn by the Government vide Chief Secretary to Government Haryana letter No. 6034-GS-11/77/16894, dated the 17th June, 1977.

CHAPTER VIII

EFFICIENCY BAR

32. (i) Rule 4.8 of the Punjab Civil Services, Rules, Volume I, Part I, lays down that where an efficiency bar is prescribed in a time scale, the increment next above the bar shall not be given to a Government Servant without the specific sanction of the authority empowered to withhold an increment. Under this rule there is a note to the following effect: —

“Note 3. — The cases of all officers held up at the efficiency bar should be reviewed annually with a view to determine whether the quality of their work has improved and generally whether the defects for which they were stopped at the bar have been remedied to an extent sufficient to warrant the removing of the bar.”

(ii) It is thus clear that the increment next above the efficiency bar will not be given to a employee unless a specific order sanctioning the same is passed by the Competent Authority. The case of such an officer has to be reviewed every year according to note 3 referred to above.

(iii) In this connection the following questions arise for consideration: —

- (a) Whether stoppage at the efficiency bar due to record is a penalty under the Haryana Civil Services (Punishment and Appeal) Rules, 1987?
- (b) Whether a show cause notice should be given to the officer when he is held up at the efficiency bar and at the time of annual review if it is decided that the officer has not improved to the extent that a specific order allowing the crossing of efficiency bar should be passed?
- (c) Whether under rule 4.8 *ibid*, the efficiency bar can be stopped for more than one year?
- (d) Whether the whole service record or the record subsequent to the stoppage at the efficiency bar should be considered at the time of annual review?
- (e) Whether the Public Service Commission should be consulted?

- (a) The stoppage at the efficiency bar on account of adverse record is not a punishment as mentioned in rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. In case the officer is withheld at the efficiency bar not as a measure of punishment but on account of adverse record. Where the Competent Authority initiates action under the powers conferred by the Haryana Civil Services (Punishment and Appeal) Rules, 1987, then the procedure given in the aforesaid rules should be followed. Where it is decided to take action under Rule 4.8 of the Punjab Civil Service Rules, Volume I, the procedure under Haryana Civil Services (Punishment and Appeal) Rules, 1987, need not be followed. It is for the Competent Authority to decide as to which course it wishes to adopt.

- (b) Neither Rule 4.8 of the Punjab Civil Services Rules Volume I, Part I, nor note 3 thereunder enjoins issue of show cause notice. The power conferred by Rule 4.8 cannot be regarded anything but administrative. The exercise of powers under aforesaid rule cannot be characterized as quasi-judicial requiring consequently the issue of a show cause notice prior to taking decision in the matter. It is thus not necessary for the competent authority to issue show cause notice to the civil servant before taking decision so as to withhold the increment next above the bar. Power which is initially administrative continues to be so all along and there is nothing in note 3 to compel a different interpretation. It is thus open to the authority to take a decision without resort to show cause notice at the stage of annual review.
- (c) Note 3 to rule 4.8 merely obliges the authority to review the case of a civil servant annually. It does not confine the exercise of power to any particular period. Consequently the power remains alive and exercisable as long as the civil servant is unable to remedy the defects to an extent sufficient in the opinion of the authority to warrant the removal of the bar. The departments are thus well advised not to pass orders regarding stoppage at the efficiency bar for more than one year at a time. The order passed after review should also be a speaking one.
- (d) According to note 3 below rule 4.8 of the Punjab Civil Services Rules, Volume I, Part I, the case of an official held up at the efficiency bar has to be reviewed annually with a view to determine whether the quality of his work has improved and generally whether the defects for which he was stopped at the efficiency bar have been remedied to an extent sufficient to warrant removal of the bar. The record which had earlier been taken into consideration while passing the initial order for withholding the officer at the efficiency bar should however, be kept in mind, while taking the fresh decision under note 3 *ibid*, but greater emphasis should be given to the record which the officer has earned after the date on which the officer was held at the efficiency bar. Note 3 aforesaid enjoins on the competent authority an obligation to take objective decision on the merits of every individual case, after taking into account the performance of the officer concerned for the subsequent period. Consideration of the work and conduct for any particular or specified period, after the stoppage at the efficiency bar, is not necessary. The competent authority may be satisfied of the improvement on the part of concerned officer on perusal of his one years subsequent record or may not be satisfied with his allegedly improved performance extending over a number of years.
- (e) Under the Constitution, that is Article 320(3)(c), as well as under the Haryana Public Service Commission (Limitation of Functions) Regulations, 1973, consultation with the Commission is required only in respect of disciplinary matters. It would thus not be necessary to consult the Commission in respect of the order passed for stoppage at the efficiency bar under rule 4.8.

CHAPTER-IX

DEPUTATION

33. (i) It will be useful to discuss briefly the position of Government employees on deputation as certain questions have arisen about them such as whether they have the right to be considered for promotion in the parent department while on deputation, whether they can be recalled, the authority which is to initiate or conduct disciplinary proceeding in the case of a person who is on deputation either from the Central Government to the State or *vice versa* from one State Government to another state Government.

(ii) A Government employee is said to be on deputation when he is a permanent or regular employee of one Government and his services are lent to the other Government.

(iii) Normally rules provide that when a Government employee is sent out on deputation he will not suffer any loss in the matter of benefit of promotion in the parent department or State. The Supreme Court has upheld the right of a Government employee sent out on deputation to another department, to protection in the parent department in the matter of promotion, increments etc. The Government employee sent on deputation should be deemed to have rendered his service in the parent department and his service on deputation should be taken into consideration while considering seniority for promotion.

(iv) The general principal is that where a Government employee is transferred on deputation to another department where he is appointed to a temporary post, he cannot be dismissed or suspended by the borrowing authority. The borrowing authority can ask him to go back to his parent office. However, there is no objection to the initiation of action against him by the Government under which he for the time being serves and also to inflict a minor punishment for good and sufficient reasons. One of the constitutional limitations to this is that the major penalty of dismissal, removal or reduction in rank cannot be imposed by any authority subordinate to the authority which appointed him within the meaning of Article 311(1) of the Constitution of India. So long as the officer serves under a particular Government, that Government has the power and jurisdiction to order enquiry irrespective of whether the particular misbehaviour was during the period of deputation or earlier and inflict minor penalty. Where the parent department or Government decides to institute proceedings itself, it has to recall the Government employee from deputation and then proceed to deal with the matter.

APPENDIX "A"

Article 311 of the Constitution of India

(Referred to in Chapter I para 3)

311. (1) No person who is a member of a civil service of the Union or an All-India Service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges ¹{*****}:

²[Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed.

Provided further that this clause shall not apply. —]

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such enquiry; or
- (c) where the President or Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such enquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such enquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, w.e.f. 3-1-1977.

2. Substituted by the Constitution (Forty-second Amendment) Act, 1976, w.e.f. 3-1-1977.

APPENDIX "B"

Haryana Civil Services (Punishment & Appeal) Rules, 1987

1. These rules may be called the Haryana Civil Services (Punishment and Appeal) Rules, 1987 Short title.
2. In these rules, unless the context otherwise, requires— Definitions.
- (a) "appointing authority" in relation to a Government employee means: —
- (i) the authority empowered to make appointments to the service of which the Government employee is for the time being a member or to the grade of the service in which the Government employee is for the time being included; or
 - (ii) the authority empowered to make appointments to the post which the Government employee for the time being holds; or
 - (iii) the authority which appointed the Government employee to such service, grade or post, as the case may be; or
 - (iv) where the Government employee 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 Haryana Public Service Commission;
- (c) "Government" means the Government of the State of Haryana in the Administrative Department;
- (d) "Government employee" means any person appointed to any Civil Service or post in connection with the affairs of the State of Haryana.
- Explanation: — A Government employee whose services are placed at the disposal of a company, corporation, organisation or a local authority by the Government shall, for the purpose of these rules be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than the Consolidated Fund of the State;*
- (e) "Governor" means the Governor of Haryana.
- (f) "punishing authority" means the authority competent under these rules to impose on a Government employee any of the penalties specified in rule 4;
- (g) "Service" means a civil service of the State of Haryana.

Application.

2-A (1) These rules shall apply to every Government employee, but shall not apply to—

- (a) any member of the All India Services;
- (b) any person not in employment;
- (c) any person subject to discharge from service on less than one month's notice;
- (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 by or under any agreement entered into by or with the previous approval of the Governor before or after the commencement of these rules, in regard to matters covered by special provisions;

(2) Notwithstanding anything contained in sub-rule (1), these rules shall apply to every Government employee temporarily transferred to a service or post coming within clause (d) of sub-rule (1) to whom, but for such transfer these rules would apply;

(3) If any doubt arises whether these rules or any of them apply to any person, the matter shall be referred to the Government which shall decide the same.

Saving clauses.

3. All powers, rights and remedies provided by these rules shall be, in addition to and not in derogation of the provisions of such rules as may be made by the Governor of Haryana in exercise of the powers conferred by proviso to Article 309 of the Constitution of India, to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the State.

Penalties.

4. (1) The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government employee namely:—

Minor Penalties

- (i) warning with a copy in the personal file (character roll);
- (ii) censure;
- (iii) withholding of promotion;
- (iv) recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders, to the Central Government or a State Government or to a Company and association or a body of individuals whether incorporated or not, which is wholly or substantially owned, controlled by the Government or to a local authority set up by an Act of Parliament or of the Legislature of a State; and
- ¹(v) withholding of increments of pay with cumulative effect²

Major Penalties

- ²(v-A) withholding of increments of pay with cumulative effect³;
- (vi) 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 employee

1. Substituted by G.S.R. 11 dated 19.11.1992.

2. Inserted by G.S.R. 11 dated 19.11.1992.

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;

- (vii) reduction to a lower scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service;
- (viii) compulsory retirement;
- (ix) removal from service which shall not be a disqualification for future employment under the Government;
- (x) dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

*Explanation:—*The following shall not amount to a penalty within the meaning of this rule, namely:—

- (i) withholding of increments of pay of a Government employee for his failure to pass any departmental examination in accordance with the rules or order governing the service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a Government employee 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 employee, 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;
- (iv) reversion of a Government employee 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 on any administrative ground unconnected with his conduct;
- (v) reversion of a Government employee 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) compulsory retirement of a Government employee in accordance with the provisions relating to his superannuation or retirement.
- (vii) Termination of the service—
 - (a) of a Government employee appointed on probation, during or at the end of the period of probation in accordance with the terms of appointment or the rules and orders governing such probations; or
 - (b) of a temporary Government employee appointed otherwise than under contract, on the expiration of the period of the appointment,

or on the abolition of the post or before of the appointment, or on the abolition of the post or before the due time in accordance with the terms of appointment; or

- (c) of a Government employee employed under an agreement in accordance with the terms of such agreement.

Notes.— (1) Punishing authorities have full discretion to publish in the *Haryana Government Gazette* reasons for dismissal where such publication is considered desirable in the public interest.

- (2) In order to guard against the inadvertent re-employment of persons dismissed from Government service, the authority passing an order of dismissal shall intimate to the Deputy Inspector-General, Police, Haryana Criminal Investigation Department, Deputy Commissioner, and the Superintendent of Police of the district of which the person concerned is a permanent resident, the name of such a person and any other particulars required for purposes of identification, unless the dismissal has been notified in the *Haryana Government Gazette*. Similarly, if a person happens to be a resident of another State the aforesaid officers of that State should be informed accordingly.
- (3) The provisions of this rule shall not be construed to derogate from the provisions of section 36 of the Punjab Courts Act, 1918, The payment of Wages Act, 1936, or any other law authorizing the imposing of fines on the ministerial establishment governed by these laws and the authority competent to award the punishment of the fine may do so in addition to the punishments aforesaid.
- (4) The discharge of a person appointed to hold a temporary appointment, otherwise than in accordance with the provisions of the Explanation (vii) (b) amounts to removal or dismissal and is, therefore, appealable under these rules.
- (5) The distinction between censure, the withholding of promotion and non-selection to a selection post, is of considerable importance. Both censure and the withholding of promotion are appealable under these rules. On the other hand, non-selection for a selection post is not appealable.

If a Government Employee because of an unsatisfactory record and unfavourable confidential reports, is not selected for a selection post and some other Government employee junior to him is selected in preference, this does not amount to the withholding of promotion. If any inquiry is held against a government employee and an order of censure is passed on him, it is open to him to appeal, if he does not appeal or his appeal is rejected, and if subsequently because of the existence of this censure in his record, he is not selected for a selection post, and some other government employee junior to him is selected in preference, this also does not amount to the withholding of promotion. If however, an enquiry is held against a Government employee, and an order is passed that he should not be promoted to a selection post for a definite period or until he has obtained good reports, this order would amount to the infliction of the penalty of withholding promotion. This distinction between nonselection for a selection post and the withholding of a promotion may be summed up as being, that in the former case the government employee in question is considered for selection but some other government employee is

preferred on his merits, while in the later case the government employee in question has been declared before hand, as a disciplinary measure, to be ineligible for selection, irrespective of the merits of the other government employees available.

(6) (i) While reduction of seniority as a independent penalty is not provided for in rule 4, and cannot be imposed as such, the loss of seniority as result of an order of reduction to a lower post of time-scale, being inherent in the order of reduction cannot be avoided.

(ii) The seniority, or re-promotion of an government employee reduced to a lower post or time scale, should be determined by the date of such repromotion in accordance with the orders issued by the competent authority on the subject of seniority. Such Government employee should not be restored to his original position unless this is specifically laid down at the time of punishment is passed, or revised an appeal.

(7) Unauthorised desertion of his post by a public servant in the face of energy action, or threat of enemy action clearly amounts to grave misconduct and would, therefore, constitute a good and sufficient reason with in the meaning of rule 4, for removal or dismissal in addition to any penalty provided in the Haryana Essential Services (Maintenance) Act, 1974. Loss of pension would then follow automatically by virtue of the provisions of rule 2.5 of the Punjab Civil Services Rules, Volume II, and it would also be possible to forfeit the Government contribution, if any, to the individuals provident fund.

4A. Suspension. – (1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government employee under suspension.

- (a) Where a disciplinary proceeding against him is contemplated or is pending, or
- (b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

[Provided that where a Government Employee against whom disciplinary proceedings are contemplated is suspended, such suspension shall not be valid, unless before the expiry of a period of ninety days from the date from which the employee was suspended, disciplinary proceedings are initiated against him:

Provided further that the competent authority in the matter may, at any time before the expiry of the said period of ninety days and after considering the special circumstances for not initiating disciplinary proceedings, to be recorded in writing and after seeking the approval of next higher authority allow continuance of the suspension beyond the period of ninety days without the disciplinary proceedings being initiated]

Provided further 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 employee shall be deemed to have been placed under suspension by an order of the appointing authority: —

- (a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours; and

1. Inserted by Haryana Government Notification No. GSR 20 dated 6-7-2007.

- (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 rule shall be computed from the commencement of imprisonment after the conviction; 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 employee under suspension is set aside in appeal or review under these rules and the case is remitted for further inquiry or action or with other directions, the order of his suspension shall be deemed to have continued in force 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 employee is set aside or declared void or rendered void in consequence of or by a decision of a court of law and the punishing authority, in consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government employee 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.

(5) 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.

(6) Where a Government employee is suspended or is deemed to have been suspended whether in connection with any disciplinary proceeding or otherwise, and another disciplinary proceeding is commenced against him during the continuance of his suspension the authority competent to place him under suspension may, for reasons recorded by it in writing, direct that the Government employee shall continue to be under suspension until the termination of all or any of such proceedings.

(7) 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.

Withholding of payment of emoluments of a Government servant suspected to embezzlement.

5. When a Government employee is suspected of being concerned in the embezzlement of Government money, and is placed under suspension, the authority competent to order his dismissal may direct, that unless he furnishes security for the reimbursement of the said money to the satisfaction of his immediate superiors, the payment of any sum due to him by the Government on the date of his suspension, shall be withheld until such time as the said authority passes final orders on the charges framed against him.

Provided that such Government employee shall be entitled to the payment of subsistence allowance in respect of the period for which the admissible emoluments, if any, are withheld.

Authority to impose punishment.

6. Subject to the provisions of clause (1) of Article 311 of the Constitution of India, the authorities competent to impose any of the penalties specified in rule

the persons to whom these rules apply, shall be such as may be prescribed by the Government in the rules regulating the appointment and conditions of service of such persons.

7. (1) Without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850; no order of imposing a major penalty shall be passed against a person to whom these rules are applicable unless he has given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

Inquiry before
imposition of
certain penalties

(2) The grounds on which it is proposed to take such action shall be reduced to the form of definite charge or charges which shall be communicated in writing to the persons charged together with a statement of allegations on which each charge is based and of any other circumstances which it is proposed to take up into consideration in passing orders on the case and he shall be required within a reasonable time to state in writing whether he admits the truth of all or any, of the charges, what explanation for defence, if any, he has to offer and whether he desires to be heard in person. If the punishing authority is not satisfied with the explanation given by the person charged or there are other reasons to do so shall direct that an enquiry shall be held at which all evidence shall be heard as to such of the charges as are not admitted. The persons charged shall, subject to the conditions described in sub-rule (3), be entitled to cross examine the witnesses, to give evidence in person and to have such witnesses called, as he may wish, provided that the Officer conducting the enquiry may for reasons to be recorded in writing, refuse to call any witness. The proceedings shall contain a sufficient record of the evidence and statement of the findings and the grounds there of provided that—

(a) it shall not be necessary to frame any additional charge when it is proposed to take action in respect of any statement of allegation made by the person charged in the course of his defence;

(b) the provisions of the foregoing sub-rule shall not apply where any major penalty is proposed to be imposed upon a person on the ground of conduct which has led to his conviction on a criminal charge; or where an authority empowered to dismiss or remove him, or reduce him in rank is satisfied that, for some reasons to be recorded by him in writing, it is not reasonably practicable to give him an opportunity of showing cause against the action proposed to be taken against him, or wherein the interest of the security of the State it is considered not expedient to give to that person such an opportunity,

(c) [the Inquiry Officer appointed to conduct enquiry shall issue maximum two notices to the charged person to appear before him for presenting his/her case. In case charged persons do not appear after the communication of two notices, the Inquiry Officer shall be competent to proceed *ex-parte* in the matter. However, after considering the circumstances to be recorded, the Inquiry Officer may issue third notice also;

(d) as per the Punjab Departmental Enquiries (powers) Act, 1955 (Punjab Act 8 of 1955), the officer conducting enquiry under these rules shall be competent to exercise the same powers for summoning of witnesses and for compelling the production of documents as are exercisable by a Commission appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 (Act 37 of 1850);

(e) in case the competent authority is satisfied with the explanation given by the charged person, it may drop the charge-sheet without resorting to the procedure of conducting enquiry. Similarly if the competent authority after considering the reply of the charged person is of the opinion that awarding of minor punishment shall meet the end of justice, then the authority competent may award minor punishment without following the procedure of conducting the enquiry.]

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity to defend himself under sub-rule (2) the decision thereon of the punishing authority shall be final.

(4) (a) Where any person has made a statement on oath, in evidence before any criminal or Civil Court, in any case, in which Government employee charged was party and had full opportunity to cross examine such person and where it is intended to prove the same facts as deposed to by such person in such statement in any inquiry under the Public Servants (Inquiries) Act, 1850, shall not be necessary to call such person to give oral evidence in corroboration of that statement. The certified copy of the statement previously made by him in any such case may be read as part of the evidence:

Provided that the Officer conducting the inquiry may, in interest of justice order the production of witness in person either for further examination or for further cross-examination by persons charged.

(b) The Government employee charged shall not be allowed, except at discretion of the Enquiry Officer, to be exercised in the interest of justice to call as a witness in his defence any person whose statement has already been recorded and whom he has had opportunity to cross-examine, or whose previous statement has been admitted in the manner herein provided.

(5) Where the punishing authority itself enquires into any charge or charges or appoints an enquiry officer for holding enquiry against a person charged it may, by an order, appoint a Government servant or a legal practitioner to be known as a "Presenting Officer" to present on its behalf the case, in support of the charge or charges.

The person against whom a charge is being enquired into, shall be allowed to obtain the assistance of a Government employee or a retired Government employee if he so desires, in order to produce his defence before the Enquiry Officer. If the charge or charges are likely to result in the dismissal of the person from the service of the Government, such person may, with the sanction of the Enquiry Officer, be represented by counsel:

Provided that if in any enquiry, Counsel is engaged on behalf of any department of Government, the person against whom the charge or charges are being enquired into, shall also be entitled to engage counsel:

Provided further that the assistance of a particular Government employee will be allowed only if the Enquiry Officer is satisfied that he is of such rank as is appropriate in the circumstances of the case and that he can be spared by the department concerned for that purpose.

Notes. - (1) Charges need not necessarily be framed in relation only to specific incidents or acts of misconduct. When reports received against an officer or a preliminary enquiry show that this general behaviour has been such as to be unfitting to his position,

or that he has failed to reach or maintain a reasonable standard of efficiency he may and should be charged accordingly, and a finding on such a charge may be valid ground for the infliction of any authorised punishment, which may be considered suitable in the circumstances of the case. It will still be necessary to communicate the charges of misbehaviour or of inefficiency or of both as the case may be, to the officer concerned but the statement which is to be communicated to the officer in support of the charges need not specify particular acts of misconduct. It will be sufficient in the statement to give the list of the reports on the basis of which misbehaviour or inefficiency is alleged.

(2) This rule shall not apply where it is proposed to order the compulsory retirement from service of any Government employee subject to the rule making power of the Government who after the 14th August, 1947 has been in the employment of a Government outside the Union of India for any period and whose retention in the public service of the State of Haryana is in the opinion of the Government prejudicial to national security. In every such case as aforesaid, it shall be sufficient for the Government to inform the person concerned of such opinion, and that in pursuance of that opinion it is proposed to order his compulsory retirement and to pass orders after taking into consideration, his representation, if any.

Any person compulsory retired from service in accordance with the procedure prescribed by this rule will be granted such compensation, pension, gratuity, or Provident Fund benefits as would have been admissible to him had he been discharged from service due to the abolition of his post without any alternative suitable employment being provided, under the rules applicable to his service or post on the date of his retirement.

[(6) After the enquiry against a Government employee has been completed, the disciplinary authority shall forward or cause to be forwarded a copy of the enquiry report, and where the disciplinary authority does not agree with the enquiry report or any part thereof, the reasons for such disagreement shall be communicated along with the enquiry report, to the Government Employee who may submit, if he so desires, a written representation to the disciplinary authority within a period of one month from the date of such communication.

(7) The disciplinary authority shall consider the representation, if any, submitted by the Government Employee and record its findings before proceeding further in the matter as specified in rule 4.

8. Without prejudice to the provisions of rule 7 no order for imposing a minor penalty shall be passed on a Government employee unless he has been given an adequate opportunity of making any representation that he may desire to make, and such representation has been taken into consideration:

Procedure for imposing minor penalties.

Provided that this condition shall not apply in a case where an order based on facts has led to his conviction in a criminal court or an order has been passed superseding him for promotion to a higher post on the ground of his unfitness for that post on account of the existence of unsatisfactory record:

Provided further that the requirements of this rule may, for sufficient reasons to be recorded in writing be waived where it is not practicable to observe them and where they can be waived without injustice to the Government employee concerned.

Substituted by Haryana Government Notification No. GSR 20 dated 6-7-2007.

Right of appeal.

9. (1) Every person to whom these rules apply, shall be entitled to appeal, as hereinafter provided to such superior authority as may be prescribed by Government in the rules regulating his conditions of service against an order, not being an order of Government.

- (a) imposing upon him any of the penalties specified in rule 4;
- (b) discharging him in accordance with the term of his contract, if he has been engaged on a contract for a definite, or for an indefinite period and has rendered under either form of contract continuous service for a period exceeding five years at the time when his services are terminated;
- (c) reducing or withholding the amount of ordinary or additional pension admissible under the rules governing pension;
- (d) terminating his appointment, otherwise than upon his reaching the age fixed for superannuation;
- (e) an order which denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement.

Period of limitations of appeal.

10. No appeal preferred under rule 9 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.

Order which may be passed by appellate authority.

11. (1) In the case of appeal against an order under rule 9 or any penalty specified in rule 4, the appellate authority shall consider:

- (a) whether the facts on which the order 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 consideration, shall pass such order as it thinks proper.

Provided that no penalty shall be increased unless opportunity is given to the person concerned to show cause why such penalty should not be increased.

(2) An authority from whose order, an appeal is preferred under these rules shall give effect to any order made by the appellate authority.

Second appeal where penalty is increased.

12. In every case in which an appellate authority, other than Government increases the penalty inflicted by an authority subordinate to it upon a person to whom these rules apply, such person shall be entitled to submit a second appeal within six days to the authority prescribed in the rules regulating his conditions of service.

Right of revision.

13. After an appeal or the second appeal provided in rule 12 has been rejected a person to whom these rules apply, may apply for revision to such superior authority may be prescribed in the rules regulating his condition of service.

Provided that the powers of revision shall be exercised only—

- (a) if the appellate authority is one other than Government, and

- (b) on the ground of material irregularity in the proceedings of the Enquiry Officer or appellate authority, or on the discovery of new and important matter of evidence, which after the exercise of diligence was not within the knowledge of the petitioner, or could not be produced by him when the orders were passed against him or on account of some mistake or error on the face of the record.

Power of superior authority to revise the proceeding of an inferior authority.

14. (1) The Government or the Head of Department may call for and examine the records of any case in which a subordinate authority passed any order under rule 9 or has inflicted any of the penalties specified in rule 4 or in which no order has been passed or penalty inflicted and after making further investigation, if any, may confirm, remit or reduce to the any or subject to provisions of sub-rule (1) or rule 11, increase the penalty or subject to provisions of rule 7 and 8 inflict any of the penalties specified in rule 4.

(2) The Government may, at the time of consideration of Memorial, submitted under its general or special instructions published from time to time, by the Government employee on whom a penalty is imposed review any order passed by the Government under these rules:

Provided that the penalty already imposed shall not be enhanced unless an opportunity has been given to the Government employee who has submitted Memorial to show cause why it may not be enhanced.

15. Every person preferring an appeal shall do so separately and in his own name.

Prohibition as to collective appeal.

16. (1) Where two or more Government employees are concerned in any case the Governor or any other authority competent to impose the penalty of dismissal from service on all such Government employees may make an order directing that disciplinary action against all of them may be taken in a common proceedings.

Common proceedings.

(2) If the authorities competent to impose the penalty of dismissal on such Government employees are different, an order for taking disciplinary action in a common proceeding shall be made by the highest of such authorities.

(3) Any order under sub-rule (1) shall specify the authority competent to do so under the relevant service rules, which may function as the punishing authority for the purpose of such common proceeding.

17. Every appeal or application for revision preferred under these rules, shall contain material statements and arguments relied upon by the appellant or applicant, shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal or application for revision shall be submitted through the Head of the office to which the appellant or applicant belong or belonged.

Manner of presentation of appeal or application for revision.

18. (1) An appeal or application for revision may be withheld by the Head of the office, if—

Withholding of appeals or applications for revision.

- (a) it is an appeal or application for revision in a case in which under these rules, no appeal or application for revision lies; or
- (b) it does not comply with the provisions of rule 17; or
- (c) it is an appeal and is not preferred within forty five days after the date on which the appellant was informed of the order appealed against, and no reasonable cause is shown for the delay; or

- (d) it is a rejected or dismissed appeal or application for revision and is made to the appellate or revisionary authority by which such appeal against, and no reasonable cause is shown for the delay, or

Provided that in every case in which an appeal or application for revision is withheld, the appellant or applicant shall be informed of the fact and the reasons for it and a copy thereof forwarded to the appellate authority, if any, together with a copy of the appeal or application for revision so withheld.

Provided further that an appeal or application for revision withheld on account only of failure to comply with the provisions of rule 17 may be re-submitted at any time within one month of the date on which the appellant or applicant has been informed of the withholding of the appeal or application and if re-submitted in a form which complies with those provisions, shall not be withheld.

(2) Any appellant or revisional authority may call for the record of any appeal or application for revision withheld by an authority subordinate to it, which under these rules may be made to it and may pass such order thereon as it considers fit.

Saving of the
functions of the
Haryana Public
Service Comm-
ission.

19. Nothing in these rules shall be deemed to affect the functions of the Haryana Public Service Commission as specified in Article 320 of the Constitution of India, and as limited by the Haryana Public Service Commission (Limitation of Functions) Regulations, 1973 or other regulations made in that behalf.

Repeal and Saving.

20. (1) The Punjab Civil Service (Punishment and Appeal) Rules 1952, and any notifications or orders issued in so far as they are inconsistent with these rules, are hereby repealed:

Provided that—

- (a) such repeal shall not affect the provisions operation of the said rules or any notification or order made or anything done, or any action taken, thereunder; and
- (b) any proceedings under the said rules, 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 and the appeal was preferred under these rules.

(4) As from the commencement of these rules any appeal or application for revision against any orders 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 revision provided by any rule in force before the commencement of these rules.

HARYANA CIVIL SERVICES (SAFEGUARDING OF NATIONAL SECURITY) RULES, 1971.

1. (i) These rules may be called the Haryana Civil Services (Safeguarding of National Security) Rules, 1971.

(ii) The Punjab Civil Services (Safeguarding of National Security) Rules, 1954 are hereby cancelled so far as the State of Haryana is concerned.

(iii) These rules shall apply to all persons serving under the State of Haryana whose conditions of service are regulated by the Governor of Haryana.

2. In these rules: —

- (a) "Government employee" means any person appointed to any civil service or post in connection with the affair of the State of Haryana.
- (b) "Head of Department" means any authority as defined in Appendix 'D' of the Punjab Budget Manual.
- (c) "Competent authority" means —
 - (i) in relation to a Government employee appointed by the Head of a Department or by any authority subordinate to the Head of the Department, the Head of Department; and
 - (ii) in relation to any other Government employee, the Governor of Haryana, or the Secretary in the Administrative Department, as the case may be.

3. Where the competent authority is of the opinion that a Government employee is engaged in or is reasonable suspected to be engaged in subversive activities or is associated with others in subversive activities and that his retention in the public service is on that account prejudicial to national security the competent authority may make an order compulsorily retiring such Government employee from service.

4. Before an order under rule 3 is made—

- (a) the competent authority shall, by notice in writing inform the Government employee of the charges against him and the action proposed to be taken in regard to him and give him an opportunity to make to it within such period as may be specified in notice, representation in writing against that action;
- (b) the competent authority shall take into consideration the representation, if any, so made by the Government employee.
- (c) If after taking into consideration the facts of the case and the representation of the Government employee, the competent authority is of the view that action under these rules should be taken for the compulsory retirement of such Government employee, it shall send the case to the Governor of Haryana for decision whether the Governor is satisfied that in the interest of the security of the State it is not expedient to hold any enquiry as required under Clause (2) of Article 311 of the Constitution of India.

- (d) If the Governor is personally satisfied that in the interest of the security of the State it is not expedient to hold an inquiry under Article 311 of the Constitution of India the competent authority shall pass an order compulsorily retiring the Government employee.
- (e) If the Governor does not feel so satisfied the competent authority will take further necessary action in accordance with the provisions of Article 311 of the Constitution of India.

5. Where action under these rules is proposed to be taken in regard to a Government employee, the competent authority shall place the Government employee under suspension:

Provided that if the Government employee so wishes, the competent authority shall, before placing him under suspension, permit him to proceed on such leave as may then be admissible to him.

6. Nothing contained in the Punjab Civil Services (Punishment and Appeal) Rules, 1952 shall apply to or in respect of any action taken or proposed to be taken under these rules.

7. Any person compulsorily retired from service under rule 3 shall be entitled to such compensation, pension, gratuity or provident fund benefits as would have been admissible to him under the rules applicable to his service or post on the date of such retirement if he had been discharged from service due to the abolition of his post without any alternative suitable employment being provided.

APPENDIX "C"

[Referred to in Chapter 1, Para 4(1)]

HARYANA GOVERNMENT

DEPARTMENT

MEMORANDUM

No. _____ Dated _____

Shri _____

is hereby informed that it is proposed by the Governor/competent authority to take action against him/her under (indicate rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 1987 or other relevant rules), on the grounds set out in the enclosed statement of charges. The charges are based on the statement of allegations appended thereto.

2. _____ is hereby required to state in writing within a period of 15 days from the receipt of this memorandum by him whether he admits the truth of all, or any, of the charges, what explanation or defence, if any, he has to offer and whether he desires to be heard in person.

3. _____ is hereby further informed that if for the purpose of preparing his written statement, he wishes to have access to the relevant official records, he should inspect the same in the office of the _____ on any working day after making prior appointment with him. It is, however, pointed out that only such documents will be shown to him as are in the possession of the _____ Department and as are strictly relevant to the case. If in the opinion of the Government,

_____ complete authority

it is not desirable in the public interest, to allow him access to any document, such access shall be refused. If, Shri _____ wishes to consult any other relevant record, which is not in the custody of the _____ Department, it is for him to undertake its inspection. It is, however, made clear to Shri _____ that his failure to inspect the documents shall not constitute a valid ground for delay in the submission of his written statement and if the written statement is not received by the undersigned within the specified period, it shall be presumed that he has none to submit.

4. The written statement should be submitted direct to the undersigned.

5. The receipt of this memorandum with enclosure may be acknowledged.—

(Competent authority.)

To

Shri _____

APPENDIX "D"

[Referred to in Chapter 1, Para 4(2)]

THE GOVERNMENT EMPLOYEES (CONDUCT) RULES, 1966

1. *Short title, Commencement and application.* — (1) These rules may be called the Punjab Government Employees (Conduct) Rules, 1966.

(2) They shall come into force at once.

(3) They shall apply to all persons appointed to Civil Services and posts in connection with the affairs of the State.

Provided that nothing in these rules shall apply to—

(a) members of the All India Services who are subject to All India Services (Conduct) Rules, 1954; and

(b) holders of any post in respect of which the Government may, by general or special order, declare that these rules do not apply.

2. *Definitions.* — In these rules, unless the context otherwise requires, —

(a) 'the Government means the Government of the State of Haryana.

(b) "Government employees" means any person appointed to any civil service or post in connection with the affairs of the State of Haryana.

Explanation. — A Government employee whose services are placed at the disposal of a company, corporation, organisation or a local authority by the Government, shall for the purposes of these rules be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than from the Consolidated Fund of the State.

(c) "members of family" in relation to a Government employee includes:—

(i) the wife or the husband, as the case may be, of the Government employee, whether residing with the Government employee or not but does not include a wife or husband, as the case may be, separated from the Government employee, by a decree or order of a competent court;

(ii) son or daughter or step-son or step-daughter of the Government employee and wholly dependent on him, but does not include a child or step-child who is no longer in any way dependent on Government employee or of whose custody the Government employee has been deprived by or under any law;

(iii) any other person related, whether by blood or marriage, to the Government employee or to the Government employee's wife or husband and wholly dependent on the Government employee.

3. *General.* — (1) Every Government employee shall at all times—

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Government employee.

(2)(i) Every Government employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government employees¹ under his control and authority.

²[(ii) No Government employee shall, in the performance of his official duties, or in the exercise of powers conferred on him act otherwise than in his best judgement, except when he is acting under the direction of his official superior.

(iii) The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.

(iv) A Government employee who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.]

Explanation. — Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government employee to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

³[3-A. Prohibition of sexual harassment of working women. —

(1) No Government employee shall indulge in any act of sexual harassment of any woman at her work place.

(2) Every Government employee who is incharge of work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation. — For the purpose of this rule, "sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as:

- (a) physical contact and advances;
- (b) demand or request for sexual favours;
- (c) making any sexually coloured remarks;
- (d) showing any pornographic material; and
- (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.]

1. The words 'for the time being', omitted —*vide* notification No. GSR. 29 Conts. Arts. 309, 318 and 187, dated 3rd April, 1987.
 2. Substituted *vide* H.G. Notification No. G.S.R. 110/Const./Art. 309/79, dated the 19th October, 1979.
 3. Inserted *vide* no. GSR 60/Const./Art. 187, 309 and 318/99, dated 11-6-99.

4. *Employment of near relatives of Government employees in* ¹[Companies or firm] *enjoying Government patronage.* – (1) No Government employee shall use his position or influence directly or indirectly to secure employment for any member of his family in any 1[company or firm]

(2) (i) No Class I officer shall, except with the previous sanction of the Government, permit his son, daughter or other dependent to accept employment in any 1[Company or firm] with which he has official dealings or in any other ²[company or firm] having official dealings with the Government:

Provided that where the acceptance of the employment cannot await prior permission of the Government or is otherwise considered urgent, the matter shall be ¹[reported to the Government at the earliest but not later than three months] and the employment may be accepted provisionally subject to the permission of the Government.

(ii) A Government employee shall, as soon as he becomes aware of the acceptance by a member of his family of an employment in any ¹[company or firm] intimate such acceptance to the prescribed authority and shall also intimate whether he has or had any official dealings with that 1[company or firm];

Provided that no such intimation shall be necessary in the case of a Class-II Officer, if he has already obtained the sanction of, or sent a report to, the Government under clause (i).

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

5. *Taking part in politics and election.* – (1) No Government employee shall be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics nor shall he take part in, subscribed in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government employee to endeavour to prevent any member of his family from taking part in, subscribing in aid of or assisting in any other manner, any movement or activity which is or tends directly or indirectly to be, subversive of the Government as by law established and where a Government employee is unable to prevent a member of his family from taking part in, or subscribing in aid of or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.

(3) If any question arises whether a party is a political party or whether any organisation takes part in politics or whether any movement or activity falls within the scope of sub-rule (2) the decision of the Government, thereon shall be final.

(4) No Government employee shall canvass or otherwise canvass, interfere with,

1. Substituted *vide* H.G. notification No. GSR. 10/Const./Arts. 309, 318 and 187/Amd. (1) 77, dated 14th January, 1977

2. Substituted *vide* H.G. Notification No. G.S.R. 29/Const./Arts. 309, 318 and 187/Amd. (1) 87, dated 3rd April, 1987.

or use his influence in connection with or take part in, an election to any legislature or local authority:

Provided that—

- (i) a Government employee qualified to vote at such election may exercise his right to vote but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;
- (ii) a Government employee shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation. — The display by a Government employee on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

6. *Joining of Associations by Government employees.* — No Government employee shall join, or continue to be a member of an association, the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India or public order or morality.

7. *Demonstration and Strikes.*— No Government employee shall—

- (i) engage himself for participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, Public order, decency or morality or which involves contempts of court, defamation or incitement to an offence, or
- (ii) resort to or in any way abet any form of strike in connection with any matter pertaining to his service or any other Government employee.

8. *Connection with Press or Radio.* — (1) No Government employee shall, except with the previous sanction of the Government, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication.

[(2) No Government employee shall, except with the previous sanction of the Government or the prescribed authority or except in the *bonafide* discharge of his duties, —

- (a) publish a book himself or through a publisher, or contribute an article to a book or a compilation of articles; or
- (b) participate in a radio broadcast or contribute an article or write a letter to a newspaper or periodical; either in his own name or anonymously or pseudonymously or in the name of any other person:

Provided that no such sanction shall be required, —

- (i) if such publication is through a publisher and is of a purely literary artistic or scientific character; or

1. Substituted vide Haryana Government Notification No. GSR 29-309/68, dated the 19th March, 1968.

- (ii) if such contribution, broadcast or writing is of a purely literary, artistic or scientific character];

[Provided further that the Government may withdraw at any time the sanction so granted if there are reasons to believe that the sanction is being misutilised after affording reasonable opportunity of being heard].

9. *Criticism of Government.*— No Government employee shall, in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion—

- (i) which has the effect of any adverse criticism of any current, recent policy or action of the Government of India, Government of Haryana or any other State Government;
- (ii) which is capable of embarrassing the relations between the Government of Haryana and the Government of India or the Government of any other State in India; or
- (iii) which is capable of embarrassing the relations between the Government of India or the Government of Haryana and the Government of any foreign State:

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government employee in his official capacity or in the due performance of the duties assigned to him.

10. *Evidence before committee or any other authority.* — (1) Save as provided in sub-rule (3), no Government employee shall, except with the previous sanction of the Government, give evidence in connection with any enquiry conducted by any person, committee or authority.

(2) Where any sanction has been accorded under sub-rule (1) no Government employee giving such evidence shall criticize the policy or any action of the Government of India, Government of Haryana or any other State Government.

(3) Nothing in this rule shall apply to—

- (a) evidence given at an enquiry before an authority appointed by the Government, Parliament or a State Legislature; or
- (b) evidence given in any judicial enquiry; or
- (c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government.

11. *Unauthorised Communication of the Information.* — No Government employee shall, except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him communicate, directly or indirectly any official document, or any part thereof or information to any Government employee or any other person to whom he is not authorised to communicate such document or information.

1. Inserted vide H.G. Notification No. G.S.R. 29/ Const./Arts. 309, 318 and 187/Amd. (1)/87, dated 3-4-87.

Explanation. — Quotation by a Government employee (in his representation to the Head Office or Head of Department or Governor) or of from any letter, circular or office memorandum, or from the notes on any file, to which he is not authorised to have access, or which he is not authorised to keep in his personal custody or for personal purposes, shall amount to unauthorised communication of information within the meaning of this rule.

12. *Subscriptions.* — No Government employee shall, except with the previous sanction of the Government or of the prescribed authority ask for or accept contributions to or otherwise associate himself with the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

13. *Gifts.* — (1) Save as otherwise provided in these rules, no Government employee shall accept or permit any member of his family or '[any other person] acting on his behalf to accept, any gift.

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

Note. — (i) a casual meal, gift or other social hospitality shall not be deemed to be a gift.

Note. — (ii) A Government employee shall avoid accepting lavish hospitality or frequent hospitality from any individual having official dealings with him or from industrial or commercial firms, organisations, etc.

²(2) On occasions such as weddings, anniversaries, funerals or religious functions, when the making of a gift is in conformity with prevailing religious or social practice a Government employee may accept gifts from his near relatives and friends but he shall make a report to the Government if the value of any such gift exceeds Rs. 500.

³(3) In any other case, a Government employee shall not accept, or permit any member of his family or any other person acting on his behalf to accept, any gift without the sanction of the Government if the value thereof exceeds—

- (i) ⁴[Rs. 100.00 in the case of a Government employee holding any Class I or Class II post; and
- (ii) [Rs. 50.00] in the case of a Government employee holding any Class III or Class IV post].

⁵[13-A. *Prohibition of Dowry.* — No Government employee shall—

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand, directly or indirectly from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation. — For the purpose of this rule, "dowry" has the same meaning as in the Dowry Prohibition Act, 1961 (28 of 1961), as amended in its application to the State of Haryana].

1. Substituted vide H.G. Notification No. GSR 10/Const. Arts 309, 318 and 187/amd. (1/77 dated 14th January, 1977.
2. Substituted for sub rule (2) and (3) vide H.G. Notification No. G.S.R. 29/Const./Arts 309, 318 and 187/Amd. (1)/87, dated 3-4-87.
3. Substituted vide H.G. Notification No. GSR 10/Const. Arts 309, 318 and 187/Amd. (1)/77 dated 14th January, 1977.
4. Substituted vide H.G. Notification No. GSR 29/Const. Arts 309, 318 and 147/Amd. (1)/87 dated 3rd April, 1987.

¹[13-B. Every Government employee after his marriage shall furnish a declaration to his Head of Department that he has not taken any dowry. The declaration shall be signed by his wife, father and father-in-law.]

14. *Public demonstration in honour of Government employees.* — No Government employee shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour or in the honour of any other Government employee:—

Provided that nothing in this rule shall apply, to—

- (a) a farewell entertainment of a substantially private and informal character held in honour of a Government employee or any other Government employee on the occasion of his retirement or transfer of any person who has recently quit the service of any Government; or
- (b) the acceptance of simple and inexpensive entertainment arranged by public bodies or institutions.

Note. — Exercise of pressure or influence of any sort on any Government employee to induce him to subscribe towards any farewell entertainment even if it is of a substantially private or informal character, and the collection of subscriptions from Class III or Class IV employees under any circumstances for the entertainment of any Government employee not belonging to Class III or Class IV, is forbidden.

²[15. *Private trade or Employment.* — (1) No Government employee shall, except with the previous sanction of the Government engage directly or indirectly in any trade or business or negotiate for, or undertake, any other employment:

Provided that a Government employee may, without such sanction undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character, subject to the conditions that—

- (i) he shall, within a period of one month of his under-taking any such work, report to the Government giving full details;
- (ii) his official duties do not thereby suffer;
- (iii) he shall discontinue any such work if so directed by the Government:

Provided further that, if the undertaking of any such work involves holding of an elective office, he shall not seek election to any such office without the previous sanction of the Government.

Explanation. — Canvassing by a Government employee—

- (i) in support of the business of insurance agency, commission agency, etc., owned or managed by his wife or any other member of his family; or
- (ii) for a candidate for an elective office referred to in the second proviso, shall be deemed to be a breach of this sub-rule.

(2) Every Government employee ³[shall report within one month] to the

1. Added by H.G. Notification No. GSR 2 dated 3-2-2006.
2. Substituted *vide* H.G. Notification G.S.R. 93/Const./Arts. 309, 318 and 187/Amd. (1) 75, dated the 1st August, 1975, published in Haryana Government Gazette, Legislative Supplement dated the 5th August, 1975.
3. Substituted for the words "shall report" *vide* H.G. Notification No. G.S.R.-29/Arts. 309, 318 and 187/Amd. (1)/87, dated 3-4-87.

Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(3) No Government employee shall, without the previous sanction of the Government except in the discharge of his official duties, take part in the registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 (Act 1 of 1956), or any other law for the time being in force or any co-operative society for commercial purposes:

Provided that a Government employee may take part in the registration, promotion or management of a Co-operative society substantially for the benefit of Government employees or of a literary, scientific or charitable society registered under the Societies Registration Act, 1860 (21 of 1860), or any corresponding law in force, subject to the conditions that—

- (i) he shall, within a period of one month of his taking part in such activity, report to the Government giving full details;
- (ii) his official duties do not thereby suffer;
- (iii) he shall discontinue taking part in any such activity if so directed by the Government:

Provided further that, if taking part in any such activity involves holding of an elective office, he shall not seek election to any such office without previous sanction of the Government.

Explanation-I. -A 'Co-operative society' means a society registered, or deemed to be registered under Co-operative Societies Act, 1912 (2 of 1912), or any other law relating to co-operative societies for the time being in force in any State.

Explanation-II. —Canvassing for a candidate for an elective office referred to in the second proviso shall be deemed to be breach of this sub-rule.

(4) No Government employee shall accept any fee for any work done by him for any public body or any private person without the sanction of the prescribed authority].

16. Investment, lending and borrowing. — (1) No Government employee shall speculate in any stock, share or other investment.

Explanation. — Frequent purchase or sale or both of shares, securities or other investments shall be deemed to be speculation within the meaning of this sub-rule.

(2) No Government employee shall make, or permit any member of his family or any person acting on his behalf to make any investment which is likely to embarrass or influence him in the discharge of his official duties.

(3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the Government thereon shall be final.

(4) (i) No Government employee shall, save in the ordinary course of business with a bank or a firm of standing duly authorised to conduct banking business, either himself or through any member of his family or any other person acting on his behalf: —

- (a) lend or borrow money as principal or agent, to or from any person within the local limits of his authority or with whom he is likely to have official dealings, or otherwise place himself under any pecuniary obligation to such person; or

- (b) lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid:

¹[Provided that a Government employee may, give to or accept from a relative or a personal friend purely temporary loan of a small amount free of interest, or operate a credit account with a *bonafide* tradesman or make an advance of pay to his private employee but such amount shall not exceed twelve months emoluments for the construction of house or purchase of built-up house and six months emoluments for the purchase of conveyance and other purposes].

²[Provided further that a Government employee may, with the previous sanction of the Government, enter into any transaction referred to in sub-clause (a) or sub-clause (b)].

(ii) When a Government employee is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4), he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority.

17. *Insolvency and habitual indebtedness.* — A Government employee shall so manage his private affairs as to avoid habitual indebtedness, or insolvency. A Government employee against whom any legal proceeding is instituted for the recovery of any debt due from him or for adjudging him as an insolvent shall forthwith report the full facts of the legal proceeding to the Government.

Note. — The burden of proving that the insolvency or indebtedness was the result of circumstances which with the exercise of ordinary diligence, the Government employee could not have foreseen, or over which he had no control, and had not proceeded from extravagant or dissipated habits, shall be upon the Government employee.

18. *Movable, immovable and valuable property.* — (1) Every Government employee shall on his first appointment to any service or post and thereafter at such intervals may be specified by the Government, submit a return of his assets and liabilities, in such form as may be prescribed by the Government giving the full particulars regarding:—

- ³[(a) the immovable property inherited, owned, acquired or held on lease or mortgage, by him or his spouse or any member of his family, either in their own name or in the name of any other person;
- (b) shares, debentures and cash including bank deposits inherited or similarly owned, acquired or held by him or his spouse or any other member of his family;
- (c) other movable property inherited or similarly owned, acquired or held by him or his spouse or any other member of his family; and

1. Substituted — vide H.G. Notification No. G.S.R.-23/Const./Arts. 309, 318 and 187/Amd. (1)/91, dated 27th March, 1991.
 2. Inserted — vide H.G. Notification No. G.S.R. 123/Const./Arts. 309, 318 and 187/Amd. (1) 76, dated 14th May, 1976.
 3. Substituted, - H.G. Notification No. G.S.R. 29/Arts. 309, 318 and 187/Amd. (1) 87, dated 3rd April, 1987.

- (d) debts and other liabilities incurred directly or indirectly by him or his spouse or any other member of his family.]

Note I. – Sub-rule (1) shall not ordinarily apply to Class IV employees, but the Government may direct that it shall apply to any such Government employees or class of such Government employees.

Note II. – In all returns, the value of items of movable property worth less than Rs. 1,000 may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books etc., need not be included in such return.

Note III. – Every Government employee who is in service on the date of the commencement of these rules shall submit a return under this sub-rule on or before such date as may be specified by the Government after such commencement.

(2) No Government employee shall except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government employee if any such transaction is—

(i) with a person having official dealings with the Government employee;
or

(ii) otherwise than through a regular or reputed dealer.

“(3) where a Government employee enters into a transaction in respect of movable property either in his own name or in the name of a member of his family, he shall within one month from the date of such transaction, report the same to the prescribed authority, if the value of such property exceeds Rs. 10,000.”

Provided that the previous sanction of the prescribed authority shall be obtained if any such transaction is—

(i) with a person having official dealings with the Government employee;
or

(ii) otherwise than through a regular or reputed dealer.]

(4) The Government or the prescribed authority may at any time, by general or special order, require a Government employee to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so, required by the Government or by the prescribed authority, include the details of the means by which, or the source from which, such property was acquired.

(5) The Government may exempt any category of Government employee belonging to Class III or Class IV from any of the provisions of this rule except sub rule (4). No such exemption shall, however, be made without the concurrence of the Chief Secretary to Government, ²[Haryana].

1 Substituted by Haryana Government Notification No. G.S.R. 29/Arts, 309, 318 Amd (1)87/Amd. (1) 87, dated 3rd April, 1987.

2 Substituted – vide H.G. Notification No. G.S.R.-67/Const./Art. 309/Amd. (2)/68, dated the 21st August, 1968.

Explanation. – For the purpose of this rule—

- (1) the expression “movable property” includes—
 - (i) jewellery, insurance policies, the annual premium of which exceed Rs. ²[10,000] or one-sixth of the total annual emolument received from Government whichever is less, shares, securities and debentures;
 - (ii) loans and advances by such Government employee whether secured or not; and
 - (iii) motor cars, motor cycles, horses, or any other means of conveyance; and
 - ¹[(iv) refrigerators, radios, radiograms and other electronic goods].
- (2) “prescribed authority” means.—
 - (a) (i) the Government, in the case of a Government employee holding any Class I post, except where any lower authority is specified by the Government for any purposes;
 - (ii) Head of Department, in the case of a Government employee holding any Class II post;
 - (iii) Head of Office in the case of Government employees holding any Class III or Class IV post;
 - ²[(iv) XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]
 - (v) The Speaker of the Haryana Vidhan Sabha in the case of the Secretary of the said Sabha and the Secretary in the case of all other employees of the Vidhan Sabha.—
 - (b) In respect of the Government employee on foreign service or on deputation to any other Department or any other Government, the parent department on the cadre of which such Government employee is borne or the department to which he is administratively subordinate as member of that cadre.

19. (1) *Vindication of acts and character of Government employee—*

No Government employee shall, except with the previous sanction of the Government have recourse to any court or to the press for vindication of ~~any~~ official act which has been the subject matter of adverse criticism or an attack of a defamatory character.

(2) Nothing in this rule shall be deemed to prohibit a Government employee from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in private capacity is taken, the Government employee shall submit a report to the prescribed authority regarding such action.

1. Substituted – vide H.G. Notification No. G.S.R.-29/Arts. 309, 318 and 187/Amd. (1)/87, dated 3rd April, 1987 and further Substituted vide H.G. Notification No. GSR 44/Const. Arts. 309, 318 and 187/91 dated 5-7-1991
2. Deleted – vide H.G. Notification No. G.S.R. 67/Const./Art. 309/Amd. (2)68, dated the 21st August, 1968.

¹[(20). *Canvassing*—No Government employee shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of a matter pertaining to his service under the Government].

²[(21) *Bigamous Marriages*— (1) No Government employee shall enter into, or contract, a marriage with a person having a spouse living; and

(2) No Government employee, having a spouse living, shall enter into, or contract, a marriage with any person:

Provided that the State Government may permit a Government employee to enter into, or contract, any such marriage as is referred to in sub-rule (1) or sub-rule (2), if it is satisfied that—

(a) such marriage is permissible under the personal law applicable to such Government employee and the other party to the marriage; and

(b) there are other grounds for so doing.

[22. *Consumption of intoxicating drinks and drugs*. — A Government employee shall—

(a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;

(b) take due care that the performance of his duties is not affected in any way by the influence of any intoxicating drinks or drugs;

(c) not consume intoxicating drinks or drugs in public;

(d) not appear in a state of intoxication in a public place;

(e) not be present on duty in a state of intoxication; and

(f) not habitually use any intoxicating drinks or drugs to excess].

³[22-A Prohibition regarding employment of children below 14 years of age. — No Government employer shall employ any child below the age of 14 years as domestic help.]

23. *Interpretation*.— If any question arises relating to the interpretation of these rules, it shall be referred to the Chief Secretary to Government, ⁴[Haryana] whose decision thereon shall be final.

24. *Delegation of powers*.— The Government may, by general or special order, direct that any power exercisable by it or any head of the department under these rules (except the powers under rule 23 and this rule) shall subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be specified in the order.

25. *Repeal and Saving*.— Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to the Government employee to whom these rules apply are hereby repealed.

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

1. Substituted - vide H.G. Notification No. G.S.R. 29/Art. 309, 318 and 187/Amd. (1) 187, dated 3rd April, 1987.

2. Substituted- vide H.G. Notification No. G.S.R. 10/Const./Art. 309, 318 and 187/Amd. (1) 77, dated the 14th January, 1977.

3. Inserted - vide Haryana Government Notification No. G.S.R. 5 dated 16-2-2001.

4. Substituted - vide H.G. Notification No. G.S.R. 67/Const./Art. 309/Amd. (2) 67, dated the 21st August, 1968.

APPENDIX 'E'

[Referred to in Chapter 1, para 5(1) (a)]

ORDER

The (Governor of Haryana/competent authority) is pleased to appoint Shri _____ to hold a departmental enquiry under the (quote relevant authority) against _____

2. Shri _____ will conduct the case on behalf of the State.

(Competent Authority)

Dated _____

The _____ 20 _____

No. _____ Dated _____

A copy is forwarded to Shri _____ Inquiry Officer, _____ for information and necessary action.

2. A copy each of the statement of charges and allegations served on _____ alongwith his/ her/ their explanation (in original) is enclosed.

(Competent Authority)

No. _____ Dated _____ A copy is forwarded to Shri _____ (Name of the Government employee involved) for information _____

(Competent Authority)

No. _____ Dated _____

A copy is forwarded to Shri _____ (Prosecutor) _____ for information and necessary action.

2. A copy each of the statement of charges and allegations against (Name of the respondent) _____ together with a calendar of witness is enclosed.

(Competent Authority)

APPENDIX "F"

[Referred to in Chapter 1, para 7]

HARYANA GOVERNMENT

DEPARTMENT

MEMORANDUM

No. _____ Dated the _____

The Enquiry Officer appointed vide office Memo No. _____ dated _____ to enquire into the charges levelled against you, has submitted his report. A copy of the report is enclosed for your information.

2. On careful consideration of the report the Governor/I *disagree(s) for the reasons attached here with [**fully, agree(s) with the conclusions reached by the Enquiry Officer, in respect of the charges mentioned at Serial No. (s) _____ levelled against you] and hold(s) that these charges stand proved. The Governor is/I am provisionally of the opinion that a penalty of dismissal/removal/reduction to a lower stage in the time scale of pay/compulsory retirement should be imposed on you. Before he takes/I take that action he desires/I desire to give you an opportunity of showing cause against the action proposed to be taken. Any representation which you may like to make in that connection will be considered by him/me before the proposed action is taken. Such representation, if any, should be made, in writing, and submitted to him/me so as to reach not later than 15 days from the receipt of this communication by you.

Signature of the Competent Authority

To

Shri _____

Note: -

* Unnecessary words may be omitted.

** In case of full agreement with the reports of the Enquiry Officer, no reasons are to be recorded by the Punishing Authority.

APPENDIX "F1"

(Referred to Chapter 1, Para7)

HARYANA GOVERNMENT

DEPARTMENT

MEMORANDUM

No.

Dated, the

The Enquiry Officer appointed vide office Memo. No. _____ dated _____ to enquire into the charges levelled against you, has submitted his report. A copy of the report is enclosed for you information.

On careful consideration of the report the Governor/I *disagree(s) for the reasons attached herewith [****fully, agree(s)** with the conclusion reached by the Enquiry Officer, in respect of the charges mentioned at Serial No. (s) _____ levelled against you] and hold(s) that these charges stand proved. Before the Governor takes/I take any action under rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, against you, he desires/I desire to give you an opportunity to submit a written representation, if you so desire, within a period of one month from the date of such communication.

Signature of the Competent Authority.

To

Shri

Note: -

* Unnecessary words may be omitted.

** In case of full agreement with the reports of the Enquiry Officer, no reasons are to be recorded by the Punishing Authority.

APPENDIX "G"

[Referred to in Chapter I, para 7(1)(b)]

Article 320 of the Constitution of India

Relevant extract of Article 320 of the Constitution of India reads as under: —

(1) *** *** ***

(2) *** *** ***

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted: —

(a) *** *** ***

(b) *** *** ***

(c) On all disciplinary matters affecting a person serving made the Government of India or the Government of a State in a Civil capacity, including memorials or petitions relating to such matters;

(d) *** *** ***

(e) *** *** ***

Provided that the President as respects to All India Services and also as respects other services and posts in connections with the affairs of the Union, and the Governor, as respects other services and post in connection with the affairs of a State may make regulations specifying the matters in which either generally or in any particular class of case on in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

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APPENDIX "II"

*[Referred to in Chapter I, para 7(1)(b)]***REGULATION 6 OF THE HARYANA PUBLIC SERVICE COMMISSION
(LIMITATIONS OF FUNCTIONS) REGULATIONS, 1973.**

Regulation 6 of the Haryana Public Service Commission (Limitation of Functions) Regulations, 1973, reads as under: —

“(6) It shall not be necessary to consult the Commission—

(a) On any original or appellate order, connected with a matter of discipline when such order is proposed to be made by an authority subordinate to the Haryana Government, except on an original order proposed to be made by such authority imposing any of the following penalties in the case of Class II Officers—

(i) Withholding of increments or promotion, including stoppage at an efficiency bar for more than one year with non-continuing effect;

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

** (iii) omitted.

(b) on any original order proposed to be made by the Haryana Government imposing any of the following penalties: —

(i) censure;

** (ii) omitted;

(iii) withholding of increments or promotion, including stoppage at an efficiency bar, for not more than one year with non-continuing effect.

(c) on any order proposed to be made by the Haryana Government on appeal, other than an order enhancing the penalty to that for which consultation with the Commission would have been necessary in case the enhanced penalty had been imposed in an original order, when the order appealed against is one of—

(i) censure;

(ii) omitted;

(iii) withholding of increments or promotion, including stoppage at an efficiency bar, for not more than one year with non-continuing effect.

(d) on any petition or memorial connected with a matter of discipline unless it is proposed to revise a previous decision.

(e) on any case—

- (i) relating to the termination of the probation of any person;
- (ii) relating to the discharge or reversion of an officer otherwise than as a penalty;
- (iii) relating to the termination of the employment of any person in accordance with the terms of the contract of his employment;
- (iv) relating to the imposition of any penalty laid down in any rule or order for failure to pass any test or examination within specified time; or
- (v) in which the Commission has at any previous stage given advice in regard to the orders to be passed and no fresh question has thereafter arisen for determination unless it is proposed to reverse a previous decision;

(f) disciplinary matters pertaining to Class III and Class IV Government Employees,

(g) on the methods of recruitment and the principle to be followed in making appointment to posts which are not whole-time posts and to posts enumerated in Schedule 'B' here to annexed;

(h) on the methods of recruitment and the principles to be followed in making a temporary or officiating appointment to a post which is expressly created in connection with an emergency with respect to which a proclamation under clause (I) of article 352 of the Constitution is issued, provided the person to be appointed to such a post is not likely to hold it longer than a period of the Emergency or three years, whichever is less.

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APPENDIX "T"

HARYANA GOVERNMENT

[Referred to in Chapter I, Para 17(3)(b)]

(..... DEPARTMENT)

MEMORANDUM

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On the basis of the statement of allegations appended hereto, it is proposed by the *Government/competent authority to proceed against Shri under rule 8 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

2. Shri is hereby given an opportunity to show cause as to why any of the minor punishment besides **recovery of loss, if any, contained in rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987, be not imposed on him. Any representation which he will make in that connection will be considered before taking a decision. Such representation, if any, should be made in writing and submitted so as to reach, direct to the undersigned not later than the 15th day from the date of the receipt of this notice by him. If, for the purpose of preparing the representation, he wishes to have access to relevant official ***records, he may inspect the same in the office of the after making prior appointment. It may, however, be pointed out that only such documents will be shown to him as are in the possession of the Department and as are strictly relevant to the case. If in the opinion of the *Government/competent authority it is not desirable, in the public interest, to allow him access to any document, such access shall be refused. If Shri wishes to consult any other relevant record, which is not in the custody of the Department, it is for him to undertake its inspection. It is, however, made clear to Shri That his failure to inspect the records will not be considered as valid ground for not submitting his representation and if the same is not received within the stipulated period, it will be presumed that he has none to submit.

3. The receipt of this communication may please be acknowledged.

To

Shri

* Unnecessary words where not applicable may be deleted.

** Unnecessary words where not required may be deleted.

*** Record should only be shown if reference to the same has been made in the statement of allegations or charges.

APPENDIX "J"

RULE 7.2 OF THE PUNJAB CIVIL SERVICES RULES, VOLUME I, PART I.

[Referred to in Chapter II, para 21 (1)]

7.2 (1) A Government employee under suspension shall be entitled to the following payments, namely: —

- (i) in the case of a Warrant Officer in civil employ who is liable to revert to military duty, the pay and allowances to which he would have been entitled had he been suspended while in military employment.
- (ii) In the case of any other Government employee—
 - (a) a subsistence allowance at an amount equal to the leave salary which the Government employee would have drawn if he had been on leave on half-pay, and in addition dearness allowance, if admissible, on the basis of such leave salary.

Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows: —

- (i) the amount of subsistence allowance may be increased by a suitable amount not exceeding 50 per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government employee.
- (ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reason to be recorded in writing, directly attributable to the Government employee;
- (iii) the rate of dearness allowance will be based on the increased or as the case may be, the decreased amount of subsistence allowance admissible under clauses (i) and (ii) above;
- (b) any other compensatory allowance admissible from time to time on the basis of pay of which the Government employee was in receipt on the date of suspension subject to the fulfillment of other conditions laid down for the drawal of such allowances

(2) No payment under sub-rule (1) shall be made unless the Government employee furnishes a certificate, and the authority which made or is deemed to have made the order of suspension is satisfied that he is not engaged in any other employment, business, profession or vocation:

Provided that in the case of Government employee dismissed, removed or compulsorily retired from service, who is deemed to have been placed or to continue to be under suspension from the date of such dismissal or removal or compulsory retirement and who fails to produce such a certificate for any period or periods during which he is deemed to be placed or continue to be under suspension, he shall be entitled to the subsistence allowance and other allowances equal to the amount by which his earnings during such period or periods, as the case may be, falls short of the amount of subsistence allowance and other allowances that would otherwise be admissible to him. Where the subsistence and other allowances admissible to him are equal to or less than the amount earned by him nothing in this proviso shall apply to him.

Note 1. — Mounted Police Officers who are placed under suspension will cease to draw horse, pony or camel allowance, as the case may be, and will hand over their mounts to the Lines Officer or the Officer-in-charge of the Mounted Police who shall be responsible for the feeding and keeping of such animals under the supervision of a gazetted Government employee. The actual expenditure incurred on this account will be debitable to Materials and Supplies under the head "Feeding and keeping of animals of Mounted Police Officers under suspension."

The term "Mounted Police Officers" includes members of the Mounted Police as well as Upper Subordinates who keep mounts.

Note 2. — The initial grant of subsistence allowance payable at an amount equal to leave salary on half pay shall be subject to the maximum limit prescribed in rule 8.122(2). In the event of an increase or decrease in the subsistence allowance after the first six months of suspension, under the proviso to sub-rule (i) (ii) (a) of this rule, however, the increase or decrease shall be calculated on the amount of subsistence allowance initially fixed and will not be subject to any maximum limit.

Note 3. — It is obligatory under this rule in sufficient time before the expiry of six months of suspension the competent authority should review each case in which the period of suspension is likely to exceed six months, and even if it comes to the conclusion that the rate is not to be altered having regard to all the circumstances of the case specific orders to that effect are to be passed placing on record the circumstances under which the decision has to be taken."

APPENDIX "K"

RULE 7.3 OF THE PUNJAB CIVIL SERVICES RULES VOLUME I, PART I.

[Referred to in Chapter II, para 21(2)]"

7.3. (1) When a Government employee who has been dismissed, removed, compulsorily retired or suspended, is reinstated, or would have been reinstated but for his retirement on superannuation the authority competent to order the reinstatement shall consider and make a specific order: —

(a) regarding the pay and allowance to be paid to the Government employee for the period of his absence from duty, occasioned by suspension and or dismissal, removal or compulsory retirement ending with his reinstatement on or the date of his retirement or superannuation, as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority mentioned in sub-rule (1) is of opinion that the Government employee has been fully exonerated or, in the case of suspension, that it was wholly unjustified, the Government employee shall be given the full pay and allowances to which he would have been entitled, had he not been dismissed, removed, compulsorily retired or suspended, as the case may be.

(3) In other cases, the Government employee shall be given such proportion of such pay and allowances as such competent authority may prescribe:

Provided that the payment of allowances under sub-rule (2) or sub-rule (3) shall be subject to all other conditions under which such allowances are admissible:

Provided further that such proportion of such pay and allowances shall not be less than the subsistence and other allowances admissible under rule 7.2.

(4) In a case falling under sub-rule (2) the period of absence from duty shall be treated as a period spent on duty for all purposes.

(5) In a case falling under sub-rule (3) the period of absence from duty shall not be treated as a period spent on duty unless such competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government employee so desires, such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government employee.

Note 1. — This rule is absolute and unconditional and so the question of lien does not arise in the case of a Government employee who is dismissed from service and reinstated on appeal when the period of unemployment between the date of dismissal and reinstatement is declared by the appellate authority as duty.

Note 2. — Clause (b) of sub-rule (1) of this rule does not forbid the period spent under suspension being regarded as leave, and it is open to the revising or appellate authority to prescribe as the proportion of pay and allowances to be paid, the leave salary which would be permissible if the Government employee was on leave.

APPENDIX 'L'

[Referred to in Chapter III, para 22 (8)]

No. 9369-G-51/1-681, dated the 12th February, 1952- The following instructions for the submission, receipt and transmission of memorials and petitions to his Excellency the Governor or Government of the Punjab State are published for general information, in so far as they relate to memorials and petitions from persons who are, or have been in the Civil Service of the Punjab State: —

PART I—PRELIMINARY**1. Definitions. — In these instructions, —**

- (1) "Head of Department" means the authority shown in column 5 of the Appendix 'D' to the Punjab Budget Manual (4th Edition), in respect of the Government servants whose pay is charged to the corresponding head of account in column 2 of that Appendix.
- (2) "Memorial" includes petitions, letters and applicants of the nature of memorials.
- (3) "Governor" means the Governor of the Punjab State.
- (4) "Government" means the Punjab Government in the Administrative Department.

2. Scope of Instructions

- (1) These instructions shall apply to memorials addressed to the Governor of Punjab or the State Government by persons who are, or have been in the Civil Service of the Punjab State in respect of matters arising out of such employment, or in respect of the termination of such employment and who are or were subject to the rule-making power of the Governor. *(However, these instructions will not apply to representations made against adverse remarks communicated on the basis of annual confidential reports.)
- (2) These instructions shall not affect any rules or orders made by competent authority in respect of representations submitted by recognised associations of Government servants and shall be in addition to and not in derogation of the rules governing the conditions of service of the memorialist.

PART II—FORM AND MANNER OF SUBMISSION OF MEMORIALS**3. Form of Memorial**

- (1) A memorial may be either in manuscript, typewritten or in print.
- (2) Every memorial shall be authenticated by the signatures of the memorialist and submitted by the memorialist on his own behalf, or when the memorialists are numerous, every person preferring the memorial shall do so separately and in his own name unless the subject-matter of the memorial is with respect to or arises out of one and the same order affecting them jointly, in which case it may be signed jointly.
- (3) Every memorial and papers connected therewith, shall be accompanied by rendering of it in the language for the time being authorised for use in the State for official purposes duly authenticated in the manner aforesaid.

Amended, - vide Punjab - Government letter No. 2180-4GSI-66, dated the 10th May, 1966.

4. Contents of Memorial

Every memorial shall---

- (a) contain all material statements and arguments relied upon by the memorialist,
- (b) be complete in itself;
- (c) contain copies of the orders passed by the original as well as the other appellate authority against which the memorial has been preferred together-with copies of his applications and/or appeal to such authorities;
- (d) mention in cases of dismissal, removal or reduction in rank or any other penalty, whether a reasonable opportunity was given to show cause against the action taken, as laid down in the Haryana Civil Services (Punishment and Appeal) Rules, or such other rules which are applicable to the facts of the case in regard to him; and
- (e) end with a specific prayer or relief sought.

5. Method of Submission

- (1) Every memorial shall be submitted to the Head of the Department to which the memorialist belongs or last belonged, and through the authority from whose order the appeal or application for revision was preferred and rejected. It shall be accompanied by a letter requesting the Head of the Department, or the authority concerned to transmit the memorial to the Government or the Governor, as the case may be.
- (2) The Head of the Department, or receipt of any memorial submitted through him in accordance with rule 5(1)--
 - (i) shall acknowledge its receipts;
 - (ii) shall, as soon as may be, forward the memorial through the usual official channel, to the Government and inform the memorialist. The Government shall examine the same and submit with their comments on the memorial, within three months of the receipt of the memorial to the Governor, through the Minister concerned, if prayed for in the memorial, or if considered necessary.]
- (3) The memorialist may forward an advance copy of the memorial to the Governor or Government. The advance copy shall not be acknowledged.

PART III-WITHHOLDING OF MEMORIALS BY HEAD OF DEPARTMENTS

6. Circumstances in which memorials addressed to the Governor or the Government may be withheld.

(1) If the Head of a Department to whom a memorial is presented or forwarded decides to withhold it, he shall inform the memorialist giving reasons therefore. A memorial may be withheld only on any one or more of the following grounds: —

- (i) The memorialist has not complied in full with the provisions of part II of these instructions.

1. Substituted, -vide notification No. 21/1/83-IGS III, dated 6th July, 1983.

- (ii) The memorial is illegible or unintelligible, or contains language which is, in the opinion of Head of the Department, disloyal, disrespectful, or improper.
- (iii) A previous memorial from the memorialist on the same subject has been disposed of by the Government or Governor, and also the memorial, in the opinion of the Head of the Department, discloses no new facts or circumstances which afford ground for a reconsideration of the subject.
- (iv) The memorial is—
 - (a) an application for employment in Government service not made in pursuance of any rule or any advertisement regarding applications for such employment; or
 - (b) a request for exemption from or relaxation of the provisions of any law or rule prescribing the qualifications to be possessed by persons in the service of Government; or
 - (c) the memorial relates to a subject on which the Head of the Department is or was competent to pass orders and no application for redress has or had been made by the memorialist to the Head of the Department, in which case the memorialist will be informed as to his forum for redress.
- (v) The memorial is a representation against an order communicated to the memorialist more than six months before the submission of the memorial, and no satisfactory explanation of the delay is given.
- (vi) The memorial is a representation against the discharge by competent authority of a person—
 - (a) appointed on probation, during or at the end of the period of probation in accordance with the terms of appointment and rules governing the probationary service; or
 - (b) who as a temporary Government servant is appointed otherwise than under contract, on the expiration of period of the appointment; or
 - (c) engaged under contract in accordance with the terms of such contract.
- (vii) The memorial is a representation against an order from which the memorialist possesses a right of appeal under—
 - (a) rule or orders regulating his conditions of service; or
 - (b) the terms of his contract or service.
- *(viii) The memorial is a representation against an order of a competent authority refusing to grant or recommend—
 - (i) a special pension; or
 - (ii) any pecuniary or other concession to which the petitioner is not entitled under any rules or orders or contract regulating his conditions of service.

* Amended vide Punjab Government Notification No. 7542-GII-57/102928, dated 25th November, 1957.

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Provided that the memorial withheld on account of failure to comply with the instructions provided in Part II may be resubmitted at any time within one month of the date on which the memorialist has been informed of the reasons for withholding of the memorial, and if resubmitted in a form which complies with instructions referred to above, shall not be withheld.

[6-A The second memorial can be submitted within six months from the date of the communication of the decision of the first memorial, in case some important new facts or circumstances which may merit reconsideration on the subject, are brought out in the second memorial.]

7. List of memorials withheld

The Heads of Departments shall send a quarterly return in the form given at Annexure on the 15th day of April, July, October and January to Government specifying all memorials withheld by them under instruction 6, during the preceding quarter, and the reasons for withholding the same.

8. Notwithstanding anything contained in the foregoing rules, the Governor or the Government, as the case may be, may of his or its own motion, or on application made, call for the records of any proceedings or order relating to the memorial withheld by a subordinate authority, for the purpose of satisfying himself or itself as to the legality or propriety of such order and may pass such order in reference thereto as he or it may consider fit.

9. As soon as may be after a decision has been taken on the memorial, the authority making the order thereon shall communicate the same to the memorialist and forward a copy of the same to the subordinate authority for such action as may be considered appropriate in the circumstances of each case.

ANNEXURE

(See rule 7)

- (a) List of memorials withheld during the quarter ending the.....
- (b) Name of Department.

FORM (SEE RULE 7)

Sr. No.	Name and Particulars of Govt. servant who memorial-listed	Brief subject of the memorial	Date of the sub- mission of the memorial	Head of Deptt. who withheld the memorial	Reasons with dates of order withholding memorials
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APPENDIX "M"

[Referred to in Chapter IV, para 25]

ORDER

Whereas (Designation of the Competent Authority) is of the opinion that it is the public interest to retire Shri (Name) , (Designation) Department , from service after his attaining the age of years by giving him three months notice;

Now, therefore, in pursuance of the provisions contained in rule 5.32A (c) of the Punjab Civil Services Rules, Volume II and rule 3.26 (d) of the Punjab Civil Services Rules, Volume I, Part I, as applicable to the State of Haryana, (Designation of the Competent Authority) in the public interest hereby orders that Shri (Name) shall stand retired from service under the State Government of Haryana on the expiry of three months from the date of receipt of the order by him.

Designation of the Authority Competent to

Sign.

Reasons
with dates
order
withholding
memorials

APPENDIX 'N'

(Referred to in Chapter IV, para 25)

ORDER

Whereas it has been decided by (Designation of the Competent Authority) to retire
 Shri (Name) (Designation)
 (Department) From service in the public interest;

Now, therefore, in terms of the provisions contained in the note below rule 5.32A
 (c) of the Punjab Civil Services Rules, Volume II read with rule 3.26 (d) of the Punjab
 Civil Services Rules, Volume I, Part I, as applicable to the employees of the State of
 Haryana (Designation of the Competent Authority) hereby retires Shri (Name)
 from service with effect from the date of communication to him of this order on payment
 of three months salary and allowances in lieu of notice as required by rule 5.32A (c) of the
 Punjab Civil Services Rules, Volume II. Demand draft No. Dated
 drawn in his favour on the State Bank of India, towards payment of three
 months' salary is enclosed.

Designation of the Authority Competent to sign.

To

Shri

Address

APPENDIX "O"

Rule 2.2(b) OF THE PUNJAB CIVIL SERVICES RULES, VOLUME II

[Referred to in Chapter IV, para 27(1)]

"2.2(b) The Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or judicial proceedings, to have been guilty of grave misconduct or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement.

Provided that—

- (1) such departmental proceedings, if instituted while the officer was in service whether before his retirement or during his re-employment shall after the final retirement of the officer, be deemed to be a proceeding under this rule and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service.
- (2) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-employment,—
 - (i) shall not be instituted save with the sanction of the Government,
 - (ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and
 - (iii) shall be conducted by such authority and at such place or places as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made;
- (3) such judicial proceedings, if not instituted while the officer was on duty either before his retirement or during his re-employment, shall be instituted in respect of an event as is mentioned in clause (ii) of proviso (2); and
- (4) the Public Service Commission shall be consulted before final orders are passed

Explanation—For the purpose of this rule—

- (1) departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner are issued to him or, if the officer has been placed under suspension from an earlier date, on such date; and
- (2) judicial proceedings shall be deemed to have been instituted—
 - (i) in the case of criminal proceedings, on the date on which the complaints is made, or a challan is submitted to a criminal court; and

- (ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made to civil court.

Note 1. — As soon as proceedings of the nature referred to in the above rule are instituted, the authority which institutes such proceedings should without delay intimate the fact to the Accountant General.

Note 2. — In a case in which a pension as such is not withheld or withdrawn, but the amount of any pecuniary loss caused to Government is ordered to be recovered from the pension, the recovery should not ordinarily be made at a rate exceeding one-third of the gross pension originally sanctioned including any amount which may have been commuted.

APPENDIX "P"

Copy of Composite Punjab Government consolidated circular letter No. 2334-ASI-60/15708, dated 3rd May, 1960 as amended from time to time.

[Referred to in Chapter VII, para 31(1)]

Subject: — Confidential Reports.

I am directed to invite attention to Punjab Government Circular letter No. 15851-GI-56/1643, dated the 28th January, 1957, on the subject of confidential reports, and to point out that since its issue a number of further instructions on the subject have been sent to you. It seems suitable, therefore to issue a consolidated revised circular and this letter embodies all instructions on the subject brought up-to-date.

2. The need for regular and punctual Recording of Report in Personal Files: —

It is essential that all officers should write their reports in the personal files of their subordinates regularly and punctually. The reports should cover the financial year and should be recorded as soon after the close of the said year as possible and in any case not later than six weeks thereafter. Not only should every official, whether gazetted or non-gazetted possess a personal file or character roll, but it should be kept up-to-date and not allowed to remain without remarks for over a period of 12 months, otherwise its utility as a confidential record disappears. When an official placed under suspension as a result of disciplinary proceedings the fact should be recorded in the personal file. Similarly the final result of the disciplinary proceedings should also be duly recorded. As during the period of suspension an Officer has a rule no immediate superior, there tend to be gaps in the Personal Files, and it is the responsibility of the authority who keeps the file to ensure that entries regarding such periods are invariably made. It must be remembered that the personal file of an official is used for various purposes, e.g. promotion, punishment, appeals and memorials and in dealing with the question whether his service is approved for the purpose of full pension. If therefore, it is not carefully maintained it is deprived of much of its value. Indeed the very purpose for which it is maintained is defeated.

Haryana Govt.
letter No. 2784-
3S-70, dated the
2nd March, 1971.

Explanatory Note— The confidential reports should be recorded without delay. Further, in the event of heavy delay occurring in isolated cases, it should be possible for the higher authorities to discount to the extent necessary such reports as had been written after a lapse of a very long period and as were attended with suspicious features on one ground or another. The assessment of the record as a whole of the officer concerned would thus not be affected unduly by such a report.

Punjab Govern-
ment letter No.
126-ASI-64/
2377, dated 17th
January, 1964.

3. What the Reports should contain— Forms have been prescribed by different departments for different officers but it is not possible for Government to prescribe any standard form all departments on which reports should be recorded. While, therefore, every department is free to obtain the reports in forms which may have been laid down or which it may consider most suitable it is felt that the balance of advantage would definitely be in favour of prescribing a simple form (specimen enclosed as Annexure C) instead of providing a multiplicity of columns and items on which assessment is to be made. Too elaborate and lengthy a form would only lead to complications. Generally speaking, the

1964 Punjab
Government letter
No. 126-ASI-64/
2377, dated 17th
January, 1964.

reporting officer should state whether the officer or official concerned has been able satisfactorily to discharge the duties of his office. It should also be stated whether the person is able, conscientious and hard working and the degree of his qualities in these directions should be indicated. If the officer or official reported on has to control an establishment, under him, it should be stated whether he is capable of supervising their work and whether the officer or official is punctual and, has maintained discipline. It should also be stated (if he comes into contact with the public) whether he is accessible and hears and deals with complaints properly and is also courteous in his behaviour. In the case of touring officers, it should be stated whether their touring is systematic and adequate. The report should also specifically bring out any defects, remediable or otherwise so that a complete picture of the officials work including the favourable and unfavourable points is available. If any particular incident has occurred during the period under report which shows up the officer in good or bad light, this should be mentioned. Letters of appreciation issued by various authorities or persons and any major event of work done or special contribution made by the officer towards implementation of a particular scheme or successful conclusion of a special campaign will naturally be taken into consideration by the reporting authority while recording the annual remarks on the work of the officer, if he considers them relevant in an annual assessment of the officer's work.

Punjab Government letter No. 126-ASI-64/2377, dated 17th January, 1964.

Explanatory Notes:- (i) Some reporting officers tend to make mention of very slight defects in a subordinate. Government is of the view that very slight defects should be brought to an officer's notice verbally in the way of advice and guidance and need not find mention in annual confidential report unless they are of a type which have been more than once brought to the subordinates attention but which he nevertheless persists in. Likewise, remediable defects should also be pointed out during the year so that the official concerned may make an effort to improve and to remove those defects.

Punjab Government letter No. 4283-GI-58/11555, dated 22nd April, 1958.

(ii) Quite often it is more convenient to get an overall assessment of an officer by pointing out some defects against one of the other columns in relationship to remarks made regarding his work with reference to that column. It is not the intention that all defects, should be enumerated against the columns 'Defects, if any' if their mention against some other column permits a more rounded and balanced judgement of the office. In these circumstances it is better to mention the defects against the column where they seem relevant and merely state against the 'Defects, if any' the fact that these have been pointed out already.

(iii) Generally against the column 'Defects, if any' should be mentioned any significant general or particular defect in the subordinate which is part of his method of work or manner, personality of reputation and minor matters can either be ignored or dealt with as indicated in note (i) above.

Punjab Government letter No. 1485-ASI-61/7762, dated 1st March, 1961.

(iv) Where a pending enquiry finds mention in the confidential report of an officer, it is incumbent upon the authority maintaining the personal file of that officer to ensure that the result of enquiry is also recorded in the personal file.

(v) Normally the reporting authorities should give their remarks in the confidential reports on the basis of their personal knowledge or assessment. There can, however, be occasions when a reporting authority receives complaints against an officer. It will not be appropriate for a reporting authority to make mention of such complaints in the confidential reports without trying to sift the truth. In such a case, he should give an indication whether he believes the complaints to be true or false or that it is premature for him to form a definite opinion.

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4. Report Regarding Integrity. — A special motion should invariably be made regarding the integrity of the officer to which Government attach the greatest importance. It should be clearly stated if the officer is suspected of corruption or is believed to be corrupt and this opinion should generally be fortified by reasons, which may be in the possession of the reporting officer. Any ill-considered remarks in this respect may do a lot of mischief and harm. On the other hand, the reporting officer must be quite honest and frank and discuss an officer's worth from the point of view of his integrity openly and frankly in the column "Defects, if any" or elsewhere. Government observe that reporting officers are still following the practice of making non-committal remarks like 'no complaints'. Government view this with disfavour and desire that the practice of making non-committal entries in the column relating to integrity should cease. Reporting officer should give a definite opinion of the integrity of their subordinates while writing their confidential reports. Further, instances have come to the notice of Government in which even though officers are being proceeded against for serious forms of corruption, their confidential reports for the same periods certify their integrity to be good. It is felt that contradiction of this type arise only because reporting officers are failing in their duty to make entries in the columns relating to integrity forth rightly and without hesitation. In case an officer has been given a good report for integrity which is later proved to be wrong the reporting officer will run the risk of earning Government's displeasure. Ordinarily, the inference would be that either he did not exercise proper supervision or he was in dishonest collusion with his subordinate. The attention of Government is that the truth about subordinate should be known to reporting officers and brought to the notice of higher authorities. This would not, however, justify the entering of ill-considered remarks based on inadequate observation.

5. Writing of Annual Confidential Reports on the Secretaries, Joint Secretaries, Head of Departments and other Officers working under the State Government— (i) The Administrative Secretaries to Government will write confidential reports on the Additional Secretaries, Joint Secretaries, Deputy Secretaries and Heads of the Departments included in their sphere of work. If the work of a Deputy Secretary or below passes through an Additional Secretary or Joint Secretary, the report on the work of the Deputy Secretary or other officers concerned will be initiated by the Additional Secretary/Joint Secretary, as the case may be, and will, thereafter, be put up to the Administrative Secretary for his remarks. In regards to Heads of Departments the Secretary will write the initial remarks though if much work is seen by an Additional or Joint Secretary, the former will consult him before doing so.

(ii) The Minister-in-charge will be the recording authority in respect of Secretaries to Government.

(iii) The Minister-in-charge will be the accepting authority in regard to Additional Secretaries, Joint Secretaries, Deputy Secretaries and Heads of Departments. The Minister-in-charge will also be the accepting authority in respect of those under Secretaries who submit their cases direct to the Secretary of the Department concerned without routing them through any Joint/Deputy Secretary. In the case of other Officers, the Minister-in-charge would normally be neither a recording nor an accepting authority. He would be competent, however, in any particular case, if he so chooses, to send for the personal file of an officer and record such remarks therein as he considers should be made on the basis of his personal knowledge.

Punjab Government
Memo. letter No.
574-GI-59/5924
dated the 3rd
March, 1959.

Punjab Govern-
ment letter No.
574-GI-59/5924,
dated the 3rd
March, 1959.

Haryana Govt.
letter No. 6148-38-
72, dated the 30th
August, 1972.

Haryana Govt.
letter No. 2223-
38-74, dated the
12th April, 1974.

(iv) A Chief Parliamentary Secretary/Deputy Minister/Minister of State (except where he is the Minister-in-charge) will normally have no right of recording/reviewing/accepting of remarks in the annual confidential reports (except in the case of personal staff working under him) and the next higher reporting authority above the level of Administrative Secretary, will be the Minister or Minister of State (where he is the Minister-in-charge). The Minister/Minister of State (where he is the Minister-in-charge) may, where he so desires, before recording his remarks, send the confidential report form to the Chief Parliamentary Secretary/ Deputy Minister/Minister of State as the case may be, for recording remarks. However, in the case of IAS/IPS officers and the officers on the Select List of IAS/IPS, no such reference need be made and the Minister (where he is the Minister-in-charge) shall himself record the remarks.

Haryana Govt.
letter No. 3103-35/
71 dated 21st May,
1971.

(v) Notwithstanding anything contained in the instructions hitherto issued in respect of Annual Confidential Reports, the Chief Minister, being incharge of General Administration, shall have and shall always be deemed to have had, and inherent right to send for the file of an officer of any department and record such remarks therein as he may deem fit on the basis of his personal knowledge.

Explanatory Note—

Haryana Govt.
letter No. 8190-35-
73, dated the 2nd
January, 1974.

(i) A Minister or a Minister of State (who held independent charge of any department) who has quit office, will not be competent to record remarks in the confidential report of any officer (including his personal staff). The reports of officer for whom the Minister was the only reporting authority shall be recorded by the Chief Minister.

Haryana Govt.
letter No. 8190-
35-73, dated the
2nd January
1974.

(ii) The word Minister-in-charge wherever occurring in these instructions would mean Ministers who are/were independently in charge of Departments under their control. It would include Minister of State, when they hold/held independent charge of any department.

Haryana Govt.
letter No. 8190-
35-73, dated the
2nd January,
1974.

(iii) A Minister shall not be treated as having demitted office if he continues to be a Minister in the Council of Ministers with a different portfolio or in the Council of Minister immediately reconstituted after the previous Council of Minister of which he was a Minister with the same or a different portfolio.

Punjab Govt.
letter No. 9161-
(G1)-59/26689,
dated the 16th
December, 1959

6. Number of Reporting Officers and Powers of Administrative Secretaries to Record Remarks in the Confidential Reports on the Staff under the Heads of Departments. —

The work and conduct of an officer working under a Head of Department, whether in the office or in the field, should be reported on by at least two officer. Thus, reports which are initiated by the Heads of the Departments himself should be put up to the Administrative Secretary for the recording of his remarks.

Punjab Govern-
ment letter No.
279-AS1-64/
4655, dated the
2nd Feb., 1963.

Explanatory Note. — Those instructions do not apply to categories of Government servants such as clerks, stenographers, drivers etc. who exclusively work under one officer.

Haryana Govt.
letter No 2784 3S
70 dated 2nd
March, 1971.

7. Minimum period for which a Reporting Officer should have been the work of a Subordinate before Recording Remarks on him. — No reporting officer should record his remarks in the confidential report of an officer under him unless he has seen his work and conduct for at least three months during the financial year.

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Explanatory Note. The period of three months referred to in this paragraph means the period for which the reporting authority has actually seen the work of the officer/official reported on. Besides regular leave (as distinct from casual leave) which is treated as duty, the period of suspension when a Government employee does not discharge any duties is not to be counted in calculating this period. Similarly the period, if any, during which the reporting authority is on leave or under suspension is not to be counted.

8. Recording of Remarks on the occasion of Relinquishment or handing over of Charge by the Reporting Authority or by the Subordinate concerned. —

[(i) if an officer (a) relinquishes the charge of his post during a reporting year on account of his transfer or retirement or (b) one of his subordinate is transferred or retires during the reporting year, such officer may record remarks in the Confidential files of the officer(s) subordinate to him in respect of the relevant period of the reporting year provided he has not recorded such remarks previously in respect of the same reporting year. Such remarks should be recorded by the retiring officer before the date of his retirement. Likewise the officer relinquishing the charge of his post on transfer should record his remarks at the time of relinquishment of the charge of previous post or within one month thereafter.]

(ii) If there is a change in portfolios, a Minister or a Minister of State (incharge of any Department) may, if he had not done so earlier, record remarks on the confidential files of officers subordinate to him for the year in which change in portfolios took place. Such remarks should be recorded as early as possible after relinquishing charge of his previous portfolio(s).

(iii) If the remarks are not recorded by the concerned authorities as per paras 8(i) and 8(ii) above, it shall be obligatory when the annual confidential reports are being written to ask them (except the officers who have already retired) to record their remarks on the confidential reports of those officers/officials in respects of whom these authorities are the initial reporting authorities. If there was a successor in office who is also competent to record remarks as the predecessor(s) in reporting authority, then the remarks of the predecessor(s) in office covered in paras 8(i) and 8(ii) above and the successor in office shall be got recorded in the order of their seniority the junior officer writing the report earlier.

If more than one such officer had seen the work of the officer or official reported upon during a particular year in such cases remarks are to be recorded only by that reviewing/accepting authority who may have last seen the work of the officer/official reported upon in the reporting year for at least three months.

Explanatory Notes. — (i) If the authorities covered under paragraphs 8(i) and 8(ii) above ask for the blank forms for writing the confidential reports, these should be supplied by the same office as is responsible for supplying such forms for annual confidential reports to be written at the end of the year. If the reporting authority is retiring during the reporting year such blank forms must be supplied by that office on its own to the retiring officer at least one month before the date of his retirement or from the date on which he actually proceeds on leave preparatory to retirement, whichever is earlier.

(ii) The reports written during the middle of the reporting year should not be forwarded to the successor of reporting authority, if any, for recording his report but will be submitted for the remarks of the reviewing/accepting authority at the close of the

1. Substituted vide Haryana Govt. letter No. 60/4/78-S(1) dated, 14th August, 1987.

25/10/2014

Haryana Govt.
letter No. 8190-
3S-73, dated the
2nd January,
1974.

Haryana Govt.
letter No. 7116-3S-
76, dated the 14th
Feb., 1977.

Punjab Govt. letter No. 272-ASI-63/4655, dated 2nd Feb. 1963.

financial year along with the report recorded by the next reporting authority, if any. Thus these reports will be dealt with only at the end of the year and in the same manner as report for the entire year.

Haryana Govt. letter No. 8367-3S-71/36929, dated the 23rd December, 1971.

(iii) An officer under suspension is not competent to record confidential reports on the work of his previous subordinates.

(iv) An officer who has retired from service will not be competent to record remarks on the confidential reports of officers/subordinates who worked under him.

Punjab Govt. letter No. 6853-G-73/37893, dated 473, November, 19th.

9. Issue of Letters of Appreciation. — The practice of recognizing the good work of an officer by a letter of appreciation is sound and should be adopted by all Departments. It is important that such letters should not be issued indiscriminately but this should be sent in really deserving cases to encourage good work and at the end of the prescribed reporting period on an overall assessment of the officers; whole work during the period. The criterion for granting such commendatory letters should be based on a record of exceptionally good work and not merely on the performance of routine duties with more than average ability and industry and since commendation will lose much of its value if it is too easily won, it is essential that the greatest care should be taken to limit the number of commendatory letters and to grant them only in cases really deserving of notice.

Punjab Govt. letter No. 8965-ASI-64/35707, dated 16th November, 1964.

Explanatory Notes. — (i) (a) At least two authorities when there are two or more such competent authorities, should make the recommendation in clear terms; and

Haryana Govt. letter No. 8378-3S-70/3409, dated the 17th Feb., 1977.

(b) The work proposed for commendation should be clearly indicated and sufficient details given in support thereof so that the justification for the issuance of appreciation letter could be properly examined.

(ii) The intension is that, as a rule, such letters of appreciation should, where necessary, be issued by the appointing or at least by the authority competent to receive confidential reports, convey adverse remarks and maintain the personal file of the officer concerned as defined in paragraph 17 and not by officers lower than that. Officers below the level of the authority competent to maintain the personal file of the officer concerned are not competent to issue letters of appreciation or commendation on the basis of generally good work done over a period of time. Their remarks in respect of generally good work done by subordinates should appropriately be recorded in annual confidential reports.

(iii) Occasions do arise when an executive officer in the field feels the need of encouraging his subordinates by issuing them letters of commendation, particularly after good work done in connection with some specific incident, e.g. flood relief, locusts, visit of some V.I.P., etc. and it is not the intention of Government to place this method of extracting good work out of the subordinates beyond the reach of executive officers in the field. In such cases letters of appreciation may be issued even by officers lower than the appointing authority or the authority competent to receive confidential report convey adverse remarks and maintain personal files. Such letters will not, however, be placed on personal files and should be very sparingly.

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10. Communication of Adverse Remarks. — Attention is invited to paragraph 7 of Punjab Government Consolidated Circular No. 1 which is reproduced below. —

Punjab Government
Circular Letter No.
9026, G. S. 1/8344,
dated the 4th
December, 1951

"The attention of Government of India having been directed to the diversity of procedure followed in different provinces in regard to the communication to subordinate officers in civil employ of unfavourable remarks made by their superiors in annual or other reports of a periodical nature, the Governor General in Council has, with the approval of the Secretary of State laid down the following general principles to which effect has to be given in all departments in all provinces—

- (a) when report is built up on the individual opinion as noted or different departmental superiors in gradation, it is only the opinion as accepted by the highest authority which need be considered from the point of view of communication;
- (b) an officer should not at any time be kept ignorant of the reporting officer's opinion where his service is not considered satisfactory; criticism should be communicated promptly and should indicate in suitable language the nature of the defects in question;
- (c) the practice of discriminating between a remediable and irremediable defect should be abandoned as far as practicable except that a certain degree of discretion should be regarded as permissible in communicating reported defects of an irremediable nature. For instance, it might do more harm than good to inform an officer year after year that his brains are below average or that he is unduly sensitive;
- (d) the reporting officer should specifically state whether the defects reported have already been brought in any other communication to the notice of the officer concerned; remarks in cases in which the Government or head of a department or other officer suspends judgement should not be communicated;
- (e) great attention should be paid to the manner and method of communication in order to ensure that the advice given or the warning or censure administered, whether orally or in writing, shall having regard to the temperament of the officer concerned, be most beneficial to him; and
- (g) any remarks on officer's report which show that he has taken steps to remedy defects to which his attention has been drawn in a previous year, should be communicated to him, so that he may know that his efforts to improve have not passed unnoticed.

The above instructions should continue to be followed with the modification that adverse remarks in all cases should be communicated. Further the existing practice of conveying only adverse remarks is rather discouraging and leaves the officer concerned guessing as to the general total purport of his report. To avoid anxiety on this account, Government have also decided to let the officer know briefly (in a sentence or part-sentence the general total impression of his report). For example it could be said, "while your work has been assessed as of

Punjab Govt. letter
No. 2679-GI-59/
8249, dated the
15th July, 1959.

a good standard of efficiency and competence, it has been pointed out that you tend to delay cases" or "though your work is generally assessed as satisfactory during the year, you show a communal tendency which is brought to your notice for correction", or "while you are a hard working officer, you sometimes lose your temper in dealing with the public".

Explanatory Notes (i) It is not the intention that even those adverse remarks which have been washed out by the remarks of some superior authority including Minister should be conveyed. The correct position is that only the adverse remarks recorded and endorsed by the highest authority reporting on an officer should be communicated. Where, however, an adverse remark has not been specifically denied by a higher authority, it should be conveyed. It is, however, open to that authority to decide that any adverse remarks need not be communicated. Where it is so decided, a specific order to this effect should be recorded. The criterion for such a decision should be based on paragraph 7(c) of Punjab Government Consolidated Circular No. 1 reproduced above".

Haryana Govt.
letter No. 3103-
35-71, dated the
21st May, 1971.

Remarks which show the overall assessment of the work of an official as 'average' without any other qualifying word or phrase should not be treated as adverse and need not be communicated to him.

(ii) Reporting officer, while mentioning any defects in the report, should as far as possible also give indication of what efforts have been made by way of guidance, admonition etc. to get the defects removed and with what results.

(iii) It has been noticed that instructions that adverse remarks in all cases should be communicated to the officer are not being strictly observed with the result that officers are deprived of the right of representation. It has, therefore, been decided that all departments should make it a regular form of routine discipline and procedure to invariably convey adverse remarks to the officer concerned.

Punjab Govern-
ment letter No.
59-ASI 62/5649
dated 17th Feb-
ruary, 1962.

Although it was provided in Punjab Government Circular letter No. 9026-G-51/16544, dated the 4th December, 1951, that an officer should not be kept in the dark about reporting officer's opinion where his service was not considered satisfactory and that criticism should be communicated promptly, yet all Departments do not invariably convey adverse remarks to the officers concerned. Fresh instructions were issued in Punjab Government letter No. 3916-GI-57/9867, dated the 5th June, 1957, that all adverse remarks should be conveyed. The practice of conveying adverse remarks can, therefore, be said, to have become strict only on receipt of the letter, dated the 5th June, 1957. The uncommunicated adverse remarks relating to the previous period, however, need not be communicated now.

Punjab Govt. letter
No. 5515-ASI 61/
25297 dated 11th
July, 1961.

All competent authorities should make an occasional check of confidential reports entrusted to their custody in order to ensure that adverse remarks are in fact conveyed to the officers concerned. No notice should be taken in future of adverse remarks if they have not been conveyed. Where a competent authority does not convey adverse remarks to the officer concerned, the omission will be treated as discriminatory action on its part and due notice will be taken of it. In regard to past entries in the personal files, any adverse remarks that have not been conveyed or shown, except those not conveyed or shown when Government's practice of conveying adverse remarks was not as strict as it is now, shall also not be taken into consideration.

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(iv) The highest reporting authority should be consulted at the time of communication of any adverse remarks if at the time of writing the report his views were not by any chance recorded therein.

(v) Except to the extent indicated above, confidential reports are not to be communicated or shown to the officer concerned.

(vi) While communicating the adverse remarks to the Government servants the identity of the superior officer making such remarks should not normally be disclosed. If however, in a particular case is considered necessary to disclose the identity of the superior officer, the authority dealing with representation may at his discretion allow the identity to be communicated.

11. Representation against Adverse Remarks. - Government have noticed a strong tendency among officers/officials at all levels not to take adverse remarks in the spirit in which they are intended and as part of the normal incidents of a whole career of service, but to indulge in all kinds of pressure to get such remarks expunged. Such tendency produces ill-effects in regard to the recording of remarks without fear or favour, by reporting officers, and such practice must be strictly and firmly discouraged, eliminated if possible. It is often forgotten that the primary purpose of maintaining, a record of annual remarks in regard to an officer's works is to accumulate over a period of years a varied assessment regarding the performance, character, ability and integrity of the officer in discharging the responsibilities to which he is called. This record is meant to enable Government to assess the total worth of an individual officer with a view to utilizing him in the best way possible for the public service. Primarily, therefore, the record of an officer is a document internal to Government to be utilized for promotions, postings, transfers encouragement, caution, etc. This main purpose of the record must, therefore, be borne in mind, namely, that it is a cumulative assessment of an officer's worth to be utilized for Government purposes and for public ends and it is only for incidentally a means of bringing to officer's notice defects which he should consciously endeavour to remedy. Ordinarily, therefore, departments should not enter into any controversy with officers in the matter of adverse remarks communicated to them on the basis of their confidential reports. Occasionally however, cases arise where the adverse remarks are not made *bonafide* or are based on a patent error of fact. An examination of the representations is, therefore, called for and these should not be turned down automatically. Where the preliminary examination of the representation does not *prima facie* establish that the adverse remarks are *mala fide* or based on a patent error of fact, there should be no hesitation in disposing of the representation on the basis of the general policy referred to above. Where however, it appears *prima facie* that the remarks are not *bonafide* or that these are based on a clear error of fact, the representation should be examined on merits. If as a result, it is found that the adverse remarks were not justified, after obtaining the orders of the highest administrative authority a note should be recorded on the confidential report expunging the remarks and the officer concerned should be informed of the action taken. The reporting officer may also be informed and suitably warned where *mala fide* intent is indicated. Recourse to expunction of remarks may be had only in cases of exceptional character after observing the procedure laid down above. There may also be border line cases in which there may be some substance in the adverse remarks conveyed to the officer and also some

Punjab Govt. letter No. 10935-G-3/35352, dated 21st December, 1958

Punjab Govt. letter No. 1415-A81-62/7762, dated 1st March, 1961

Punjab Govt. letter No. 8965-A81-64/35710, dated 16th November, 1964

Punjab Govt. letter No. 703-G1-58/8250, dated 7th April, 1958
Punjab Govt. letter No. 2356-G-55/18471, dated 31st March, 1955.
Punjab Govt. letter No. 15172-G-53, dated 22nd December, 1955.

justification for the representation made by the officer against the adverse remarks. In such cases, the proper course to adopt would be to place the representation on the personal file after obtaining the orders of the highest administrative authority.

Haryana Govt.
letter No. 3103-3S-
VI, dated 21st
May, 1971.

Explanatory Notes.— (i) Remarks which are expunged under the orders of the competent authority should be pasted over so that they cannot be deciphered. If however, remarks are expunged more than one year after they are recorded, the circumstances in which expunction was ordered as well as the earlier remarks should be indicated in a separate folder. The folder should be brought to the notice of the Public Service Commission or other selecting authority concerned when the question of promotion etc. of the official in question is considered. Intimation regarding expunction of remarks should also be sent to the reporting officer(s) concerned in appropriate terms.

Haryana Govt.
letter No. 2784-3S-
70, dated 2nd
March, 1981.

(ii) Before passing final orders on a representation against adverse remarks, the comments of the reporting authority/authorities should invariably be obtained. Final orders on such representation will be conveyed to the Government employee concerned, as far as possible, within three months of the date of submission of the representation. The orders so passed shall be final and a second representation against the adverse remarks will not be entertained.

(iii) If a representation is made by any officer against the remarks communicated to him, such representation should be brought to the notice of the highest administrative authority and his order should be obtained. It would be very undesirable that an officer against whose adverse remarks representation are submitted should himself dispose of such representations.

Punjab Govt.
letter No. 12241-
GI-58/1860 dated
21st January,
1959.

The invention is that both for purposes of rejection and acceptance of representations against adverse remarks, there should be one authority and it should be the highest administrative authority.

Haryana Govt.
letter No. 4338-
3S-72, dated
24th June, 1972.

“The highest administrative authority” means the appointing authority. However, in respect of Class I and Class II Government employees the “highest administrative authority” means the appointing authority or the authority to whom representation against the punishment of censure lies under the existing rules of the department concerned for a particular officer, whichever is higher, if in any case, the highest administrative authority is himself the authority whose adverse remarks are communicated, the term “highest administrative authority” should mean the next higher authority.

Haryana Govt.
letter No. 722-3S-
71-6676, dated
30th March,
1971.

12. Time limit for filing Representation against adverse remarks and the Authorities to whom the Representations are to be addressed.— (i) As stated above, Government do not encourage representations against adverse remarks. Moreover, if a representation made, if it should be entertained only if it received within three months from the date of receipt of the letter communicating the adverse remarks to the officer/official concerned. Government wished to make it clear that this time limit should be followed rigidly and that time barred representations should be rejected. It is dangerous to allow officers to go on making representations whenever they think the situation is favourable to them, and post facto attempts to improve the personal files must be resisted.

(ii) The representation against adverse remarks may be addressed direct to the authority conveying the adverse remarks.

Explanatory Note.— The letter conveying adverse remarks should be sent by registered post “acknowledgement due” so that the date on which it is received by the

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officer/official concerned does not admit of any doubt. If the officer/official to whom adverse remarks are to be communicated is posted at the same station, the letter should be delivered to him against an acknowledgement showing the date of receipt.

13. Nature of documents/ communications which need be placed on personal files. - Besides the confidential reports on the work and conduct of an officer, copies of documents/communications specified below should be placed on the personal files: -

(i) all orders imposing any of the penalties prescribed under Rule 4 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 or Rule 3 of the All India Services (Discipline and Appeal) Rules, 1954, as amended from time to time;

(a) all communications conveying adverse remarks;

(b) those letters of appreciation which deal with the outstanding nature of performance of an officer on an overall assessment of his work and conduct during the year in the light of the remarks recorded in his confidential reports;

(d) a copy of the orders granting advance increments;

(e) Special reports recorded on the work and conduct of Government employees on any particular occasion e.g. reports recorded on the expiry of the period of probation or in connection with the crossing of an efficiency bar etc.;

(f) a copy of the order stopping a Government employee at efficiency bar under the provisions of Punjab C.S.R. Volume I, Part I;

(g) a copy of notification/letter regarding award of medal to a Government employee in recognition of his service;

(ii) Warnings, which are not the direct outcome of the annual confidential reports, will also be placed on the personal files, if the warning has been issued under the orders of the Government or any other authority, which is competent to impose a minor penalty on the Government employee concerned, and if it has been specifically directed by the authority issuing the warning that a copy of the warning is to be placed on the personal file.

(iii) In regard to other communications of the nature of advice or conveying displeasure of Government, orders of the competent authority whether or not a copy should be placed in the personal file should be obtained in each individual case. "Competent authority" referred to above will be: -

(a) Government in cases, where advice given to a Government servant is from Government or the displeasure of Government is conveyed or Government is the authority competent to impose the punishment of censure; and

(b) the authority competent to hear appeals from an order imposing the punishment of censure, in other cases, except when the advice given is that of a higher authority in which case such higher authority should be the "competent authority".

Punjab Govt. letter
No. 9600-G-55/
52409, dated 24th
August, 1965.

Punjab Govt. letter
No. 8965-ASI-64/
35707, dated 16th
November, 1964.

Haryana Govt.
letter No. 872-35-
73/5679, dated the
6th March, 1973.

Haryana Govt. letter
No. 493-48-74,
dated 26-2-74/
4-3-74.

Haryana Govt.
letter No. 35/77/79-
S, dated 14-3-80.

Haryana Govt.
letter No. 8533-
35-71/36835,
dated 21st Dec-
ember, 1971.

Punjab Govt.
letter No. 279-
ASI-63/4655,
dated 2nd Feb.,
1963.

(iv) Whenever an officer has attended an approved course of study or training in India or abroad

- (a) the fact of his having done so should be entered in his character roll;
- (b) the report received from the head of the institution of the aforesaid study or training should either be placed in original with the character roll or the substance of it entered therein, and
- (c) an entry about the report submitted by the officer on his work should also find mention in the character roll if it is outstandingly good, or is poor quality indicating that the officer had not made good use of his period of study or training.

Explanatory Note. (i) Approved courses of training may be defined to include course sponsored by the Government or in which the cost or part of the cost is borne by Government or also course attended with the permission of Government or for which Government grant study level. In respect of some of these courses it may not be possible or necessary to obtain reports which could be incorporated in the character rolls for instance there are part time courses and refresher courses where an assessment of the candidate is not made. In such case, however, entry in the character roll of the fact of the officer having attended the course would nevertheless be useful in giving a more complete picture of the officer having attended the course would nevertheless be useful in giving a more complete picture of the officers' experience and accomplishments.

Punjab Govt. letter
No. 1485-ASI-61/
7762, dated 1st
March, 1961

(ii) As a result of delays detected by the Assessment Units, the official responsible for delays are sometimes warned and in certain cases the Chief Secretary decides that a copy of the warning be placed on the personal file of the official concerned. In such cases it is not necessary to obtain the orders of the competent authority as defined in this paragraph for placing a copy of the warning on the personal file. The Chief Secretary will be competent authority for this purpose.

Punjab Govt. letter
No. 126-ASI-64/
1377, dated 27th,
January, 1964.

(iii) It is responsibility of the authorities maintaining the personal files to ensure that all documents required under the instructions of Government to be placed on the personal files, are placed thereon.

(iv) The term 'personal file' means in this context the collection of periodical or annual confidential reports on the work and conduct of a Government employee and copies of orders of punishments and appreciation letters etc., that may, in accordance with the foregoing instructions, form a part of this collection.

Punjab Govt. letter
No. 5299-G(C) 65/
21125, dated 30th
May, 1956.

14. Documents which are not be placed on personal files. - The personal files should not be burdened with copies of personal letters, or certificates issued by superior officers to their subordinates or letters of commendation issued by Government in recognition of any special help that might have been rendered by the officer, on a particular occasion, e.g., a local exhibition, visit of a V.I.P. etc.

Letters of appreciation issued by various authorities/ persons on any major event of work done or special contribution made by the officer towards the implementation of a particular scheme or successful conclusion of a special campaign will not, therefore, be placed on personal files.

Explanatory Note. - Enquiry reports of the Vigilance Department sometimes contain mention of unsubstantiated allegations. In any case those are in the nature of investigations. Such enquiry reports shall not be placed on the personal files.

Punjab Govt. letter
No. 1400 A/1
6177/62, dated 1st
March, 1961

15. Procedure to be followed where a Reporting Authority is related to the Officers to be reported on. - (i) When the reporting officer is the first reporting authority, he should be competent to record his remarks, but, while doing so, he should clearly mention that he is related to the officer reported on and bring out the exact nature of relationship.

Pb. Govt. letter
No. 3916 G1 S/1
9867, dated 5th
June, 1957.

(ii) When the reporting officer is not the original reporting authority he need not normally write any remarks. If, however, he feels that for some reasons he must enter some remarks, he should while doing so, act as under (i) above.

16. Soliciting of remarks to be discouraged. - Government have noticed an undesirable tendency among officers/officials to approach the higher authorities for getting remarks out of the way on their personal files. The confidential remarks on the work of Government servants are recorded by the competent authority in the normal course when due. The officers/officials should, on no account, solicit for remarks in personal whether from Minister, or their other superiors.

Punjab Govt. letter
No. 5445-G1-58/
15872, dated 26th
May, 1958.

17. Custody of Personal Files and Authorities competent to convey adverse remark in Confidential Reports. - In regard to the general question as to which authorities should be competent to receive and convey confidential reports and maintain in the personal files (character rolls) of different categories of Government servants it is considered that, in principal, all this work should normally be the responsibility of the "appointing authority". However, in view of practical difficulties involved. This does not appear to be feasible in all cases.

Punjab Govt. letter
No. 6257-1-59/
1587, dated 13th
January, 1960.

Therefore, without prejudice to the right of the 'appointing authority' to issue any special instructions to meet administrative exigencies, it has been decided to lay down the following procedure: -

- (i) The personal files of all officers of the I.C.S./I.A.S. and the P.C.S. (Executive Branch) and non-I.C.S./P.C.S. (Executive Branch) Administrative Secretaries will remain with the Chief Secretary, except that the personal file of the General Manager and Secretary, Bhakra Dam, will continue to be maintained by the Secretary, Irrigation and Power.
- (ii) The personal files of Additional Secretaries/ Joint Secretaries/ Heads of Departments who are not members of the I.C.S./I.A.S./P.C.S. (Executive Branch), will remain in the custody of their Administrative Secretaries.
- (iii) The personal files of all class I and class II Officers except those covered by (i) and (ii) above, will remain with the Heads of Departments. The personal files of class I Officers will be maintained in duplicate i.e. the personal files containing the original annual confidential reports and other documents will be maintained by the Head of the Department concerned while the duplicate files containing attested copies of the reports and the other documents will be maintained by the Administrative Secretaries concerned.
- (iv) The personal files of non-gazetted staff will remain in the custody of their Heads of Departments/Heads of Offices according to the existing practice, which may be modified, if circumstances so warrant, at the discretion of the Head of Department concerned.

Haryana Govt.
letter No. 1267/
3873/7754, dated
22nd March,
1973.

Haryana Govt.
letter No. 1262-
38-73/7754,
dated 22nd
March, 1973.

The authorities mentioned at (i), (ii) and (iv) above and the Heads of Departments in the case of officers at (iii) above will receive the confidential reports and convey adverse remarks/appreciation on their basis in respect of the Government employees whose personal files are maintained by them.

Haryana Govt.
letter No. 1648-
G-56/18571,
dated 14th March,
1956.

To facilitate the assessing of an officer's worth, on the basis of his personal file, the good and bad remarks should be side lined with red and blue pencils, respectively while putting up the personal files in cases of promotion, disciplinary action, pension etc.

Haryana Govt.
letter No. 5150-
55-73/23236,
dated the 14th
August, 1973.

Explanatory Note. - (i) The Personal Files (Annual Confidential Report Files) should be kept in safe custody under lock and key, so that there is no room for their leakage and/or for their being misplaced/lost by the interested persons.

Haryana Govt.
letter No. 6148-
3572, dated 30th
August, 1972.

Explanatory Note. - (ii) The A.C.R. Files of retired Government employees should be kept for a period of 10 years after their retirement. In respect of those Government employees who resign their appointments or are discharged or dismissed from service or who die while in service, the A.F.R. files should be kept for a period of three years from the date of their resignation or discharge or dismissal or death as the case may be. The files may be destroyed after the aforesaid periods; provided no claim/case is pending in respect of such employees.

Punjab Govt. letter
No. 6257-G1-59/
1587, dated 13th
January, 1960.

18. Index to Personal Files. - Government observe that very often annual confidential reports are not written promptly by the recording authorities, not is due importance attached to the proper maintenance of personal files, which are a valuable service record of Government servants. To remedy this state of affairs it has been decided that an index in the attached proforma (Annexure-B) should form part of each personal file and entries therein completed before any new documents are filed. To ensure proper upkeep of personal files, it would also be desirable that the appointing authorities/Heads of Departments/Heads of Offices have the personal files in their own custody and those in the custody of their subordinate offices inspected by a responsible officer once every year between the months of July and September.

Punjab Govt.
letter No. 1485-
ASI-61/7752,
dated 1st March,
1961.

Explanatory Note. - Where the personal file is in the shape of a bound register, it is not necessary to prepare an index to it.

Punjab Govt. letter
No. 59-ASI-62/
5649, dated 17th
February, 1962.

19. Summary of Personal Files. - Government have decided that a summary in the attached proforma (Annexure-C) should form part of each personal file to facilitate the judging of relative merits of officers by the competent authorities making appointments, promotions, etc.

Punjab Govt. letter
No. 126-ASI-64/
2377, dated 17th
January, 1964.

To facilitate this task the grading should be done by the reporting officers. A column for 'overall assessment' should be provided in the form so that the year's work is assessed and graded in the recognized categories namely 'A' plus (out-standing); 'A' (very good); 'B plus' (Good) 'B' (average) and 'C' (Below average).

Haryana Govt.
letter No. 3123-S-
71, dated 21st
May, 1971.

Explanatory Note. - If the overall assessment according to the earlier practice is not as indicated above that is "outstanding", "V. Good", "Average", "Below Average"

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but is "Satisfactory/Fair", or "Above Average", then the latter assessment should normally be interpreted as equivalent to "Average" and "Good" respectively provided there is no indication to the contrary in the main report itself. If there are instances which will doubtless be exceptional, in which the overall assessment whether in the new categories or in the earlier ones is not consistent with the main report, then the assessment should be suitably modified to conform to the report.

20. I am to urge again that the officers, recording confidential reports should realize the value and the importance of such reports in making or adversely affecting the careers of officers reported upon. While superior officers have the fullest freedom and the right to record their opinion about the work and conduct of their subordinates, in doing so they should be guided solely by considerations, of merit, justice and fair play. No personal considerations, approaches or sifarish of any kind should be allowed to supervene and their conscience alone should be their guide, in this matter. 21. I am to request that these instructions should be strictly followed: -

ANNEXURE 'A' (PARA 3)

Confidential reports of the work of the Officers of the Indian Civil Service/Indian Administrative Service for the year—

Name

Designation

Period spent in the post

Remarks

Overall Assessment (Outstanding, very good, good, average or below average).

ANNEXURE 'B' (PARA 18)

Department of _____

INDEX TO ANNUAL CONFIDENTIAL REPORTS AND OTHER DOCUMENTS
 PLACED IN THE PERSONAL FILE (CHARACTER ROLL)
 OF _____

Sr. No.	Date on which placed on personal file	Nature of documents placed showing period to which it relates	Page Nos. of the documents filed	Signature, date and designation of attesting authority of the entry	Remarks
1	2	3	4	5	6

- N.B.* — (1) The Index Form should be printed on both sides of a thick coloured holder.
- (2) Each Index Sheets should have a printed Serial No. embossed in print in the right and top corner.
- (3) Printed Index Sheet are available from the Controller, Printing and Stationery, Punjab, Chandigarh.
- (4) Proper account of Index Sheets should be maintained by each office.

ANNEXURE 'C' (PARA 19)

(1) Name of the Officer with an indication of the Service to which he belongs

DOCUMENTS
(OLL)

(2) Date of entry into the service.

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Period covered by the report	Post(s) held	Name(s) with designation (s) of the reporting officers	Whether the reports on the whole, Outstanding, Very Good, Good Average or below Average	Remarks Reference to pages
			Outstan- Ding/Very Good	below Average
1	2	3 (a)	4 (b)	5 (c)
				6

coloured holder.

ed in print in the

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No. 10250-ASI-65/40176

From

Sardar Ghyan Singh Kahlon, I.C.S.,
Chief Secretary to Government, Punjab

To

All Heads of Departments, Commissioners of Divisions, Deputy Commissioners, District and Sessions Judges, Sub-Divisional Officers (Civil) in the Punjab and the Registrar, High Court, Punjab.

Dated Chandigarh, the 15th December, 1965.

Subject: — Confidential reports — time-limit for making representations against adverse remarks.

Sir,

I am directed to invite a reference to paragraph 12 of the Punjab Government Instructions contained in circular letter No. 2334-ASI-60/15708, dated the 3rd May, 1960, as amended, *-vide* Punjab Government letter No. 5515-ASI-61/25297, dated the 11th July, 1961, which reads as follows. —

“Time limit for filing representations against the adverse remarks and the authorities to whom the representations are to be addressed

(II) As stated above, Government do not encourage representations against adverse remarks. But, if a representation is made, it should not be entertained unless it is received within three months from the date of the letter communicating adverse remarks to the officer/official concerned. Government wish to make it clear that the time-limit should be followed rigidly and that time-barred representation should be rejected. It is dangerous to allow officers to go on putting up representations whenever they think the situation is favourable to them and *post facto* attempts to clean up personal files must be resisted.

(III) The representation against adverse remarks may be addressed direct to the authority conveying the adverse remarks.

As is clear from the above-mentioned instructions, this time limit of three months for making representations against adverse remarks is required to be followed strictly. Accordingly, if an officer wants to represent against adverse remarks he must do so within this prescribed time-limit and time-barred representations should be rejected straight way.

2. Instances have, however, come to the notice of Government where certain officer, who wanted to represent against adverse remarks, could not do so because they were unable to lay hands on the relevant record in order to prepare their representations. The matter has been considered by Government and it has been felt that in such cases the officer/official concerned should promptly intimate to the authority conveying the adverse remarks that he would be making a detailed representation after examining the relevant

record. As far as possible, the detailed representation should also be sent within the prescribed time-limit of three months but where this is not practicable owing to the circumstances beyond an officer's control and the authority dealing representation is satisfied about it, the representation may be entertained and dealt with as it had been received within the prescribed time-limit of three months.

3. I am to request that these instructions may be brought to the notice of all concerned for information and compliance.

Yours faithfully,
P.H. VAISHNAV,
Deputy Secretary,
Administration and Political,
for Chief Secretary to Government, Punjab.

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No. 2107-3S-67/19007

From

The Chief Secretary to Government, Haryana.

To

All Heads of Departments, Commissioner, Ambala Division, Deputy Commissioners, District and Sessions Judges and the Sub-Divisional Officers (Civil) in the State of Haryana and the Registrar, High Court of Punjab and Haryana.

Dated Chandigarh, the 4th October, 1967.

Subject: — Confidential Reports.

Sir,

I am directed to invite attention to para 17 of the pre-reorganisation Punjab Government Circular letter No. 2334-ASI-60/15708, dated the 3rd May, 1960 regarding the custody of personal files etc. and to state that it has come to the notice of Government that some of the Heads of Departments, on relinquishing charge as a result of transfer etc., leave the personal files in their custody with their personal staff instead of handing over the same to their successors or the other appropriate authority. Such a practice results into leakage of the confidential reports and is not desirable. I am, therefore, to request that the personal files in the custody of the Heads of Departments should be duly passed on to the appropriate authority at the time of relinquishing charge of the post.

2. Government have also observed that the practice in some of the Departments is to record the reports on the work and conduct of their employees in respect of the calendar year whereas in other Departments such reports are written for the financial year. For the sake of uniformity, it has been decided that all the reports on the work and conduct of the officers/officials working under the Haryana Government should be written for the financial year and not for the calendar year.

3. I am to request that these instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,
Sd/-

Deputy Secretary Political and Services,
for Chief Secretary to Government,
Haryana.

Copy forwarded for information and necessary action, to the Financial Commissioner, Revenue, Haryana.

Sd/-
Section Officer,
for Chief Secretary to Government,
Haryana.

To

The Financial Commissioner, Revenue, Haryana.

U.O. No. 2107-3S-67, dated Chandigarh, the 4th October, 1967.

Copy forwarded to all Administrative Secretaries to Government, Haryana for information and necessary action.

Sd/-
Section Officer,
for Chief Secretary to Government,
Haryana.

To

All Administrative Secretaries to Government, Haryana.

U.O. No. 2107-3S-67, dated Chandigarh, the 4th October, 1967

Copy forwarded to the Secretaries/Private Secretaries to the Chief Ministers, Ministers, Ministers of State, Deputy Ministers and the Chief Parliamentary Secretary, Haryana, for information.

Sd/-
Section Officer,
for Chief Secretary to Government,
Haryana.

To

The Secretaries/Private Secretaries to the Chief Minister, Ministers, Ministers of State, Deputy Ministers and the Chief Parliamentary Secretary, Haryana.
U.O. No. 2107-3S-67, dated Chandigarh, the 4th October, 1967.

प्रेषक

मुख्य सचिव, हरियाणा सरकार

सेवा में

हरियाणा के सभी विभागाध्यक्ष,
आयुक्त, अम्बाला मण्डल तथा
सभी उपायुक्त और उप-मण्डल अधिकारी।

दिनांक चण्डीगढ़, 23 जुलाई, 1969

विषय: - वार्षिक गोपनीय रिपोर्ट-प्रतिकूल अभ्युक्तियां सूचित करना।

महोदय,

मुझे ऊपर लिखे विषय की ओर ध्यान दिलाने और यह कहने का निदेश हुआ है कि सम्बन्धित कर्मचारियों को वार्षिक गोपनीय रिपोर्टों की प्रतिकूल अभ्युक्तियां सूचित करने के बारे में एक बात स्पष्ट करना जरूरी हो गया है। ऐसे उदाहरण देखने में आए हैं, जहां प्रतिकूल अभ्युक्ति के प्रति प्रतिवेदन आने पर जब उन्हें अभ्युक्ति लिखने वाले अधिकारियों के पास टिप्पणी के लिए भेज दिया जाता है तो वे लिखते हैं कि अभ्युक्तियां प्रतिकूल नहीं थीं बल्कि उपदेशक थीं। इस विषय पर विचार किया गया है और यह स्पष्ट है कि इस तरह की स्थिति उचित नहीं और मानी नहीं जा सकती कि कोई अभ्युक्ति प्रतिकूल न हो बल्कि उपदेशक हो। इसका कारण यह है कि उपदेश देने का प्रश्न केवल तभी उठता है जब त्रुटि या दोष के रूप में कोई प्रतिकूल बात नजर आई हो, अन्यथा उपदेश देने का प्रश्न ही नहीं उठता। इसके अतिरिक्त यह दस्तूर है कि जब कभी किसी कर्मचारी को प्रतिकूल अभ्युक्ति सूचित की जाती है, उस के साथ हमेशा यह उपदेश दिया जाता है कि उसे सम्बन्धित दोष को दूर करने के लिए प्रयत्न करने चाहिए। इसलिए यह स्पष्ट है कि इस तरह का कथन कि अभ्युक्ति प्रतिकूल नहीं बल्कि केवल उपदेशक है स्वाविरोधी और उसे उचित नहीं कहा जा सकता तथा यदि कोई उपदेश दिया जाए तो यह केवल किसी दोष के सम्बन्ध में हो सकता है जिसे दूर करना होगा। अतः यह अनुरोध किया जाता है कि जब भी वार्षिक रिपोर्ट में अभ्युक्तियां लिखी जाती हैं या ऐसी अभ्युक्तियों के विरुद्ध प्रतिवेदन पद विचार किया जाता है तो आप और आपके अधीन काम करने वाले कर्मचारियों को यह स्थिति सावधानी से ध्यान में रखनी चाहिए।

2. आप से अनुरोध है कि इस पत्र की प्रान्ति भेजी जाये।

भवदीय,

त्रिलोचन सिंह,

उप-सचिव, राजनैतिक एवं सेवाएं,
कृते: मुख्य सचिव, हरियाणा सरकार।

एक-एक प्रति: -

- (1) वित्त कमिश्नर, राजस्व, हरियाणा, को सूचनार्थ भेजी जाती है।

आर० डी० माथुर,
सहायक सचिव (प्रशासन),
कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में,

- (1) वित्त कमिश्नर, राजस्व, हरियाणा।
- (2) सभी प्रशासकीय सचिव, हरियाणा सरकार।

क्रमांक 1910-3 एस-69, दिनांक 23 जुलाई, 1969 एक-एक प्रति निम्नलिखित को सूचनार्थ भेजी जाती है: -

- (1) प्रधान सचिव, मुख्य मन्त्री।
- (2) अन्य मन्त्रिगण व संसदीय सचिव के सचिव/निजी सचिव।

आर० डी० माथुर,
सहायक सचिव (प्रशासन),
कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में,

- (1) प्रधान सचिव, मुख्य मन्त्री।
- (2) अन्य मन्त्रिगण व संसदीय सचिव के सचिव/निजी सचिव।

क्रमांक 1910-3 एस-69, दिनांक 23 जुलाई, 1969.

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No. 6186-3S-69

From

The Chief Secretary to Government, Haryana.

To

All Heads of Departments, Commissioner, Ambala Division and Deputy Commissioners and Sub-Divisional Officers in Haryana.

Dated Chandigarh, the 10th December, 1969.

Subject:— Confidential reports- Representations against adverse remarks.

Sir,

I am directed to refer to para 11 of Government instructions contained in circular letter No. 2334-ASI-60/15708, dated the 3rd May, 1960, regarding representations against adverse remarks and to say that cases have come to the notice of Government in which it was alleged that the adverse remarks had been recorded by the reporting officer *mala fide* but it appeared later that the allegation was false and had been made recklessly and without any basis or justification whatever. Government view the matter with great concern and consider that serious notice should be taken of default of this type as it is highly objectionable and also subversive of discipline. It has, therefore, to be emphasized that Government employees should exercise special care in this regard and it should be noted that if any employee is guilty of such default and makes baseless allegations of *mala fide* he will render himself liable to disciplinary action.

2. It is requested that these instructions should be brought to the notice of all Government employees working under your control for their information and guidance.

Yours faithfully,

Sd/-

Assistant Secretary (Administration),
for Chief Secretary to Government,
Haryana.

A copy each forwarded, for information to: —

- (2) The Financial Commissioner, Revenue, Haryana.
- (3) All the Administrative Secretaries to Government, Haryana.

Sd/-

Assistant Secretary (Administration),
for Chief Secretary to Government,
Haryana.

To

1. The Financial Commissioner, Revenue, Haryana.
2. All Administrative Secretary to Government, Haryana.

U.O. No. 6186-3S-69, dated Chandigarh, the 10th December, 1969.

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1. The Financial Commissioner, Revenue, Haryana.
2. All Administrative Secretary to Government, Haryana.

U.O. No. 6186-3S-69, dated Chandigarh, the 10th December, 1969.

A copy each is forwarded for information to the Principal Secretary to Chief Minister and Secretaries/Private Secretaries to other Ministers and Parliamentary Secretaries.

Sd/-
Assistant Secretary (Administration),
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary to Chief Minister and Secretaries/Private Secretaries to other Ministers and Parliamentary Secretaries.

U.O. No. 6186-3S-69, dated Chandigarh, the 10th December, 1969.

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Copy of letter No. 3270 ASI-65/11454, dated 3rd April, 1965 from Sardar Gyan Singh Kahlon, I.C.S., Chief Secretary to Government, Punjab to all Heads of Departments, Commissioners of Divisions, Deputy Commissioners, District and Sessions Judges, S.D.Os, in the Punjab and the Registrar High Court of Punjab.

Subject: —Confidential Reports — Issue of appreciation letters.

I am directed to invite a reference to the Punjab Government letter No. 472-ASI-64/11586, dated the 3rd/9th April, 1964 on the subject noted above, wherein it was decided that before a letter of appreciation could be issued to an officer on the basis of his confidential report the following conditions should be fulfilled: —

- (a) at least two authorities, when there are two or more such competent authorities, should make the recommendation in clear terms; and
- (b) the work proposed for commendation should be clearly indicated.

The State Government has from time to time, been receiving references from the various departments seeking clarification on certain points. The matter has, therefore, been considered further and I am to offer the following clarifications in this behalf: -

- (i) Where there is only one reporting authority and it recommends clearly the issue of an appreciation letter and also indicates the work proposed for commendation, an appreciation letter may be issued in such cases;
- (ii) In cases where the first reporting authority recommends an appreciation letter in clear terms indicating the work proposed for commendation and the second authority simply endorses it by saying 'I agree' an appreciation letter may be issued as the words 'I agree' amount to endorsing the recommendation of the first reporting authority notwithstanding the fact that the second reporting authority did not clearly say in so many words that an appreciation letter may be issued;
- (iii) Where two reporting authorities recommend the issue of an appreciation letter and the highest authority does not contradict that recommendation but records the words "Seen" or "No remarks" or simply appends his signature an appreciation letter may be issued. Where, however, the final authority controverts the recommendation of the lower authority, no letter of appreciation should be issued;
- (iv) Where the two lower reporting authorities do not recommend the issue of an appreciation letter but the highest authority makes, the recommendation in its report for such a letter in clear terms, a letter of appreciation should not be issued straightway. In such cases, the administrative authority which is next above the 'highest authority' recording the report (as indicated below) should take a decision with regard to the issue of an appreciation letter:

- (i) If the 'highest authority' recommending the issue of an appreciation letter is the Head of the Department, the decision regarding the issue of any appreciation letter should be taken by the Administrative Secretary;

Haryana Govt.
letter No.13733-
S-2/6807, dated
13th March, 1972.

dar Gyan Singh
to all Heads of
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- (ii) If the 'highest authority' recommending the issue of an appreciation letter is the Administrative Secretary, the decision regarding the issue of an appreciation letter should be taken by the Minister-in-charge.
- (iii) If the 'highest authority' recommending the issue of an appreciation letter is the Minister-in-charge the decision regarding the issue of an appreciation letter should be taken by the Chief Minister; and
- (iv) If the recommendation for the issue of an appreciation letter is made by the Chief Minister then no further scrutiny would be necessary and the appreciation letter may be issued as recommended.

2. It is requested that these instructions may please be brought to the notice of all concerned for information and compliance, and the receipt of this letter may be acknowledged.

प्रेषक

मुख्य सचिव, हरियाणा सरकार।

सेवा में,

हरियाणा के सभी विभागाध्यक्ष, आयुक्त, अम्बाला मण्डल तथा
सभी उपायुक्त और उप-मण्डल अधिकारी।

दिनांक चण्डीगढ़, 10 दिसम्बर, 1969

विषय: - गोपनीय रिपोर्ट-प्रतिकूल कथनों के विरुद्ध प्रतिवेदन।

श्रीमान जी,

मुझे प्रतिकूल-कथन के विरुद्ध प्रतिवेदनों से सम्बन्धित परितंत्र 2334 ए-एस-1-60/15708, दिनांक 3 मई, 1960 में उल्लिखित सरकारी अनुदेशों के पैरा 11 की ओर ध्यान दिलाने तथा यह कहने का निदेश हुआ है कि सरकार के ध्यान में ऐसे मामले आए हैं जिन में यह बताया गया था कि रिपोर्ट करने वाले अधिकारियों ने प्रतिकूल कथन कदाशय से दर्ज किये हैं। परन्तु बाद में यह प्रतीत हुआ है कि ऐसा आरोप गलत था और बिना सोचे समझे तथा बिना आधार या औचित्य के लगाया गया था। सरकार इसे गम्भीर मामला समझती है और अनुभव करती है कि इस तरह के दोष के प्रति सख्त कार्यवाही की जाये क्योंकि यह अत्यन्त आपत्तिजनक तथा अनुशासन के विरुद्ध है। इसलिए इस बात पर जोर दिया जाता है कि सरकारी कर्मचारियों के इस सम्बन्ध में विशेष सावधानी बरतनी चाहिए और यह नोट कर लेना चाहिये कि यदि कोई कर्मचारी इस प्रकार की चूक करे और कदाशय का निराधार आरोप लगाये तो वह अनुशासनात्मक कार्यवाही का भागी होगा।

2. आप से अनुरोध है कि ये अनुदेश आप के नियन्त्रण के अधीन काम कर रहे सभी कर्मचारियों के ध्यान में सूचना एवं मार्गदर्शन के लिए लाए जायें।

आर० डी० माथुर,

सहायक-सचिव (प्रशासन),

कृते: मुख्य सचिव, हरियाणा सरकार।

एक-एक प्रति निम्नलिखित को सूचना के लिये भेजी जाती है:-

1. वित्तायुक्त, राजस्व, हरियाणा।
2. सभी प्रशासकीय सचिव, हरियाणा सरकार।

आर० डी० माथुर,

सहायक-सचिव (प्रशासन),

कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में,

1. वित्तायुक्त, राजस्व, हरियाणा।
2. सभी प्रशासकीय सचिव, हरियाणा सरकार।

अशासकीय क्रमांक 6186-3 एस-69, दिनांक चण्डीगढ़, 10 दिसम्बर, 1969

एक-एक प्रति मुख्य मंत्री के प्रधान सचिव और अन्य मन्त्रियों तथा संसदीय के सचिव/निजी सचिवों को सूचनार्थ भेजी जाती है।

आर० डी० माथुर,
सहायक-सचिव (प्रशासन),
कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में,

मुख्य मंत्री के प्रधान सचिव तथा अन्य मन्त्रियों तथा संसदीय सचिवों के सचिव/निजी सचिव।

अशासकीय क्रमांक 6186-3 एस-69, दिनांक चण्डीगढ़, 10 दिसम्बर, 1969

60/15708,

तथा यह कहने
था कि रिपोर्ट
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क्रमांक 6838-3 एस-71/31493

प्रेषक

मुख्य सचिव, हरियाणा सरकार।

सेवा में,

- (1) हरियाणा के सभी विभागाध्यक्ष, आयुक्त, अम्बाला मण्डल तथा सभी उपायुक्त और उप-मण्डल अधिकारी।
- (2) रजिस्ट्रार, पंजाब तथा हरियाणा उच्च-न्यायालय तथा हरियाणा के सभी जिला तथा सत्र न्यायाधीश।

दिनांक चण्डीगढ़, 3/8 नवम्बर, 1971

विषय: - गोपनीय रिपोर्ट-प्रतिकूल कथनों के विरुद्ध अभिवेदन।

महोदय,

मुझे निर्देश हुआ है कि मैं आपका ध्यान उपर्युक्त विषय पर हरियाणा सरकार के परिपत्र क्रमांक 6186-3 एस-69, दिनांक 10 दिसम्बर, 1969 की ओर दिलाऊँ और कहूँ कि यह बहुत सतोषजनक तथा डिसटरबिंग बात है कि उपरोक्त पत्र में जारी की गई हिदरयतो के बावजूद भी कुछ ऐसे केंसिज सरकार के ध्यान में आये हैं, जिन में (प्रतिकूल विचारों के विरुद्ध अभिवेदनों में) वरिष्ठ अधिकारियों के खिलाफ irresponsible और reckless तौर पर mala fide की allegation लगाई जाती है अर्थात् कर्मचारी/अधिकारी द्वारा वार्षिक गोपनीय रिपोर्टों में दर्ज प्रतिकूल कथनों के विरुद्ध अभिवेदनों में रिपोर्टिंग आफिसरों के विरुद्ध झूठे तथा बेबुनियाद एलीगेशन लगाये जाते हैं यह डिसिपलिन के विरुद्ध कार्यवाही है और सरकार इसे गम्भीरता से देखती है। यह निर्णय किया गया है कि इस तरह के दोष के लिये सख्त कार्यवाही की जाए तथा सम्बन्धित कर्मचारी/अधिकारी को सरकार की नाराजगी व्यक्त की जाए (जिसकी एक प्रति कर्मचारी/अधिकारी की चरित्र-पंजी में भी रखी जाए) या और कोई उचित अनुशासनिक कार्यवाही की जाए। इसलिये इस बात पर जोर दिया जाता है कि सरकारी कर्मचारियों/अधिकारियों को प्रतिकूल विचारों के विरुद्ध अभिवेदन करते समय विशेष सावधानी बरतनी चाहिए।

2. आपसे अनुरोध है कि अनुदेश आपके नियन्त्रण में काम कर रहे सभी सरकारी कर्मचारियों के ध्यान में सूचना एवं मार्गदर्शन के लिए लाए जायें।

भवदीय,

(हस्ताक्षर)

उप-सचिव, राजनैतिक एवं सेवाएं,

कृते: मुख्य सचिव, हरियाणा सरकार।

एक-एक प्रति निम्नलिखित को सूचना के लिये भेजी जाती है:-

- 1 वित्तायुक्त, राजस्व, हरियाणा तथा
- 2 हरियाणा के सभी प्रशासकीय सचिव।

(हस्ताक्षर)

उप-सचिव, राजनैतिक एवं सेवाएं,

कृते: मुख्य सचिव, हरियाणा सरकार।

सेवा में,

1. वितायुक्त, राजस्व, हरियाणा।
2. हरियाणा के सभी प्रशासकीय सचिव।

अशासकीय क्रमांक 6838-3 एस-71, दिनांक 3 नवम्बर, 1971

एक-एक प्रति मुख्य मंत्री/मंत्रियों/उप-मंत्रियों/मुख्य संसदीय सचिव के सचिवों/निजी सहायकों को मुख्य मंत्री/मंत्रियों/उप-मंत्रियों/मुख्य संसदीय सचिव को सूचना के लिये भेजी जाती है।

भवदीय,

(हस्ताक्षर)

उप-सचिव, राजनैतिक एवं सेवाएं,
कृते मुख्य सचिव, हरियाणा सरकार।

सेवा में,

मुख्य मंत्री/मंत्रियों/उप-मंत्रियों/मुख्य संसदीय सचिवों के सचिवों/
निजी सचिवों/निजी सहायकों

अशासकीय क्रमांक 6838-3 एस-71, दिनांक 3 नवम्बर, 1971

परिपत्र क्रमांक
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अधिकारियों
हैं अर्थात्
अगिवेदनो में
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राजगी व्यक्त
या और कोई
सरकारी
सावधानी

कर्मचारियों

आए,
आर।

आए,
आर।

No. 2180-4GSI-66

From

The Chief Secretary to Government, Punjab.

To

All Heads of Departments, The Registrar Punjab High Court,
Commissioners of Divisions, District and Sessions Judges, Deputy
Commissioners and Sub-Divisional Officers (Civil) in the Punjab.

Dated Chandigarh, the 10th May, 1966.

Sir,

I am directed to refer to Punjab Government letter No. 9369-G-51/1881, dated the 12th February, 1952 which lays down the instructions for the submission and receipt of memorials and petitions from persons who are, or have been in the Civil Service of the Punjab State. Under para 2(1) of these instructions a Government employee is competent to file a memorial in the Governor in respect of matters arising out of such employment. The questions whether a memorial against adverse remarks in the confidential report of Government employees is admissible or not has been considered at length and it has now been decided that no memorial lies against adverse remarks communicated to the employee on basis of his confidential report. Accordingly para 2(1) of the memorial instructions may be amended to read as follows: —

These instructions shall apply to memorials addressed to the Governor of Punjab or the State Government by persons who are, or have been in the Civil Service of the Punjab or the State in respect of matters arising out of such employment; or in respect of the termination of such employment and who are or were subject to the rule making power of the Governor. However, these instructions will not apply to representations made against adverse remarks communicated on the basis of annual confidential reports.

Yours faithfully,

Sd/-

Deputy Secretary, General Administration
for Chief Secretary to Government,
Punjab.

A copy is forwarded in —

- (1) The Financial Commissioners, Punjab; and
- (2) The Administrative Secretaries to Government, Punjab, for information and necessary action.

Sd/-

Superintendent, General Services I
for Chief Secretary to Government,
Punjab.

To

- (1) The Financial Commissioner, Punjab; and
 - (2) The Administrative Secretaries to Government, Punjab.
- U.O No. 2180-4GSI-66, dated Chandigarh the 10th May, 1966.

No. 5120-3S-67

From

The Chief Secretary to Government, Haryana, Chandigarh.

To

- (2) All Heads of Departments, the Commissioner, Ambala Division, and all Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.
- (3) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 1st December, 1967.

Subject:— Maintenance of confidential rolls.

Sir,

I am directed to enclose a copy of the Government of India, Ministry of Home Affairs, letter No. 51/2/67-ests. (a), dated the 18th August, 1967, with that of its enclosure, for your information and guidance.

2. The instructions contained in para 2 of the above mentioned enclosure should also be followed in the case of State Government Officers who are deputed to other Department/State Government/Government of India or are on Foreign Service.

Yours faithfully,

Sd/-

Section Officer (Services),
for Chief Secretary to Government,
(Haryana)

A copy with a copy of the enclosures is forwarded for information and guidance,
to, —

- (1) The Financial Commissioner, Haryana;
- (2) All Administrative Secretaries to Government, Haryana.

Sd/-

Section Officer (Services),
for Chief Secretary to Government,
(Haryana)

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To

- (1) The Financial Commissioner, Revenue, Haryana.
- (2) All Administrative Secretaries to Government, Haryana.

U.O. No. 5120-3S-67, dated Chandigarh, the 1st December, 1967.

Copy of Office memo. 51/2/67-Ests. (a), dated the 18th August, 1967 from the Under-Secretary to the Government of India Ministry of Home Affairs, New Delhi to all the Ministers/Departments etc. of the Government of India.

OFFICE MEMORANDUM

Subject: — Maintenance of confidential rolls.

The undersigned is directed to state that certain doubts have been raised as to the authority who should maintain the confidential rolls of the Central Government officers who are deputed, to other Departments/State Governments, or are on foreign service and what should be the periodicity of the rendition of these reports.

It is hereby clarified that the parent department of the Government servant should maintain the character rolls of such officers and the periodicity of the rendition of confidential reports should conform to the periodicity adopted in his parent department. It will be the responsibility of the parent department to obtain the reports of their officers on deputation and maintain them.

In so far as the personnel serving in the Indian Audit and Accounts Department are concerned these instructions have been issued after consultation with the C. & A.G.

Copy of the letter No. 51/2/67-Ests. (a) dated the 18th August, 1967 from the Under-Secretary to the Government of India Ministry of Home Affairs, to the Chief Secretaries to all the State Governments and Union Territories.

I am directed to enclose for the information and guidance of the State Government a copy of the Ministry of Home Affairs Office Memo No. 51/2/67-Ests. (a), dated the 18th August, 1967.

No. 97-3S-73/727

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioner, Ambala Division, and all Deputy Commissioners and Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 10th January, 1973.

Subject: - Confidential report - Consolidated instructions regarding.

Sir,

I am directed to invited reference to composite Punjab Government Consolidated circular letter No. 2334-ASI-60/15708 dated the 3rd November, 1960 (as amended from time to time) on the subject noted above and to say that the Government have decided to make the following further amendments to the instructions: -

The Existing Explanatory Note (i) below paragraph 8 should be substituted as under: —

"(i) If the authorities covered under paragraph 8(i) and 8(ii) above request for blank forms for writing the confidential reports these should be supplied by the same office as is responsible for supplying the forms for annual confidential reports to be written at the end of the year. If the reporting authority is retiring during the reporting year, such blank forms in respect of Government employees in respect of whom the retiring officer is the initial reporting authority, must be supplied by that office on its own to the retiring officer at least one month before the date of his retirement or from the date on which he actually proceeds on leave preparatory to retirement, whichever is earlier. However, the retiring officer will also have the discretion to record his remarks in the case of other employees in respect of whom he is the Reviewing/Accepting authority and in such cases the blank forms may be supplied if so requested by the retiring officer."

Yours faithfully,
Sd/-Deputy Secretary, Political Services,
for Chief Secretary to Government,
Haryana.

No. 872-3S-73/5679

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioner, Ambala and Hisar Divisions, all Deputy Commissioners and Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 6th March, 1973.

Subject: —Confidential reports — Consolidated instructions regarding.

Sir,

I am directed to refer to Composite Punjab Government Consolidated Circular letter No. 2334-ASI-60/15708 dated the 3rd May, 1960 (as amended from time to time) on the subject noted above and to say that the Government have now decided that special reports recorded on the work and conduct of Government employees on any particular occasion should also be placed on their personal files. It is, therefore, requested that the following new sub-para may please be added as sub-para (e) below paragraph (13) (i) of the said consolidated instructions: -

“13 (i) (e) Special reports recorded on the work and conduct of Government employees on any particular occasion e.g. reports recorded on the expiry of the period of probation or in connection with the crossing of an efficiency bar etc.”

Yours faithfully,

Sd/-

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

A copy is forwarded to -

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana for information and necessary action.

Sd/-

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

To

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana.

U.O. No. 872-3S-73, dated Chandigarh, the 6th March, 1973

A copy each is forwarded to the Secretaries/Private Secretaries/Personal Assistants to the Chief Minister/Ministers/Ministers of State for the information of Chief Minister/Ministers/Ministers of State.

Sd/-

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

To

The Secretaries/Private Secretaries/Personal Assistants to the Chief Minister/Ministers/Ministers of State.

U.O. No. 872-3S-73, dated Chandigarh, the 6th March, 1973.

No. 1262-3S-73/7754

From

Shri Saroop Krishen, I.C.S.
Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioners, Ambala and Hissar Divisions, all Deputy Commissioners and Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 22nd March, 1973.

Subject: Confidential reports – Consolidated instructions regarding.

Sir,

I am directed to refer to the composite Punjab Government consolidated Circular letter No. 2334-ASI-60/15708 dated the 3rd May, 1960 (as amended from time to time) on the subject noted above and to say that the Government have decided that the personal files (ACR files) of class I officers should be maintained in duplicate- the original copy being maintained by the Head of the Department concerned and the duplicated copy by the Administrative Secretary concerned. Paragraph 17 (iii) and sub-para one immediately below paragraph 17(iv) of the instructions referred to above will therefore be substituted as follows:—

Para 17(iii), "The personal files of all class I and class II officers, except those referred by (i) and (ii) above, will remain with the Heads of Departments. The personal files of class I officers will be maintained in duplicate i.e. the personal files containing the original annual confidential reports and other documents maintained by the Head of the Department concerned while the duplicate attested copies of the reports and the other documents will be maintained by the Administrative Secretary concerned."

As amended at (i), (ii) and (iv) above and the Heads of Departments and District and Sessions Judges at (iii) above will receive the confidential reports with appreciation on their basis in respect of the personal files are maintained by them."

A copy

BY

SECRET

g personal files of class I officers also and to forward upto date authenticated copies of the reports in such personal files to the Administrative Secretary concerned. The personal files being maintained by the latter. The Administrative Secretaries to ensure that the instructions referred to above are strictly in accordance

with the Government instructions and any default that is observed in this regard is brought to the notice of the Heads of Departments for the defects being rectified.

3. These instructions may please be noted carefully and also brought to the notice of all others concerned for strict compliance.

4. Receipt of this communication may please be acknowledged.

Yours faithfully,

(Sd.).....

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

A copy each is forward to—

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana for information and necessary action.

(Sd.).....

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

To

- (1) The Financial Commissioner, Revenue, Haryana.
- (2) All Administrative Secretaries to Government, Haryana.

U.O. No. 7262-3S-73, dated Chandigarh, the 22nd March, 1973.

A copy each is forwarded to the Secretaries/Private Secretaries/Personal Assistants to the Chief Minister/Ministers/Ministers of State for the information of Chief Minister/
Ministers/Ministers of State.

(Sd.).....

Deputy Secretary, Political and Services,
for Chief Secretary to Government, Haryana.

To

The Secretaries/Private Secretaries/Personal Assistants to the
Chief Minister/Ministers/Ministers of State.

U.O. No. 1262-3S-73, dated Chandigarh, the 22nd March, 1973.

5150-3S-73/20236

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioners, Ambala and Hissar Divisions, all Deputy Commissioners and Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 14th August, 1973.

Subject: - Confidential reports – Consolidated instructions regarding.

Sir,

I am directed to refer to Composite Punjab Government Consolidated circular letter No. 2334-ASI-60/15708 dated the 3rd May, 1960 (as amended from time to time) on the subject noted above and to say that it has come to the notice of Government that the Annual Confidential Report files of Government employee are not being kept in safe custody under lock and key with the result that the same are likely to be misplaced/lost by the interested persons. In order to meet the above situation, Government have decided that all the Annual Confidential Report files should be kept in safe custody under lock and key.

2. It is requested that the following new explanatory note may please be added as Explanatory Note (1) below paragraph 17 of the said consolidated instructions.

- (1) Explanatory Note (1) below paragraph 17 of the *consolidated instructions*.

“The personal files (Annual Confidential Report Files) should be kept in safe custody under lock and key so that there is no room for their leakage and/or for their being misplaced/lost by the interested persons.”

- (ii) The existing explanatory note below paragraph 17 will be numbered as Explanatory Note(ii).

Yours faithfully,

(Sd.)...

Joint Secretary, Secretariat Establishment,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to –

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana for information and necessary action.

(Sd.).....

Joint Secretary, Secretariat Establishment,
for Chief Secretary to Government,
Haryana.

To

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana.

U.O. No. 5150-3S-73/dated Chandigarh, the 14th August, 1973.

A copy each is forwarded to the Secretaries/Private Secretaries/Personal Assistants to the Chief Minister/Ministers/Ministers of State for the information of Chief Minister/Ministers/Ministers of State.

(Sd.).....

Joint Secretary, Secretariat Establishment,
for Chief Secretary to Government,
Haryana.

To

The Secretaries/Private Secretaries.

Personal Assistants to the Chief Minister/Ministers/Ministers of State.

U.O. No. 5150-3S-73, dated Chandigarh, the 14th August, 1973.

No. 8190-3S-73

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioners, Ambala and Hissar Divisions, all Deputy Commissioners and all Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court, and all District and Sessions Judges in Haryana.

Dated Chandigarh, the 2nd January, 1974.

Subject:— Confidential reports – Consolidated instructions regarding.

Sir,

I am directed to refer to Composite Punjab Government Consolidated circular letter No. 2334-ASI-60/15708 dated the 3rd May, 1960 (as amended from time to time) on the subject noted above and to say that Government have decided to make the following further amendments in the instructions: -

I. The existing paragraph 5(iv) may be substituted as under: —

5(iv) A Chief Parliamentary Secretary/Deputy Minister will have no right of recording/reviewing/accepting of remarks in the annual confidential reports of officers/officials (except in the case of personal staff working under him). A Minister of State where he holds independent charge of a department will, however, be competent to record such remarks. The Minister/Minister of State (where he is the Minister-in-charge), before recording his remarks may informally consult the Minister(s) of State/Deputy Minister(s), Chief Parliamentary Secretary as the case may be.

II. The Explanatory Note below Paragraph 5 may be substituted as under: —

(i) A Minister or a Minister of State (who held independent charge of any department) who has quit office, will not be competent to record remarks in the confidential report of any officer (including his personal staff). The reports of officers for whom the Minister was the only reporting authority shall be recorded by the Chief Minister.

III. The following is added as Explanatory Note below Paragraph 5: —

(ii) The word Minister-in-charge wherever occurring in these instructions would mean Ministers who are/were independently in-charge of the Department under their control. It would include Ministers of State, when they hold/held independent charge of any department.

IV. The existing Paragraph 8(ii) may be substituted as under: —

8(ii) If there is a change in portfolios, a Minister or a Minister of State (incharge of any Department) may, if he had not done so earlier, record remarks on

the confidential files of officers subordinate to him for the year in which change in portfolios took place. Such remarks should be recorded as early as possible after relinquishing charge of the previous portfolio (s) and in any case before the end of the reporting year concerned.

Yours faithfully,

(Sd.)....

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

A copy each is forward to -

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana for information and necessary action.

(Sd.)....

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

To

- (i) The Financial Commissioner, Revenue, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana.

U.O. No. 8290-3S-73, dated Chandigarh, the 2nd January, 1974.

A copy each is forwarded to the Principal Secretary/Secretaries/Private Secretaries/Personal Assistants to the Chief Minister/Ministers/Ministers of State for the information of Chief Minister/Ministers/Ministers of State.

(Sd.)....

Deputy Secretary, Political and Services,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/ Secretaries/Private Secretaries/P.A.s to the Chief Minister/Ministers/Ministers of State.

U.O. No. 8190-3S-73, dated Chandigarh, the 2nd January, 1974.

No. 60/12/82-S(I)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments,
Commissioners, Ambala and Hissar Divisions
All Deputy Commissioners and
All Sub-Divisional Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court
Dated Chandigarh, the 14th June, 1983.

Subject:— Comments of the retired officers on the adverse remarks recorded by them while in service.

Sir,

I am directed to refer to Haryana Government letter No. 8367-3S-71/36929, dated 23rd December, 1971. — vide which explanatory note (iii) below paragraph 8 of the consolidated instructions regarding Confidential Reports was added as under: —

“An Officer who has retired from service will not be competent to record remarks in the confidential reports of officers/subordinates who worked under him.”

But there is no provision as to whether the comments of those retired officers can be obtained after their retirement, on the representation submitted against the adverse remarks recorded by them while they were in service. In light of the above, the matter has been examined and it has now been decided that the comments of the reporting officer who has retired after recording his remarks as the reporting authority, can be called for if the circumstances of the case so warrant. While, doing so, however, the convenience of the retired officer, the expediency of such a course of action and other relevant circumstances should no doubt be considered. I am, therefore, to request that the decision of the Government may kindly be brought to the notice of all concerned for further necessary action.

Yours faithfully,

(Sd.)

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded for information and necessary action to: —

- (i) All the Financial Commissioners, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana

(Sd.)

Deputy Secretary, Political and Services
for Chief Secretary to Government,
Haryana.

To

- (i) All the Financial Commissioners, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana.

U.O. No. 60/12/82-S(I) Dated Chandigarh, the 14th June, 1983.

A copy each is forwarded to the Principal Secretary/Secretaries/Private Secretaries to C.M./Ministers/Ministers of State/Chief Parliamentary Secretary/Parliamentary Secretary for the information of Chief Minister/Ministers/Ministers of State/Chief Parliamentary Secretary/Parliamentary Secretary.

(Sd.).....

Section Officer, Services-I,
for Chief Secretary to Government,
Haryana.

To

Principal Secretary/Secretaries/Private Secretary
to C.M./Ministers/Ministers of State/Chief
Parliamentary Secretary/Parliamentary Secretary.

U.O. No. 60/12/82-S(I) Dated Chandigarh, the 14th June, 1983.

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No. 36/28/I-S(I)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments,
Commissioners, Ambala and Hissar Divisions
All Deputy commissioners and all Sub-Divisional
Officers in Haryana.
- (2) The Registrar, Punjab and Haryana High Court
Dated Chandigarh, the 16th August, 1983.

Subject: - Confidential reports-Communication of 'average' reports.

Sir,

I am directed to state that according to explanatory note (i) below para 10 of the consolidated instructions regarding writing of annual confidential reports on the work of officers/officials, the remarks in the annual confidential reports which show the overall assessment of the work of an official as 'average' without any other qualifying word or phrases should not be treated as adverse and need not be communicated to him. Further, according to para 12 of the aforementioned instructions, if a representation is made against adverse remarks it should be entertained only if it received within three months from the date of receipt of the letter communicating the adverse remarks to the officer/official concerned.

2. However, adverse notice is being taken of 'average' reports at the time of promotion, retention in service beyond 50/55 years etc. It has, therefore, been decided that if in the confidential report of an officer/official his work is assessed and graded as 'average' then his report alongwith its gradation should be communicated to him even if the report does not contain any adverse remarks, so that he may make a representation, if he so desires, against the grading of the re-report. As in the case of the adverse remarks, only one representation will be entertained against 'average' reports. All other instructions regarding representation against adverse remarks will also be applicable to representations against 'average' reports.

3. It has further been decided that a representation against adverse remarks or on 'average' report, should be entertained only if it is received within six months from the date of receipt of the letter communicating the adverse remarks or grading of the report to the officer/official concerned.

Yours faithfully,

(Sd.)....

Under Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

- (i) All the Financial Commissioners, Haryana.
- (ii) All the Administrative Secretaries to Government, Haryana.
for information and necessary action.

(Sd.).....

Deputy Secretary, Political and Services
for Chief Secretary to Government,
Haryana.

To

- (i) All the Financial Commissioners, Haryana.
- (ii) All Administrative Secretaries to Government, Haryana.

U.O. No. 36/28/81-S(I) dated Chandigarh, the 16th August, 1983.

A copy each is forwarded to the Principal Secretary/Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/
State Ministers/Parliamentary Secretary for the information of the Chief Minister/Ministers
State Ministers/Parliamentary Secretary.

(Sd.).....

Under Secretary, General Administration.
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries
to the Chief Minister/Ministers/State Ministers/
Parliamentary Secretary.

U.O. No. 36/28/81-S(I) dated Chandigarh, the 16th August, 1983.

No. 60/2/85-S(I)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, the Commissioners, Ambala and Hissar Divisions
All Deputy commissioners and all Sub-Divisional Officers (Civil) in Haryana.
- (2) The Registrar, Punjab and Haryana High Court
Dated Chandigarh, the 27th March, 1985.

Subject: — Writing of Confidential Reports in time-Instructions regarding.

Sir,

I am directed to say that para 2 of the consolidated instructions regarding confidential reports provides that it is essential that all officers should write their reports in the personal files of their subordinates regularly and punctually. The reports should cover the financial year and should be recorded as soon after the close of the said year as possible and in any case not later than six weeks thereafter. It has been observed in the past that these instructions are not being followed strictly and rigidly. In the light of these, instructions, it has been decided that the annual confidential reports should be written as per the following time schedule so that the ACRs complete in all respects should reach the authority responsible for maintaining the ACRs files by the 15th May: -

- (a) Reviewing authority, shall intimate the annual confidential reports in time and ensure that they reach the Reviewing Authority by 7th April;
- (b) Reviewing authority would send the reports to the Accepting Authority so as to reach him by 20th April;
- (c) The report should be sent to the Head of Department by 15th May.

2. As laid down in instructions, generally speaking, reporting officer should state whether officer/official has been able to discharge his duties satisfactorily. It has now been decided that remarks in A.C.R. should also mention in particular, if the targets assigned to officer/official have been achieved.

3. Reporting authorities in respect of I.A.S./H.C.S. officers would also give specific remarks in A.C. Rs. about the achievement of targets assigned to the officers.

4. The above instructions may please be brought to the notice of all concerned with the request that the above time schedule and instructions are followed strictly.

Receipt of this letter be acknowledged.

(Sd.)

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

1. All the Financial Commissioners, Haryana;
2. All the Administrative Secretaries to Government, Haryana, for information and similar necessary action.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

1. All the Financial Commissioners, Haryana.
2. All Administrative Secretaries to Government, Haryana.

U.O. No. 60/4/85-S(I) Dated Chandigarh, the 27th March, 1985.

A copy each is forwarded to the Principal Secretary/Deputy Principal Secretary/ Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/ State Ministers/ Chief Parliamentary Secretary for the information of the Chief Minister/ Ministers/State Ministers/Chief Parliamentary Secretary.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries
to the Chief Minister/Ministers/State Ministers/
Chief Parliamentary Secretary.

U.O. No. 60/2/85-S(I) Dated Chandigarh, the 7th March, 1985.

IMMEDIATE

Subject:— Writing of Confidential Reports in time Instructions regarding.

Will all the Financial Commissioners & Administrative Secretaries to Government, Haryana Kindly refer to the subject noted above?

2. As per existing instructions of the Haryana Government circulated with letter No. 60/2/85-S(I), dated 27th March, 1985, the annual confidential reports complete in all respect should reach the authority responsible for maintaining the ACR files by the 15th May. It has been observed that these instructions are not being followed strictly and sometimes ACRs are not written for months together after these are due, with the result that cases of promotion, efficiency bar etc. of the officers/officials get struck up for a long time. It is, therefore, requested that these instructions may be strictly followed. It may also be strictly followed. It may also please be ensured that ACRs of all officers/officials are written and finally got complete within 30 days and a certificate is recorded by them in this regard for departments under their control. Cases where ACRs are still outstanding after 30 days from now may be brought direct to the notice of Chief Minister along with the names of officers, with whom these are lying and since when.

(Sd.)....

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

All the Financial Commissioners & Administrative
Secretaries to Government, Haryana.

U.O. No. 60/3/91-S(I) Dated Chandigarh, the 29th October 1991.

A copy is forwarded to the Secretary to the Chief Secretary to Government Haryana for information and necessary action of the Chief Secretary.

(Sd.).....

Deputy Secretary, General Administration.
for Chief Secretary to Government, Haryana.

To

The Secretary to the Chief Secretary to Government, Haryana.

U.O. No. 60/3/91-S(I) Dated Chandigarh, the 29th October 1991.

A copy each is forwarded to the Principal Secretary/Additional Principal Secretary/ Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/ State Ministers/ Chief Parliamentary Secretary/Parliamentary Secretary for the information

of the Chief Minister/Ministers/State Ministers/Chief Parliamentary Secretary/
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Deputy Secretary, General Administration.
for Chief Secretary to Government, Haryana.

To

The Principal Secretary/Additional Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries
to the Chief Minister/Minister/State Ministers/
Chief Parliamentary Secretary/Parliamentary Secretary.

U.O. No. 60/3/91-S(I) Dated Chandigarh, the 29th October 1991.

Administration,
Government, Haryana.

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Government Haryana

Administration,
Government, Haryana.

Secretary/
Ministers/
Information

No. 60/3/91-S(I)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments,
Commissioners, Ambala, Hissar, Rohtak and Gurgaon Divisions.
All Deputy Commissioners and all Sub-Divisional
Officers (Civil) in Haryana.
- (2) The Registrar, Punjab and Haryana High Court
Dated Chandigarh, the 28th February, 1992.

Subject: — Writing of Confidential Reports in time-Instructions regarding.

Sir,

I am directed to invite reference to Haryana Government letter No. 60/2/85-S(I), dated 27th March, 1985 *vide* which it was decided that the annual confidential reports should be written as per following time schedule so that the ACRs complete in all respects should reach the authority responsible for maintaining the ACRs files by the 15th May: —

- (a) Reporting authority, shall intimate the annual confidential reports in time and ensure that they reach the Reviewing Authority by 7th April.
- (b) Reviewing authority would send the reports to the Accepting Authority so as to reach him by 20th April;
- (c) The report should be sent to the Head of Department by 15th May.

2. It has been observed that some officers do not record their remarks in the ACRs as per above time schedule. It is, therefore, requested that these instructions may be strictly followed and it may please be ensured that ACRs of officers/officials are written as per prescribed time schedule.

3. Further, it has been clearly laid down in the instructions issued *vide* Haryana Government letter No. 953-3S-75, dated 1st May, 1975 that adverse remarks given in the annual confidential reports should be conveyed promptly. Despite these instructions, instances have come to the notice of Government where in adverse remarks have not been communicated promptly. The officers should be held accountable for delays in writing ACRs and also for not promptly communicating the adverse remarks. In order to ensure the compliance of these instructions, it has been decided that a certificate shall be furnished by all Heads of Offices to the Heads of Departments and by Heads of Departments to the Administrative Secretary by 30th May and 15th June respectively. Administrative Secretaries should also review processing of ACR regularly.

Yours faithfully,

(Sd.).....

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

No. 60/1/93-S (I)

From

The Chief Secretary to Government, Haryana.

To

(1) All Heads of Departments,
Commissioners, Ambala, Hissar, Rohtak and Gurgaon Divisions.
All Deputy Commissioners and all Sub-Divisional
Officers (Civil) in Haryana.

(2) The Registrar, Punjab and Haryana High Court
Dated Chandigarh, the 29th April, 1993.

Subject: — Writing of Confidential Reports in time-Instructions regarding.

Sir,

I am directed to invite reference to Haryana Government letter No. 60/3/91-S(I), dated 28th February, 1992 which inter-alia laid down the annual confidential reports should be written as per the following time schedule so that the ACRs complete in all respects should reach the authority responsible for maintaining the ACRs files by the 15th May: —

- (a) Reporting authority, shall intimate the annual confidential reports in time and ensure that they reach the Reviewing Authority by 7th April.
- (b) Reviewing authority would send the reports to the Accepting Authority so as to reach him by 20th April;
- (c) The report should be sent to the Head of Department by 15th May.

2. It has been observed that these instructions are not being followed strictly, with the result that cases of promotion, efficiency bar etc. of the Officers/Officials remain pending for a long time because of non completion of ACRs. It is, therefore, requested that existing instructions regarding writing of ACRs should be strictly complied with and a certificate is recorded to this effect. Further, it has been decided that in cases of delinquent officers who fail to record ACRs within the stipulated period. Suitable action may be taken against them for the delay. A report about finalisation of the ACR of the Officers/officials within the stipulated period along with the names of officers with whom these are lying and since when may be sent to Government by 30th June, 1993 for the information of Chief Minister.

Yours faithfully,
(Sd.).....

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

A copy each is forwarded to: -

1. All the Financial Commissioners, Haryana;
2. All Administrative Secretaries to Government Haryana.
for information and similar necessary action.

(Sd.).....

Deputy Secretary, General Administration,
for Chief Secretary to Government, Haryana.

To

1. All the Financial Commissioners, Haryana.
2. All Administrative Secretaries to Government, Haryana.

U.O. No. 60/1/93-S(I) Dated Chandigarh, the 29th April, 1993.

A copy each is forwarded to the Principal Secretary/Special Principal Secretary/
Deputy Principal Secretary/Officer on Special Duty/Secretaries/Private Secretaries to Chief
Minister/Ministers/State Ministers/Chief Parliamentary Secretary/Parliamentary Secretary
for the information of Chief Minister/Ministers/State Ministers/Chief Parliamentary
Secretary/ Parliamentary Secretary.

(Sd.).....

Deputy Secretary, General Administration.
for Chief Secretary to Government, Haryana.

To

The Principal Secretary/Special Principal Secretary/Deputy Principal
Secretary/Officer on Special Duty/Secretaries/Private Secretaries to the
Chief Minister/Ministers/State Ministers/Chief Parliamentary Secretary/
Parliamentary Secretary.

U.O. No. 60/1/93-S(I), dated Chandigarh, the 29th April, 1993.

No. 8/5/94-2GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments;
2. The Commissioners, Ambala, Hisar, Rohtak and Gurgaon Divisions.
3. All the Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana State.
4. The Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 10th July, 1995.

Subject:— Probation.

Sir,

I am directed to invite your attention to Haryana Government instructions issued *vide* letter No. 4183-2GSI-71/34032, dated 15th December, 1971, wherein it was *inter alia* stated that decision regarding the completion of the period of probation should be taken expeditiously after the expiry of prescribed period of probation and in any case not later than a period of 3 months. The instructions also laid down that if such a decision was not taken within the prescribed time-limit, the satisfactory completion of probation will be presumed and if a permanent post is available, confirmation will also be presumed. Later on, these instructions were modified *vide* Haryana Government letter No. 116-1 GSI-77/1735, dated 25th January, 1977 to the extent that confirmation cannot be presumed even if a permanent post is available and a specific order to this effect will have to be passed.

2. The instructions quoted above do not encompass instances where an employee, during the period of probation, has earned adverse remarks about his work, conduct and/or integrity. Such an employee cannot be allowed to successfully complete his probation in the face of adverse remarks merely on the ground that a timely order was not passed by the competent authority.

3. It is, therefore, clarified that where during probation work, conduct and/or integrity of an employee has been unsatisfactory, the said employee is not entitled to complete his probation successfully. More delay in passing a timely order cannot lead to an interpretation in favour of the employee. It has also been decided that in all such cases strict disciplinary action should be taken against officers/officials found responsible for suppression of the matter resulting in non-passing of the order in time.

These instructions may be brought to the notice of all concerned

Yours faithfully,
Under Secretary General Administration
for Chief Secretary to Government,
Haryana

Administration,
Haryana.

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Secretary/
Asst. to Chief
Secretary
Haryana

Administration,
Haryana.

Principal
to the
Secretary/

A copy is forwarded to all the Financial Commissioners/Commissioners & Secretaries Government, Haryana for information and similar necessary action.

Under Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

All the Financial Commissioners/Commissioners.
and Secretaries to Government, Haryana.

U.O. No. 8/5/94-2GSI

No. 8/5/94-2GSI

Dated Chandigarh, the 10th July, 1995.

Dated Chandigarh, the 10th July, 1995

A copy each is forwarded to the Accountant General, Haryana, Chandigarh w.r.t. Haryana Government, endorsement No. 4183-2GSI-71/34033, dated 15th December, 1971 and No. 116-1GSI077/1735, dated 25th January, 1977 for his information.

Under Secretary General Administration.
for Chief Secretary to Government,
Haryana.

No. 61/20/85-S(1)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments;
Commissioners, Ambala/Hissar, Division.
All Deputy Commissioners and
All Sub-Divisional Officers (Civil) in Haryana.
- (2) The Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 12th December, 1985.

Subject: Confidential reports- Consolidated Instructions regarding.

Sir,

I am directed to invite your attention to para 4 of the consolidated instructions regarding Confidential Reports, which is reproduced below:—

"Report Regarding Integrity. — A special mention should invariably be made regarding the integrity of the officer to which Government attach the greatest importance. It should be clearly stated if the officer is suspected of corruption or is believed to be corrupt, and this opinion should generally be forfeited by reasons, which may be in the possession of the reporting officer. Any ill-considered remarks in this respect may do a lot of mischief and harm. On the other hand, the reporting officer's must be quite honest and frank and discuss an officer's worth from the point of view of his integrity openly and frankly in the column "Defects, if any" or elsewhere. Government observe that reporting officers are still following the practice of making non-committal remarks the practice of making non-committal remarks like 'no complaints'. Government view this with disfavour and desire that the practice of making non-committal entries in the column relating to integrity should cease. Reporting officers should give a definite opinion on the integrity of their subordinates while writing their confidential reports. Further, instances have come to the notice of Government in which even though officers are being proceeded against for serious forms of corruption, their confidential report for the same periods certify their integrity to be good. It is felt that contradictions of this type arise only because reporting officers are failing in their duty to make entries in the columns relating to integrity forthrightly and without hesitation. In case an officer has been given a good report for integrity which is later proved to be wrong, the reporting officer will run the risk of earning Government displeasure. Ordinarily, the inference would be that either he did not exercise proper supervision or he was in dishonest collusion with his subordinate. The intention of Government is that the truth about subordinates should be known to reporting officers and brought to the notice of higher authorities. This would not, however, justify the entering of ill-considered remarks based on inadequate observation."

2. In spite of these clear instructions on the subject, it has come to the notice of the Government that the reporting officers are still making non-committal remarks

against the column of integrity in ACRs. Remarks regarding integrity are highly important and any ill conceived remarks in this regard can cause lot of damage to the officials concerned.

3. In view of the position stated above, it has been desired that aforesaid instructions may again be brought to the notice of all concerned with the request that the reports regarding integrity should be recorded in conformity with these instructions.

4. Receipt of this letter may please be acknowledge.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

1. All the Financial Commissioners, Haryana;
2. All Administrative Secretaries to Government Haryana.
for information and similar necessary action.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

1. All the Financial Commissioners, Haryana.
2. All the Administrative Secretaries to Government, Haryana.

U.O. No. 61/20/85-S(I) dated Chandigarh, the 12th December, 1985.

A copy each is forwarded to the Principal Secretary/ Deputy Principal Secretary/
Officer on Special Duty/Secretary/Private Secretaries to the Chief Minister/Ministers/
~~State Ministers~~/Chief Parliamentary Secretary for the information of the Chief Minister/
~~Ministers~~/State Ministers/Chief Parliamentary Secretary.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

Principal Secretary/ Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries
to the Chief Minister/Ministers/State Ministers/
Chief Parliamentary Secretary.

U.O. No. 61/20/85-S(I) dated Chandigarh, the 12th December, 1985.

No. 36/28/81-S(I)

From

The Chief Secretary to Government, Haryana.

To

(1) All Heads of Departments, Commissioners Ambala and Hissar Divisions, All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana

(2) The Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 30th April, 1987.

Subject:— Confidential reports- Communication of 'average' reports.

Sir,

I am directed to invite reference to Haryana Government letter No. 36/28/81-S(I), dated 16th August, 1983 on the subject noted above wherein it was *interalia* stated that if in the confidential report of an officer/officials his work is assessed and graded as 'average', then this report alongwith its gradation should be communicated to him even if the report does not contain any adverse remarks. These instructions were made applicable to the annual confidential reports for 1982-83 and subsequent years as clarified, - *vide* State Government even No. dated 10th October, 1983.

2. The Government has reconsidered the matter and it has been decided that the practice of communicating 'average' report should be discontinued as it often results in embarrassment to the reporting authorities and prevents them from giving a true assessment. Accordingly, the instructions as contained in explanatory note (i) under para 10 of the consolidate instructions on confidential reports shall become operative and the instructions dated 16th August, 1983 would stand modified to that extent. Henceforth 'average' without any other qualifying word or phrase would not be communicated. This decision will be applicable to the annual confidential reports for the year 1986-87 and subsequent years. 'Average' reports for the years 1982-83, 1983-84, 1984-85 and 1985-86, if not already conveyed will, however, be conveyed.

3. I am to request that the decision of the Government may kindly be brought to the notice of all concerned for compliance.

Yours faithfully,
(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

1. All the Financial Commissioners, Haryana;
2. All the Administrative Secretaries to Government, Haryana.
for information and necessary action.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

1. All the Financial Commissioners, Haryana.
2. All the Administrative Secretaries to Government, Haryana.

U.O. No. 36/28/81-S(I) dated Chandigarh, the 30th April, 1987.

A copy each is forwarded to the Principal Secretary/ Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/
State Ministers for the information of the Chief Minister/Ministers/State Ministers.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/ Deputy Principal Secretary/ Officer on Special
Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/State
Ministers.

U.O. No. 36/28/81-S(I) dated Chandigarh, the 30th April, 1987.

No. 60/4/87-S(I)-A

From

The Chief Secretary to Government, Haryana.

To

(2) All Heads of Departments, Commissioners Ambala and Hissar Divisions, All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.

(2) The Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 14th August, 1987.

Subject: Representation against adverse remarks-Time limit regarding.

Sir,

I am directed to invite your attention to para 3 of the instructions circulated, - vide Haryana Government letter No. 36/28/81-S(I), dated the 16th August, 1983, - vide which it was decided that a representation against adverse remarks or an 'average' report should be entertained only if it was received within six months from the date of receipt of the letter communicating the adverse remarks or grading of the report to the officer/official concerned. The practice of communicating 'average' report has, however, been discontinued as per Haryana Government letter No. 36/28/81-S(I), dated 30th April, 1987.

2. After reconsideration of the matter, it has been decided by the Government that a representation against adverse remarks should be entertained only if it is received within 45 days from the date of receipt of the letter communicating the adverse remarks to the officer/official concerned. However, the authority dealing with the representation may entertain a representation within *three months* of the expiry of the said period if he is satisfied that the officer/official had sufficient cause for not submitting the representation in time.

3. The above decision will be applicable for the annual confidential reports to be written for the year 1987-88 and onwards.

Yours faithfully,

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

- (1) All the Financial Commissioners, Haryana;
- (2) All the Administrative Secretaries to Government, Haryana.
for information and necessary action.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

- (1) All the Financial Commissioners, Haryana.
- (2) All the Administrative Secretaries to Government, Haryana.

U.O. No. 60/4/87-S(I) dated Chandigarh, the 14th August, 1987.

A copy each is forwarded to the Principal Secretary/ Deputy Principal Secretary/ Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/ State Ministers/Chief Parliamentary Secretary for the information to the Chief Minister/ Ministers/State Ministers/Chief Parliamentary Secretary.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/ Deputy Principal Secretary/
Officer on Special Duty/Secretaries/Private Secretaries
to the Chief Minister/Ministers/State Ministers/
Chief Parliamentary Secretary.

U.O. No. 60/4/87-S(I) dated Chandigarh, the 14th August, 1987.

No. 36/28/81-S(I)

From

The Chief Secretary to Government, Haryana.

To

- (1) All Heads of Departments, Commissioners Ambala and Hissar Divisions, All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.
- (2) The Registrar, Punjab & Haryana High Court.

Dated Chandigarh, the 6th June, 1989.

Subject: Confidential reports- Communication of 'average' reports.

Sir,

I am directed to invite reference to Haryana Government letter No. 36/28/61-S(I), dated 30th April, 1987 on the subject noted above *vide* which it was decided that the practice of communicating 'average' report should be discontinued and as a result the instructions as contained in explanatory note (i) under para 10 of the consolidated instructions on confidential reports became operative.

2. The Government has reconsidered the matter and it has been decided that the 'average' grading of confidential report should be communicated to the concerned officer/ official even if the report does not contain any adverse remarks. Accordingly, the instructions as contained in explanatory note (i) under para 10 of the consolidated instructions on confidential reports shall become inoperative. All other instructions regarding representations against adverse remarks will also be applicable to representations against adverse 'average' reports. This decisions will be applicable to the annual confidential reports for the year 1988-89 and subsequent years.

3. I am to request that the decision of the Government may kindly be brought to the notice of all concerned for compliance.

Yours faithfully,

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

A copy each is forwarded to: -

1. All the Financial Commissioners, Haryana;
2. All the Administrative Secretaries to Government, Haryana.
for information and necessary action.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

1. All the Financial Commissioners, Haryana.
2. All the Administrative Secretaries to Government, Haryana.

Endst. No. 36/28/81-S(I) dated Chandigarh, the 6th June, 1989.

A copy each is forwarded to the Principal Secretary/ Additional Principal Secretary/ Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/ State Ministers/Deputy Ministers/Chief Parliamentary Secretary for the information of the Chief Minister /Deputy Chief Ministers/Ministers/State Ministers/Deputy Ministers/ Chief Parliamentary Secretary.

(Sd.).....
Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/ Additional Principal Secretary/Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/State Ministers/Deputy Ministers/Chief Parliamentary Secretary for the information of the Chief Minister /Deputy Chief Ministers/Ministers/ State Ministers/Deputy Ministers/Chief Parliamentary Secretary.

U.O. No. 36/28/81-S(I) dated Chandigarh, the 6th June, 1989.

No. 8/1/89-2GSI

From

The Chief Secretary to Government, Haryana.

To

1. All Heads of Departments, Commissioners, Ambala and Hissar Divisions, All Deputy Commissioners and Sub-Divisional Officers in Haryana.

2. The Registrar, Punjab and Haryana High Court.

Dated Chandigarh, the 8th August, 1989.

Subject: Probation.

Sir,

I am directed to invite your attention to Haryana Government circular letter No. 4183-2GSI-71/34032, dated 15-12-71, wherein it was laid down that as soon as an officer/official placed on probation has completed the period of probation, a decision should be taken whether the probation was completed satisfactorily or not. Government have received a few references in which clarification about the word 'satisfactorily' used in the said letter, and the criteria for judging the record, has been sought.

Government have considered the matter and it is clarified that for the purpose of probation no percentage of good or better than good record has been prescribed and as such if an employee has earned satisfactory or average reports and thereto is nothing adverse, he may be considered to have completed the period of probation satisfactorily. However, in the cases where the period of probation is two years and the first report of the employee is adverse and the second one is good or above which means that he is showing improvement, it would be appropriate to extend the period of probation. In cases where first report is good and the second report is adverse, in such cases the nature of adverse entry should be kept in view to decide whether the probation period may be extended or the service of the employee may be dispensed with.

3. It is further reiterated that such decision should be taken at the earliest and in any case within a period of 3 months. It is, therefore, important that the Reporting/Reviewing authorities must record their report immediately on expiry of the prescribed period without waiting for the close of the financial year.

4. With a view that the decision on probation cases is not delayed, the departments should keep a note of completion of the period of probation of each employee and take up his case well in advance. With regard to writing of ACRs of such employees, the following schedule be observed:—

- (i) In cases where the completion of period of probation falls between 1st April and 29th June, the report for the year ending in March may be taken in to account to decide the cases.
- (ii) In cases where the completion of period of probation falls between 30th June and end of February, a special report upto the date of completion be obtained.

5. The above instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

(Sd.).....

Joint Secretary, General Administration
for Chief Secretary to Government,
Haryana

A copy is forwarded to

- (1) All the Financial Commissioners Haryana;
- (2) All the Administrative Secretaries to Government, Haryana.
for information and similar necessary action.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

- (1) All the Financial Commissioners, Haryana;
- (2) All the Administrative Secretaries to Government, Haryana.

Endst. No. 8/1/80-2GSI, dated Chandigarh, the 8th August, 1989.

A copy each is forwarded to the Principal Secretary/ Deputy Principal Secretary/ Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/ State Ministers for the information of the Chief Minister / Ministers/State Ministers.

(Sd.).....

Joint Secretary, General Administration,
for Chief Secretary to Government,
Haryana.

To

The Principal Secretary/ Deputy Principal Secretary/Officer on Special Duty/Secretaries/Private Secretaries to the Chief Minister/Ministers/State Ministers/Chief Parliamentary Secretary.

U.O. No. 8/1/80-2GSI, dated Chandigarh, the 8th August, 1989.

C.S. instructions No. 8/5/94-2 GS-I, dated 10-7-1995.

1 for

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No. 18/7/90-2GSI

From

The Chief Secretary to Govt., Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Rohtak and Gurgaon Division.
2. All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.
3. Registrar, Punjab and Haryana High Court, Chandigarh.

Dated Chandigarh, the 21/12/92.

Subject:— **Govt. Employees (Conduct) Rules. – Clarification thereof.**

Sir,

I am directed to invite your attention to Sub Rule (2) of Rule 18 of the Govt. Employees (Conduct) Rules, 1966 according to which no Govt. employee shall except with the previous knowledge of the prescribed authority, acquire or dispose of any moveable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family. The scope of this provision has been engaging the attention of the State Govt. for some time past and it is observed that this provision applies only to properties acquired etc. by the members of the service either in their own names or in the names of the members of their families.

In other words the properties either acquired by the members or the families of the employee from out of their own funds or inherited by them would not attract the provision of these rules. As such the moveable/immoveable properties etc. owned by the members of the families of the employees which are either inherited by them or acquired by them from out of their own funds are not required to be included in the property returns envisaged in rule 18 of the Govt. Employees conduct Rules, 1966.

This may be brought to the notice of all concerned for information.

Yours faithfully,
Deputy Secretary General Administration,
Chief Secretary to Government, Haryana.

No. 62/77/2002-6GSI

From

The Chief Secretary to Government, Haryana.

To

1. All the Heads of Departments in Haryana.
 2. The Registrar, Punjab and Haryana High Court, Chandigarh.
 3. The Commissioners Rohtak, Gurgaon, Hisar and Ambala Divisions and all the Deputy Commissioners in Haryana.
 4. The Managing Directors of all Boards and Corporations in Haryana.
 5. The Registrars, Maharishi Dayanand University, Rohtak, Kurukshetra University Kurukshetra, Ch. Charan Singh Haryana Agriculture University Hisar and Guru Jambheshwar University, Hisar.
- Dated, Chandigarh, the 18th October, 2007.

Subject: — Regarding procedure to be followed for imposition of minor penalty under the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

Sir,

I am directed to invite your attention to the State Government letter No. 62/77/2002-6GSI, dated 28.2.2003 on the subject cited above which inter alia provides that once the charge sheet is issued for imposing a major penalty, then the procedure prescribed for the same in the Rule i.e. holding a regular enquiry, should be adopted and completed, even if it is subsequently decided to impose a minor punishment only and also Disciplinary Authority after issuing a charge-sheet under Rule 7 can not, by merely examining the reply to the charge-sheet, inflict a minor punishment without holding a Regular Departmental Enquiry.

2. On further consideration of the matter and in the light of amendment carried out in sub rule 2(e) of rule-7 of the Haryana Civil Services (P&A) Rules, 1987, vide Haryana Government notification No. G.S.R. 20/Const./Art 309, 187 and 318/2007, dated 6.7.2007, it has been decided by the Government that in case the Competent Authority is satisfied with the explanation given by a charged person, it may drop the charge-sheet without resorting to the procedure of conducting regular enquiry. Similarly if the Competent Authority after considering the reply of the charged person is of the opinion that awarding of minor punishment will meet the ends of justice, then the competent authority may award minor punishment without following the procedure of conducting the enquiry.

It is requested that these instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,
(SUMITA MISRA)
Special Secretary General Administration,
for Chief Secretary to Government,
Haryana.

No. 2/5/2006-2GSI

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners, Ambala, Hisar, Gurgaon and Rohtak Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh; and
3. All the Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.

Dated Chandigarh, the 31st May, 2006.

Subject: — **Regarding consideration of promotion during the currency of stoppage of increments.**

Sir,

I am directed to refer to the subject noted above and to invite your attention to para-2 of the Haryana Government instructions issued vide letter No. 3508-4GSI-1-73/18540, dated 19.7.73 which inter-alia provide that if an employee has been awarded punishment of stoppage of one or more grade increments and his turn comes up for promotion during the currency of stoppage of his grade increment(s), the decision for his eligibility for promotion or otherwise should be taken keeping in view his overall record and he should be considered fit for promotion if his over all record makes him eligible for promotion notwithstanding the fact that the punishment awarded to him becomes ineffective on his promotion.

2. In a judgment of the Hon'ble Supreme Court in the case of State of Tamilnadu Versus Thiru K.S. Muragesan & others (C.A. Nos. 3432-33 of 1995) decided on 28.2.1995, reported as 1995(3) RSJ 271, this Hon'ble Court has held that: -

"..... Unless the period of punishment gets expired by efflux of time, the claim for consideration during the said period cannot be taken up. Otherwise, it would amount to retrospective promotion which is impermissible under the Rules and it would be a premium on misconduct. Doctrine of double jeopardy has no application and non-consideration is neither violative of Article 21 nor Article 14 read with Article 16 of the Constitution"

3. The State Government has considered the matter in the light of aforesaid judgement and it has been decided that no promotion should be allowed to any employee during the currency of punishment of stoppage of his grade increment(s). The instructions issued vide letters No. 6034-2GSI-71/32498, dated 18.11.71 and No. 3508-4GSI-1-73/18540, dated 19.7.73 shall stand modified to the extend indicated above.

These instructions may be brought to the notice of all concerned for their information and strict compliance.

Yours faithfully,
Deputy Secretary General Administration,
for Chief Secretary to Government Haryana.

APPENDIX 'Q'

REHABILITATION OF EX-CONVICTS

Copy of letter No. 6857/5-GSI-72/2756, dated 2.2.73 from the Chief Secretary to Government, Haryana, to all Heads of Departments etc. etc.

Subject:— Rehabilitation of ex-convicts released from Jails-question of making them eligible for appointment under Government.

I am directed to refer to the subject noted above and to say that the All India Seminar on Correctional Services held in New Delhi in March, 1969, considered the problem of rehabilitation of ex-convicts and emphasized the need for their employment under Government on release from Jails. Consequently, the Government of India suggested to all State Government that they should examine the possibility of taking steps whereby ex-convicts would not suffer from any disability in that regard and should be able to obtain employment on their merits after release from jail.

2. The State Government have considered this matter accordingly and have taken the following decision:-

- (i) Persons who are detained under the Borstal Act or after conviction, are released under the Probation of Offenders Act instead of being confined to Jail, should not suffer any disability in respect of obtaining Government service.
- (ii) With regard to the employment of ex-convicts on release from jail, a uniform policy will not be possible and each case should be considered on its own merits. The appointing authority should, in such cases make detailed enquiries and satisfy himself fully that the ex-convicts has reformed himself after release from Jail, and nothing adverse about his conduct has come to notice after his conviction, and he is thus suitable for Government service. The enquiries should invariably be made through the Police Department, and if the Police Department consider it necessary to obtain a report from any other department, they should proceed to do so.
- (iv) Ex-convicts who were convicted of offences involving moral turpitude should not, however, be taken in Government service.

(A list of offences which involve moral turpitude is enclosed for information and guidance in this connection.)

3. I am to request that these instructions may please be noted for strict compliance and the receipt of this letter may be acknowledged.

Enclosure to Haryana Government Letter No. 6857-GSI-72/2755, dated the 2nd February, 1973.

List of offences which constitute Moral turpitude Section of the I.P.C.

120-B

121-A to 124-A

161

302

325

326

359

362

363

365

366

366-A

367-369

370-73

375-376

378

380-82

390-92

395-97

404, 406, 409

420-421

497-498

Copy of letter No. 1449-5GSI-75/6324 dated 17/26.3.1975 from the Chief Secretary to Government, Haryana to all Heads of Departments, etc. etc.

Subject:— Rehabilitation of ex-convicts released from Jails; question of making them eligible for appointment under Government.

I am directed to invite a reference to Haryana Government letter No. 6857-5GS-I-72/2756, dated 2nd February, 1973, on the subject noted above, in which instructions were issued to the effect that ex-convicts should be able to obtain employment on their merits after release from Jail. It was further laid down in these instructions that ex-convicts who were convicted of offences involving moral turpitude should not be taken in Government service. A list of offences which involved moral turpitude was also circulated along with these instructions.

2. This matter has been further considered by the Government and it has been decided that instructions issued in para 2 of Haryana Government's letter dated the 2nd February, 1973 referred to above should be modified as follows:—

- (i) Persons who are detained under the Borstal Act or who, after conviction under the offences which do not involve moral turpitude, are released under the Probation of Offenders Act instead of being confined to Jail, should not suffer any disability in respect of obtaining Government service.
- (ii) With regard to the employment of ex-convicts on release from Jail, a uniform policy will not be possible and each case should be considered on its own merits. The appointing authority should, in such cases, make detailed enquiries and satisfy himself fully that the ex-convict has reformed himself after release from Jail and nothing adverse about his conduct has come to notice after his conviction, and he is thus suitable for Government service. The enquiries should invariably be made through the Police Department and, if the Police Department consider it necessary to obtain a report from any other Department, they should proceed to do so.
- (iii) Ex-convicts convicted of offences involving moral turpitude should neither be taken nor retained in Government service. The following tests should ordinarily be applied in judging whether a certain offence involves moral turpitude or not:—
 - (1) Whether the act leading to a conviction was such as could shock the moral conscience of society in general.
 - (2) Whether the motive which led to the act was a base one.
 - (3) Whether on account of the act having been committed the perpetrator could be considered to be of depraved character or a person who was to be looked down upon by the society.

Decision in each case will, however, depend upon the circumstances of the case and the competent authority has to exercise its discretion while taking a decision in accordance with the above mentioned principle. A list of offences which involve moral turpitude is enclosed for your information and guidance. This

list, however, cannot be said to be exhaustive and there might be offences which are not included in it but which in certain situations and circumstances may involve moral turpitude.

Yours faithfully,

Sd/-

Deputy Secretary Political & Services
for Chief Secretary to Government,
Haryana,

A copy is forwarded to the following for information and necessary action:—

The Financial Commissioner, Revenue, Haryana; All Administrative Secretaries to Government, Haryana.

**Sections of the Indian Penal Code concerning
serious offences involving moral turpitude**

- 120-A Punishment of criminal conspiracy
- 120-A Conspiracy to commit offences punishable by section 121.
- 122 Collecting arms etc. with intention of waging war against the Government of India.
- 123. Concealing with intent to facilitate design to wage war.
- 124. Assaulting President, Governor or Rajpramukh etc. with intent to compel or restrain the exercise of any lawful power.
- 160-A Sedition.
- 161. Public servant taking gratification other than legal remuneration in respect of an official act.
- 161-A Giving of bribe.
- 165 Public servant obtaining valuable thing, without consideration, from person concerned in proceeding of business transacted by such public servant.
- 167. Public servant framing an incorrect document with intent to cause injury.
- 181. False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.
- 182. False information with intent to cause public servant to use his lawful power to the injury of another person.
- 193. Punishment for false evidence.
- 194. Giving of fabrication false evidence with intent procure conviction of capital offence, innocent person be thereby convicted and executed.
- 195. Giving or fabricating false evidence with intent procure conviction of offence punishable with imprisonment for life or imprisonment.
- 196. Using evidence known to be false.
- 197 Issuing or signing false certificate
- 198 Using as true a certificate known to be false
- 199 False statement made in declaration which is by law receivable as evidence.
- 200. Using as true such declaration knowing it to be false.
- 201. Causing disappearance of evidence of offence or giving false information, to screen offender- if a capital offence; If punishable with imprisonment for life; If punishable with less than ten year's imprisonment. Giving false information respecting an offence committed.
- Destruction of document to prevent its production as evidence.
- 205 False personation for purpose of act or procedure in suit or prosecution.

- 209 Dishonestly making false claim in Court.
- 292 Sale etc. of obscene books, etc.
- 293 Sale etc. of obscene objection to young person.
- 302 Punishment for a murder.
- 304 Punishment for culpable homicide amounting to murder.
- 307 Attempt to murder.
- 354 Assault or criminal force to women with intent to outrage her modesty.
- 359 Kidnapping
- 362 Abduction
- 363 Punishment for kidnapping
- 364 Kidnapping or abducting in order to murder.
- 365 Kidnapping, abducting with intent secretly and strong fully to confine person
- 366 Kidnapping, abducting or inducing woman to compel her marriage, etc.
- 366-A Procuration of minor girl.
- 366-B Importation of girl from foreign country.
- 367 Kidnapping or abducting in order to subject person to grievous hurt, slavery etc.
- 368 Strongfully concealing or keeping in confinement kidnapped or abducted person.
- 369 Kidnapping or abducting child under ten years with intent to steal from its person
- 370 Buying or disposing any person as a slave.
- 371 Habitual dealing in slave.
- 372 Selling minor for purposes of prostitution etc.
- 373 Buying minor for purposes of prostitution, etc.
- 376 Punishment for rape.
- 377 In natural offences.
- 379 Punishment for theft.
- 380 Theft in dwelling house, etc.
- 391 Theft by clerk or servant of property in possession of master.
- 392 Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft. Punishment for robbery
- Attempt to commit robbery.

- Voluntarily causing hurt in committing robbery.
- Punishment for dacoity
- Dacoity with murder
- Robbery or dacoity, with attempt to cause death or grievous hurt
- 398 Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399 Making preparation to commit dacoity
- 400 Punishment for belonging to gang of dacoity.
- 403 Dishonest misappropriation of property.
- 404 Dishonest misappropriation of property possessed by deceased person at the time of his death.
- 406 Punishment for criminal breach of trust.
- 407 Criminal breach of trust by carrier, etc.
- 408 Criminal breach of trust by clerk or servant.
- 409 Criminal breach of trust by public servant, or by banker, merchant or agent.
- 417 Punishment for cheating.
- 418 Cheating with knowledge that wrongful loss may ensure to person whose interest offender is bound to protect.
- 419 Punishment for cheating with personation.
- 420 Cheating with dishonestly inducing delivery of property
- 421 Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
- 449 House-trespass in order to commit offence punishable with death.
- 450 House-trespass in order to commit offence punishable with imprisonment for life.
- 453 Punishment for lurking house-trespass or house-breaking.
- 454 Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455 Lurking house trespass or house breaking after preparation for hurt, assault or wrongful restraint.
- 456 Punishment for lurking house-trespass or house breaking by night
- 457 Lurking house trespass or house breaking by night in order to commit offence punishable with imprisonment.
- 456 Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
- 465 Punishment of forgery

- 466 Forgery of record of Court of public register, etc.
- 467 Forgery of valuable security, will etc.
- 468 Forgery for purpose of cheating.
- 471 Using as genuine a forged document.
- 472. Making or possessing counterfeit seal, etc. with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc. with intent to commit forgery punishable otherwise.
- 474 Having possession of document described in section 466 to 467, knowing it to be forged and intending to use as genuine.
- 475 Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
- 476 Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477-A Falsification of accounts.
- 489-A Counterfeiting currency notes or bank-notes.
- 489-B Using as genuine, forged or counterfeit currency notes or bank notes.
- 489-C Possession of forged or counterfeit currency notes or bank notes.
- 489-D Making or possessing instruments or materials for forging or counterfeiting currency notes or bank-notes.
- 489-C Making or using documents resembling currency notes or bank-notes.
- 493 Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.
- 494 Marrying again during life time of husband or wife.
- 495 Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
- 496 Marriage ceremony fraudulently gone through without lawful marriage.
- 497 Adultery.
- 498 Eliciting or taking away or detaining with criminal intent a married woman.

APPENDIX 'R'

IMPORTANT EXTRACTS FROM THE JUDGEMENTS PASSED BY HON'BLE SUPREME COURT

SECRETARY, STATE OF KARNATAKA AND OTHERS VS. UMADEVI AND OTHERS (2006)4 SCC 1

Para 43

Thus it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the by passing of the constitutional and statutory mandate.

Para 45

A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succor to them. After all, innumerable citizens of our vast country are in search of employment and one is

not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State.

Para 53

The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but no sub-judice, need not be reopened based on this judgement, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

RAJINDER KUMAR VS. STATE OF HARYANA -VOL.CXLIII-(2006-07) PLR 475

Constitution of India, Article 14, 309, 162-Regularization-Employees working on daily wage basis, ad hoc basis or part time basis-Haryana Government General Administration (General Services) Rules-Policy instructions or the Rules framed there under-Initial post was not in accordance with the procedure envisaged by the Rules-Minimum requirement of advertising the post in the Press, consideration of competing claims in accordance with a lawful criteria and then selection made on that basis have been completely given a go-by-Such an entry into service has been held to be against the basic structure of the Constitution as envisaged by Articles 14 and 16(1) of the Constitution-The orders of regularization, if any, already made but not sub-judice-Is not required to be reopened.

Para 20

Accordingly, we direct the respondent-State of Haryana to ensure that process of regular recruitments are undertaken to fill up those vacant sanctioned posts where temporary employees or daily wagers are being now employed. It is further directed that the State of Haryana and its instrumentalities shall take steps to regularize as one time measure the services of such employees who have been appointed regularly in accordance with the mandate of the Supreme Court in para 53 read with para 15 of the judgment. The respondent State is further directed to grant exemption to the employees who are working on adhoc basis in relaxation of the rules when recruitment on permanent posts is to be made.

U.P. STATE ELECTRICITY BOARD VS. POORAN CHANDRA PANDEY AND OTHERS 2007(6) SLR 647

Para 16

We are constrained to refer to the above decisions and principles contained therein because we find that often Uma Devi's case (supra) is being applied by Courts mechanically as if it were a Euclid's formula without seeing the facts of a particular case. As observed by this Court in Bavnagar University [(2003) 2 SCC 111] and Bharat Petroleum Corporation Ltd. [AIR 2004 SC 4778], a little difference in facts or even one additional fact may make a lot of difference in the precedential value of a decision. Hence, in our opinion, Uma Devi's case (supra) cannot be applied mechanically without seeing the facts of a particular case, as a little difference in facts can make Uma Devi's case (supra) inapplicable to the facts of that case.

Para 17

In the present case the writ petitioners (respondents herein) only wish that they should not be discriminated against vis-à-vis the original employees of the Electricity Board since they have been taken over by the Electricity Board "in the same manner and position". Thus, the writ petitioners have to be deemed to have been appointed in the service of the Electricity Board from the date of their original appointments in the Society. Since they were all appointed in the society before 4.5.1990 they cannot be denied the benefit of the decision of the Electricity Board dated 28.11.1996 permitting regularization of the employees of the Electricity Board who were working from before 4.5.1990. To take a contrary view would violate Article 14 of the Constitution. We have to read Uma Devi's case (supra) in conformity with Article 14 of the Constitution, and we cannot read it in a manner which will make it in conflict with Article 14. The Constitution is the supreme law of the land, and any judgement, not even of the Supreme Court, can violate the Constitution.

CHIEF ENGINEER, HYDEL PROJECT AND ORS. VS. RAVINDER NATH & ORS. AIR 2008 SUPREME COURT 1315

Learned counsel appearing on behalf of the appellants urged that since the issues squarely fell within the ambit of the Industrial Disputes Act, 1947 and since there is a specific remedy available to the plaintiffs-respondents under that Act, the jurisdiction of the Civil Court was impliedly excluded and all the courts below erred in entertaining and deciding upon the issues much less adverse to the appellants. Learned Counsel, relying on this Court's judgements in *The Premier Automobiles Ltd and Ors. Vs Kamlekar Shantaram Vadke of Bombay and others* [(1976) 1 SCC 496], *Jitendra Nath Biswas Vs. M/s Empire of India and Ceylone Tea Co and anr.* [(1989) 3 SCC 582] *Rajasthan state Road Transport Corporation and Anr. Vs. Krishna Kant and Ors.* [(1995) 5 SCC 74] and *Rajasthan State Road Transport Corporation and Ors. Vs. Zakir Hussain* [(2005) 7 SCC 447] urged that the legal position in this behalf was settled. On the other hand, the learned counsel on behalf of the respondents urged that firstly this issue relating to jurisdiction was not raised by the respondents before any courts below and it is only for the first time that the objection to the jurisdiction has been raised before this Court. Learned Counsel for the respondents also urged that the issue was not covered under the labour jurisprudence and

under the provisions of the Industrial Disputes Act, 1947 and the jurisdiction of the Civil Court could not be said to be barred.

The court while referring to the seven principles culled out by this Court in *Dhulabhai Vs. State of M.P.* [(1968)3 SCR 662] [AIR 1969 SC 78] further explained the decision in *Premier Automobile* (supra) to hold that not only the disputes under the Industrial Disputes Act were barred but the disputes arising out of the sister enactments like Industrial Employment (Standing Orders) Act also stood outside the jurisdiction of the civil court since they did not provide a special forum of their own for enforcement of the rights and liabilities created by them. The Court, therefore, held:

"Thus a dispute involving the enforcement of the rights and liabilities created by the certified standing orders has necessarily got to be adjudicated only in the forums created by the Industrial Disputes Act within the meaning of Sections 2(K) and 20A of Industrial Disputes Act or such enactment says that such dispute shall be either treated as an industrial dispute or shall be adjudicated by any of the forums created by the Industrial Disputes Act. The civil court have no jurisdiction to entertain such suits."

The court further went on to say that the enforcement of the Industrial Employment Standing orders is an industrial dispute and if it satisfies the requirement of Section 2(k) and /or section 2-A of the Industrial Disputes Act, it must be adjudicated in the forums created by the Industrial Disputes Act alone.

Once the original decree itself has been held to be without jurisdiction and hit by the doctrine of coram non iudice, there would be no question of upholding the same merely on the ground that the objection to the jurisdiction was not taken at the initial, First Appellate or the Second Appellate stage. It must, therefore, be held that the civil court in this case had no jurisdiction to deal with the suit and resultantly the judgments of the Trial Court, First Appellate Court and The Second Appellate Court are liable to be set aside for that reason alone and the appeal is liable to be allowed.

STATE OF M.P. AND OTHERS VS. LALIT KUMAR VERMA (2007) 2 SCC 575

The distinction between "irregular appointment" and "illegal appointment" is apparent. In the event the appointment is made in total disregard of the constitutional scheme as also the recruitment rules framed by the employer, which is a part of the "State" within the meaning of Article 12 of the Constitution, the recruitment would be an illegal one; whereas there may be cases where, although substantial compliance with constitutional scheme as also the rules have been made, the appointment may be irregular in the sense that some provisions of some rules might not have been strictly adhered to.

The respondent was not appointed in terms of the statutory rules. He was not entitled to any regular scale of pay attached to any post. Ordinarily, therefore, he could not have been directed to be regularized in service having regard to the Constitution Bench decision in *Umadevi* (3) case, (2006) 4 SCC 1. The original appointment of the respondent being illegal and not irregular, the case would not come within the exception carved out by the Constitution Bench in para 53 of *Umadevi* (3) case. Hence the Labour Court, Industrial Tribunal as also the High Court were not correct in directing regularization of service of the respondent.

INDIAN DRUGS & PHARMACEUTICALS LTD. VS. WORKMEN, INDIAN DRUGS AND PHARMACEUTICALS LTD. (2007) 1 SCC 408

The distinction between a temporary employee and a permanent employee is well settled. Whereas a permanent employee has a right to the post, a temporary employee has no right to the post. It is only a permanent employee who has a right to continue in service till the age of superannuation (unless he is dismissed or removed from an inquiry, or his service is terminated due to some other valid reason earlier). As regards a temporary employee, there is no age of superannuation because he has no right to the post at all. Hence, it follows that no direction can be passed in the case of any temporary employee that he should be continued till the age of superannuation.

Similarly, no direction can be given that a daily-wage employee should be paid salary of a regular employee. If an employee is not appointed against a sanctioned post he is not entitled to any scale of pay.

Creation and abolition of posts and regularization are purely executive functions. Hence, the court cannot create a post where none exists. Also the Supreme Court cannot issue directions to absorb the respondents or continue them in service, or pay them salaries of regular employees, as these are purely executive functions. The Supreme Court cannot arrogate to itself the powers of the executive or legislature. There is broad separation of powers under the Constitution, and the judiciary, too, must know its limits.

No doubt, in some decisions the Supreme Court has directed regularization of temporary or ad hoc employees but it is well settled that a mere direction of the Supreme Court without laying down any principle of law is not a precedent. It is only where the Supreme Court lays down a principle of law that it will amount to a precedent. Often the Supreme Court issue directions without laying down any principle of law, in which case, it is not a precedent. For instance, the Supreme Court often directs appointment of someone or regularization of a temporary employee or payment of salary etc. without laying down any principle of law. Such directions are to be treated as having been given under Article 142 of the Constitution. This is often done on humanitarian considerations, but this will not operate as a precedent binding on the High Court. For instance, if the Supreme Court directs regularization of service of an employee who had put in 3 years' service, this does not mean that all employees who had put in 3 years' service must be regularized. Hence, such a direction is not a precedent.

RAJASTHAN SRTC AND ANOTHER VS. UGMA RAM CHAUDHARY (2006) 1 SCC 61

Labour Law-Industrial Disputes Act, 1947-Ss 10, 11-A, 7, 7-A, 7-B, 2(k) and 2-A-Exclusion of jurisdiction of civil court to entertain industrial disputes coming within purview of ID Act-Efficacy of decrees passed by civil Court in such matters prior to clarification of law by Supreme Court-Following Zakir Hussain case, (2005) 7 SCC 447 and Khadarnal case, (2006) 1 SCC 59, held, once it is held that civil court has no jurisdiction, the consequences must follow- Hence orders passed by civil court set aside- Civil Procedure Code, 1908-S.9.s