

## **ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES, 1969**

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**SCHEDULE 1 :- SCHEDULE 1**

**ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES,  
1969**

<sup>1</sup>1. Vtde Notification No. 7/15/63-AIS (II), dated 20th March, 1969 ie. G.S.R. 926, dated 12th April, 1969. In exercise of the powers conferred by sub-section (1) of Rule 3, the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:-

**PART 1 PART I**

**1. Short title and commencement :-**

(1) These rules may be called the All India Services (Discipline and Appeal) Rules, 1969.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions :-**

In these rules, unless the context otherwise requires-

(a) Commission means the Union Public Service Commission;

(b) Disciplinary authority means the authority competent under these rules to impose on a member of the service any of the penalties specified in Rule 6;

**1**[(c) Government means-

(i) in the case of a member of the Service serving in connection with the affairs of the State, or who is deputed for service in any company, association or body of individuals whether incorporated or not, which is wholly or substantially owned or controlled by the Government of a State, or in a local authority set up by an Act of the Legislature of State, the Government of that State;

(ii) in any other case, the Central Government;]

**2**[(d) member of the service means a member of and All-India Service as defined in Section 2 of the All-India Services Act, 1951 (61 of 1951);]

**3** [(dd) "Probationer" means a person appointed to the Service on probation;]

(e) State Government concerned in relation to a joint cadre, means the Governments of all the States for which the joint cadre is constituted and includes the Government of a State nominated by the Governments of all such States to represent them in relation to a particular matter.

1. Subs. by DP and AR Notification No.6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872 dated 19th July, 1975.

2. Subs. by DP and AR Notification No.31/7/72-AIS (III), dated 22nd May, 1973.

3. Ins. by DP and AR. Notification No.11018/4/76-AIS (III), dated 25th February 1977 i.e. G.S.R 358, dated 19th March, 1977.

## **PART 2** Suspension

### **3. Suspension** :-

**1**(1) If, having regard to the circumstances in any case and, where articles of charge have been drawn up, the nature of the charges, the Government of a State or the Central Government, as the case may be, is satisfied that it is necessary or desirable to place under suspension a member of the Service, against whom disciplinary proceedings are contemplated or are pending, that Government may-

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government, request that Government to place him under suspension,

(i) between two State Governments, the matter shall be referred to the Central Government for its decision;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail:

**2**["Provided further that, where a member of the Service 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 member was suspended, disciplinary proceedings are initiated against him: Provided also that the Central Government 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, allow continuance of the suspension order beyond the period of ninety days without the disciplinary proceedings being initiated."]

**3**[(1-A) If the Government of a State or the Central Government, as the case may be, is of the opinion that a member of the Service

has engaged himself in activities prejudicial to the interests of the security of the State, that Government may-

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government request, that Government to place him under suspension,

(i) between two State Governments, the matter shall be referred to the Central Government for its decision;

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail.

(2) A member of the Service, who is detained in official custody whether on a criminal charge or otherwise for a period longer than forty-eight hours, shall be deemed to have been suspended by the Government concerned under this rule.

(3) A member of the Service in respect of, or against, whom an investigation, inquiry or trial relating to a criminal charge is pending may, at the discretion of the Government <sup>4</sup>[xx] be placed under suspension until the termination of all proceedings relating to that charge, if the charge is connected with his position as a member of the Service or is likely to embarrass him in the discharge of his duties or involves moral turpitude.

(4) A member of the Service shall be deemed to have been placed under suspension <sup>5</sup>[by the Government concerned] with effect from the date of conviction of, in the event of conviction for a criminal offence, he is not forthwith dismissed or removed or compulsorily retired consequent on such conviction provided that the conviction carries a sentence of imprisonment exceeding forty-eight hours.

**6**[Explanation.-The period of forty-eight hours referred to in sub-rule (4) shall be commuted from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.]

(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service 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 original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(6) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service is set aside or declared or rendered void in consequence of or by a decision of a Court of Law, and the Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the member of the Service shall be deemed to have been placed under suspension by the Central Government from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

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

**8**[(6-A) Where an order of suspension is made, or deemed to have been made, by the Government of a State under this rule, detailed report of the case shall be forwarded to the Central Government ordinarily within a period of fifteen days of the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.]

(7)

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

**9**(b) Where a member of the Service 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 in writing, direct that the member of the Service shall continue to be under suspension subject to sub-rule (8);

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

**10**(8)

(a) An order of suspension made under this rule which has not been extended shall be valid for a period not exceeding ninety days and an order of suspension which has been extended shall remain valid for a further period not exceeding one hundred eighty days, at a time, unless revoked earlier.

(b) An order of suspension made or deemed to have been made or continued, shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.

(c) The composition and functions of the Review Committees and the procedure to be followed by them shall be as specified in the Schedule annexed to these rules.

(d) The period of suspension under sub-rule (1) may, on the

recommendations, of the concerned Review Committee, be extended for a further period not exceeding one hundred and eighty days at a time: Provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed.

**11**(9) Every order of suspension and every order of revocation shall be made, as nearly as practicable, in the appropriate standard form appended to these rules.

GOVERNMENT OF INDIA'S DECISION **12**The scope of the action that can be taken against a member of the Service whose dismissal, removal or compulsory retirement from service has been set aside or declared or rendered void in consequence of or by a decision of a court of law under sub-rule (6) of Rule 3 and the circumstances which a disciplinary authority should take into account while taking recourse to this rule have been examined and it is clarified for the information of State Governments that the further inquiry contemplated in sub-rule (6) of rule 3 of the All India Services (Discipline and Appeal) Rules, 1969 should not be ordered except in a case when the penalty of dismissal, removal or compulsory retirement has been set aside by a Court of Law on technical grounds without going into the merits of the case or when fresh material has come to light which was not before the Court. A further inquiry into the charges which have not been examined by the Court, can however, be ordered by the inquiring authorities under sub-rule (6) of Rule 3 *ibid* depending on the facts and circumstances of each case. **13**(1) As soon as a member of the Service is placed under suspension or is deemed to have been placed under suspension, the fact may be communicated to this Department telegraphically and a detailed report of the case may be furnished within 15 days of the date of suspension, as provided for in the rules. **14** (3) The original appeal or memorial submitted by a member of the service referred to above and the report about the orders issued by the State Government placing a member of the service under suspension, as envisaged in this Department's letter of even number dated the 11th February, 1976, may be forwarded to this Department in the case of members of the Indian Administrative Service to the Ministry of Home Affairs in the case of

the Indian Police Service and to the Ministry of Agriculture and Irrigation (Department of Agriculture) in the case of the Indian Forest Service.

1. Subs. by DP and AR Notification No.6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R 872 dated 19th July, 1975.
2. Substituted for "Provided further that, where a State Government passes an order placing under suspension a member of the Service against whom disciplinary proceedings are contemplated, such an order shall not be valid unless before the expiry of a period of forty-five days from the date from which the member is placed under suspension, or such further period not exceeding forty-five days as may be specified by the Central Government for reasons to be recorded in writing, either disciplinary proceedings are initiated against him or the order of suspension is confirmed by the Central Government.] ", vide " ALL INDIA SERVICES(DISCIPLINE AND APPEAL) RULES, 1969" Dt.25th July, 1998 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 130, dated July 13, 1998, published in the Gazette of India, Part II, Section 3(i), dated 25th July, 1998, pp. 500-502, No. 27 [No. 110 18/3/97-AIS(iii)] [L]
3. Ins. by DP and AR Notification No.6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872 dated 19th July, 1975
4. Del. by DP and AR Notification No.6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872 dated 19th July, 1975.
5. Ins. by DP and AR Notification No.6/9/73-AIS( III), dated 26th July, 1975 i.e. G.S.R. No. 985, dated 9th August, 1975.
6. Ins. by DP and AR Notification No.11018/6/78-AIS (III), dated 16th November, 1978 i.e. G.S.R. No. 1415, dated 2nd February, 1978.
7. Insered by DP and AR Notification No.11018/18/81-AIS (III), dated 3rd August, 1983 i.e. G.S.R. 612, dated 20th August, 1983.
8. Inserted by DP and AR Notification No.6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872 dated 19th July, 1975
9. Substituted for " (b) Where a member of the Service 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 him in

writing, direct that the member of the Service shall continue to be under suspension with the termination of all or any of such proceedings; ", vide " ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES, 1969" Dt.25th July, 1998 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 130, dated July 13, 1998, published in the Gazette of India, Part II, Section 3(i), dated 25th July, 1998, pp. 500-502, No. 27 [No. 110 18/3/97-AIS(iii)] [L]

10. Inserted vide " ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES, 1969" Dt.25th July, 1998 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 130, dated July 13, 1998, published in the Gazette of India, Part II, Section 3(i), dated 25th July, 1998, pp. 500-502, No. 27 [No. 110 18/3/97-AIS(iii)] [L]

11. Inserted vide " ALL INDIA SERVICES (DISCIPLINE AND APPEAL) RULES, 1969" Dt.25th July, 1998 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 130, dated July 13, 1998, published in the Gazette of India, Part II, Section 3(i), dated 25th July, 1998, pp. 500-502, No. 27 [No. 110 18/3/97-AIS(iii)] [L]

12. [D.P. and A.R. letter No. 11018/8/78-AIS (III), dated 19th May, 1978.]

13. [D.P. and A.R. letter No. 11018/1/76-AIS (III), dated 11th February, 1976.]

14. [D.P. and A.R. letter No. 11018/1/76-AIS (III), dated 30th April, 1976.]

#### **4. Subsistence allowance during Suspension :-**

**1**[(1) A member of the Service under suspension or deemed to have been placed under suspension by the Government concerned shall be entitled to receive from that Government:-

(a) a subsistence allowance at an amount equal to the leave salary which a member of the Service would have drawn if he had been on leave on half- average pay or 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 **2**[three 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 <sup>2</sup>[three 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 <sup>2</sup>[three 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 member of the Service;

(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 @2 [three months], if in the opinion of the said authority, the period of suspension has been prolonged for reasons, to be recorded in writing directly attributable to a member of the Service;

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, the reduced amount of subsistence allowance admissible under sub-clause (i) or sub-clause (ii) above;

(b) any other compensatory allowance admissible from time to time on the basis of pay of which a member of the Service was in receipt on the date of suspension, subject to the fulfilment of other conditions laid down for the drawal of such allowance.

(2) No member of the Service shall be entitled to receive payment under sub- rule (1) unless he furnishes a certificate that he is not engaged in any other employment, business, profession or vocation.

(3) The authority to grant subsistence allowance shall be the suspending authority.

India have decided that : (i) the amount of subsistence allowance once granted should be varied by the suspending authority under the first proviso to this rule only after recording in writing the reasons for increasing or decreasing the amount; (ii) a member shall not be entitled to compensatory allowance of which he was in receipt prior to suspension unless the suspending authority is satisfied that he continues to meet the expenditure for which they were granted. <sup>6</sup>(2) The Government of India have decided that the following deductions should be enforced from subsistence allowance:- (i) Income-tax and super-tax (provided the members annual income calculated with reference to subsistence allowance is taxable). (ii) House rent and allied charges i.e. electricity, water, furniture etc. (iii) Repayment of loans and advances taken from Government at such rates as the competent authority deems it right to fix. (2.2) The following deductions should not be made except with a members written consent letter- (a) Premia due on Postal Life Assurance Policies. (b) Amounts due to Co-operative Stores and Co-operative Credit Societies. (c) Refund of advances taken from General Provident Fund. (2.3) The following deductions should not be made from subsistence allowance :- (i) Subscription to the All India Services Provident Fund. (ii) Amounts due on Court attachments. (iii) Recovery of loss to Government for which a member is responsible. (2.4) There is no bar to the recovery of overpayments from subsistence allowance but the competent authority will exercise discretion in deciding whether recovery should be held wholly in abeyance during the period of suspension or it should be effected at full or reduced rate depending on the circumstances of each case. <sup>7</sup> (3) A question having arisen, it was decided that an officer (under suspension) is entitled to receive subsistence allowance at the rate equal to leave salary which he would have drawn while on leave on half average pay or half pay as the case may be, for the first twelve months. If after the expiry of that period, the competent authority does not find it necessary to increase or decrease the amount, the officer (under suspension) will continue to receive the same amount of subsistence allowance and it is not necessary to issue fresh orders in this regard.

1. Subs. by DP and AR Notification No.11018/11/78AIS (III), dated 16th June, 1979.

2. Subs. by D.P. and A.R. Notification No. 28013/2/78-A.I.S. (III), dated 12th January, 1982 i.e. G.S.R. 92, dated 30th January,

1982.

5. [G.I., M.H.A. letter No. 13/7/58-AIS(III), dated 18th October, 1958, read with No. 7/20/59-AIS (II), dated 17th November, 1959.]

6. [G.I., M.H.A. letter No. 7/18/59-AIS(II), dated 21st October, 1959.]

7. [G.I., M.H.A. letter No. 7/8/62-AIS (III), dated 5th May, 1962.]

**5. Admissibility of pay and allowances and treatment of service on reinstatement after dismissal, removal or compulsory retirement as a result of appeal or review :-**

[

(1) When a member of the service, who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement under the All India Services (Death- cum -Retirement Benefits) Rules, 1958 while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the member of the Service for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and

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

(2) The member of the Service shall, subject to the, provisions of sub-rule (6) be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, in cases :-

(i) where the authority competent to order reinstatement is of opinion that the member of the service who had been dismissed,

removed or compulsorily retire has been fully exonerated, or

(ii) where the order of dismissal, removal or compulsory retirement from services is set aside by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of Cl. (1) or Cl. (2) of Art. 311 of the Constitution and no further inquiry is proposed to be held: Provided that where such authority is of the opinion that the termination of the proceedings instituted against the member of the Service had been delayed due to reasons directly attributable to the member of the Service, it may, after giving him an opportunity to make his representation, and after considering the representation if any, submitted by him, direct, for reasons to be recorded in writing, that the member of the Service shall, subject to the provisions of sub-rule (7), be paid for the period of such delay, only such proportion of such pay and allowances as it may determine.

(3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case maybe, shall be treated as a period spent on duty for all purposes.

(4) In cases other than those covered by sub-rule (2) the member of the Service shall, subject to the provisions of sub-rules (6) and (7), be paid such proportion of the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the authority competent to order re-instatement may determine after giving notice to the member of the service of the quantum proposed and after considering the representation, if any, submitted by him, in that connection within 60 days from the date on which the notice aforesaid is served on the member of the Service.

(5) In a case falling under sub-rule (4), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the authority competent

to order reinstatement specifically directs that it shall be so treated for any specified purpose: Provided that if the member of the service so desires, such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the member of Service.

(6) The payment of allowances under sub-rule (2) or sub-rule (4) shall be subject to all other conditions under which such allowances are admissible.

(7) The proportion of the full pay and allowances determined under the proviso to sub-rule (2) or under sub-rule (4) shall neither be equal to the full pay and allowances nor less than the subsistence allowance and other allowances admissible under Rule 4, as the case may be.

(8) Any payment made under this rule to a member of the Service on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be, and the date of reinstatement. Where the pay and allowances admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the member of the Service.]

**5A. Admissibility of pay and allowances and treatment of service on reinstatement where dismissal, removal or compulsory retirement is set aside by a Court of Law :-**

(1) Where the dismissal, removal or compulsory retirement of a member of the Service is set aside by a Court of Law and such member is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the member of the service shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if

any, of the Court.

(2)

(i) In cases other than those covered by sub-rule (3), the member of the service shall be paid such proportion of the full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the authority competent to order reinstatement may determine, after giving notice to the member of the Service of the quantum proposed and after considering the representation, if any, submitted by him, in that connection, within 60 days from the date on which the notice aforesaid is served on the member of the Service: Provided that any payment under this sub-rule to a member of the Service shall neither be equal to the full pay and allowances nor less than the subsistence allowance and other allowances admissible under Rule 4 as the case may be.

(ii) The period intervening between the date of dismissal, removal or compulsory retirement, including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the Court shall be regularised in accordance with the provisions contained in sub-rule (5) of Rule 5.

(3) Where the dismissal, removal or compulsory retirement of a member of the Service is set aside by a Court on the merits of the case, or where the dismissal, removal or compulsory retirement of a member of the Service is set aside by a Court solely on the ground of non-compliance with the requirements of Cl. (1) or Cl. (2) of Art. 311 of the Constitution and no further enquiry is proposed to be held, the period intervening between the date of dismissal, removal or compulsory retirement as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid full pay and allowances for the period to which he would have

(4) 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.

(5) Any payment made under this rule to a member of the Service on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the dismissal, removal or compulsory retirement and the date of reinstatement. Where the pay and allowances admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the member of the Service.]

**5B. Admissibility of pay and Allowances and treatment of Service on reinstatement after suspension :-**

[

(1) When a member of the Service under suspension is reinstated or would have been so reinstated but for his retirement under the All India Services (Death-cum-Retirement Benefits) Rules, 1958 while under suspension, the authority competent to order reinstatement shall consider and make a specific order-

(a) regarding the pay and allowances to be paid to the member of the Service for the period of suspension ending with reinstatement or the date of his retirement on superannuation, as the case may be; and

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

(2) Notwithstanding anything contained in Rule 4, where a member of the Service under suspension dies before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been

entitled had he not been suspended, subject to adjustment in respect of subsistence allowance and other allowances already paid.

(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the member of the Service shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended, subject to adjustment in respect of subsistence allowance and other allowances already paid : Provided that where such authority is of the opinion that the termination of the proceedings instituted against the member of the service had been delayed due to reasons directly attributable to the member of the Service, it may, after giving him an opportunity to make his representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the

(4) In case falling under sub-rule (3) the period of suspension shall be treated as a period spent on duty for all purposes.

(5) In cases other than those falling under sub-rules (2) and (3), the member of the Service shall subject to the provisions of sub-rules (8) and (9) be paid such proportion of the full pay and allowances to which he would have been entitled had he not been suspended, as the authority competent to order reinstatement may determine, after giving notice to the member of the Service of the quantum proposed and after considering the representation, if any, submitted by him in that connection within <sup>1</sup> [Sixty days from the date on which the notice aforesaid is served on the member of the Service.]

(6) Where suspension is revoked pending finalisation of the disciplinary proceeding or proceedings in a court any order passed under sub-rule (1) before the conclusion of the proceedings against the member of the Service, shall be reviewed on its own motion after the conclusion of the proceedings by the authority mentioned in sub-rule (1) who shall make an order in accordance with the provisions contained in sub-rule (3) or sub-rule (5), as the case

may be.

(7) In a case falling under sub-rule (5) the period of suspension shall not be treated as a period spent on duty, unless the authority competent to order re- instatement specifically directs that it shall be so treated for any specified purpose : Provided that if the member of the Service so desire such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the member of the Service.

(8) The payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible.

(9) The proportion of the full pay and allowance determined under the proviso to sub-rule (3) or under sub-rule (5) shall neither be equal to full pay and allowances nor shall it be less than the subsistence allowance and other allowances admissible under Rule 4.]

1. Subs. by DP and AR Notification No. 28013/2/78-AIS (III), dated 12th January, 1982 i.e. G.S.R. 92, dated 30th January, 1982.

### **PART 3** Penalties and disciplinary authorities

#### **6. Penalties** :-

(1) The following penalties may, for good and sufficient reasons and as hereinafter provided be imposed on a member of the Service, namely:-

(i) censure;

(ii) withholding of promotions;

**1** [(iii) recovery from pay of the whole, or part of any pecuniary loss caused to Government, or to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by Government, or to a local authority set up by an Act of Parliament or of the Legislature of a State, by negligence or breach of orders ;]

(iv) withholding of increments of pay:

(v) reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the member of the Service will earn increments during the period of reduction and whether, on the expiry of such period, the reduction will or will not have the effect of postponing future increments of his pay ;

(vi) reduction to a lower time scale of pay, grade or post which shall ordinarily be a bar to promotion of the member of the Service to the time scale of pay, grade or post from which he was reduced, with or without further direction regarding conditions of restoration to the grade or post from which the member of the Service was reduced and his seniority and pay on such restoration to that grade or post ;

(vii) compulsory retirement;

Provided that, if the circumstances of the case so warrant, the authority imposing the penalty may direct that the retirement benefits admissible to the member of the Service under the All India Services (Death-cum-Retirement Benefits) Rules, 1958, shall be paid at such reduced scale as may not be less than two-thirds of the appropriate scales indicated in Schedules A and B of the said rules ;

(vii) removal from Service which shall not be a disqualification for future employment under the Government ;

(ix) dismissal from Service which shall ordinarily be a disqualification for future employment under the Government:  
<sup>2</sup>[Provided that in every case in which <sup>3</sup>"The charge of possession of assets disproportionate to known sources of income or the charge of acceptance" from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do, any official act is established, the penalty mentioned in Cl. (viii) or Cl. (ix) shall be imposed:

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

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

(i) withholding of increments of pay of a member of the service for failure to pass a departmental examination in accordance with the rules or orders governing the service;

(ii) stoppage of a member of the Service 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 member of the Service whether in a substantive or officiating capacity, to a post in the senior time-scale of pay on the ground of lack of adequate length of service and experience or non-confirmation in the service, or failure to pass the departmental examination ;

(iii-a) non-promotion of a member of the Service, whether in a substantive or officiating capacity, after due consideration of his case to the selection grade or to a post carrying pay above the time-scale of pay;]

(iv) reversion of a member of the Service officiating in a higher grade or post to which promotions are made by selection, to a

lower grade or post after a period of trial not exceeding three years on the ground that he is considered unsuitable for such higher grade or post, or on any administrative ground unconnected with his conduct ;

(v) reversion of a member of the Service, appointed on probation to the Service, to State Service during or at the end of the period of probation, in accordance with the terms of appointment or the rules and orders governing such probation;

(vi) replacement of the services of a member of the Service whose services have been borrowed from a State Government at the disposal of the State Government concerned;

(vii) compulsory retirement of a member of the Service under the provisions of the All India Services (Death-cum-Retirement Benefit) Rules, 1958 ;

(viii) termination of the service of a member of the Service, appointed on probation, during or at the end of the period of probation in accordance with the terms of the service or the rules and orders governing such probation.

[(2) \* \* \* \*]

GOVT. OF INDIA'S DECISIONS 4(1) Termination of employment of a probationer during or at the end of the period of probation in accordance with the relevant provisions of Indian Administrative Service/Indian Police Service (Probation) Rules, 1954, does not amount to removal or dismissal within the meaning of these rules and hence a formal inquiry in accordance with the procedure laid down in Rule 5 is not necessary in such cases. If, however, a probationer is removed or dismissed on disciplinary grounds mentioned in Rule 11(2) of Probation Rules he should be given an opportunity to show cause against the action proposed to be taken against him. (2) A question arose whether a member, who was appointed substantively to the Indian Police Service in the senior

scale against the promotion quota, could be reduced to the rank of Assistant Superintendent of Police (a rank which he never held in his service) or whether it was necessary to reduce to the rank of Deputy Superintendent of Police (State Police Service) which he held before appointment <sup>5</sup> (3) The instructions contained in the Ministry of Home Affairs letter No.7/4/59-AIS(II), dated 20th March, 1959, and letter No.7/5/60-AIS(II), dated 4th May, 1960 have been reviewed and the following clarifications are given :- (i) It has been stated in the Ministry of Home Affairs letter No. 7/5/60-AIS(II), dated 4th May, 1960 that if it is decided, on the conclusion of disciplinary proceedings not to impose any of the prescribed punishments but to administer a warning or reprimand, mention of it should be made in the Confidential Roll. The Delhi High Court in the case of Shri Nadhan Singh v. The Union of India expressed the view that warning kept in the C.R. dossier has all the attributes of Censure which is a formal punishment and which can only be awarded by the competent authority after following the procedure prescribed in the relevant disciplinary Rules. It has, therefore, been decided that where it is considered, after the conclusion of the disciplinary proceedings, that some blame attaches to the officer concerned which necessitates cognizance of such fact, the disciplinary authority should award one of the recognised statutory penalties. If the intention of the disciplinary authority is not to award the penalty of censure, then no recordable warning or reprimand should be awarded. (ii) In the Ministry of Home Affairs letter No. 7/4/59-AIS(II), dated 20th March, 1959, it is stated that there may be occasions when a superior officer may find it necessary to criticise adversely the work of an officer working under him, and he may feel that while the matter is not serious enough to justify the imposition of a formal punishment, it calls for some informal action such as communication of a written warning, admonition or reprimand. It has now been decided that where such a warning/displeasure/reprimand is issued, it should be placed in the personal file of the officer concerned. At the end of the year (or period of report), the reporting authority while writing the confidential report of the officer, may decide not to make a reference in the confidential report to the warning/displeasure/reprimand, if in the opinion of that authority, the performance of the officer reported on after the issue of the warning or displeasure or reprimand, as the case may be, has improved and has been found satisfactory. If however, the reporting authority comes to the conclusion that despite the

warning/displeasure/reprimand, the officer had not improved, it may make appropriate mention of such warning/displeasure/reprimand as the case may be, in the relevant column in Part II of the ACR form prescribed under the All India Services (Confidential Rolls) Rules, and in that case a copy of the warning/displeasure/reprimand referred to in the confidential report should be placed in the ACR dossier as an Annexure to the confidential report for the relevant period. The adverse remarks should also be conveyed to the officer and his representation, if any, against the same disposed of in accordance with the procedure laid down in the rules.

1. Subs. by DP and AR Notification No.6/5/74-AIS(III) dated 28th July, 1975 i.e. G.S.R. 988 dated 9th August, 1975.

2. Ins. by G.S.R. 191, dated 26th February, 1988.

3. In Rule 6 in the first proviso the words "the charge of acceptance" shall be substituted by All India Services (Discipline and Appeal) Amendment Rules, 2002., Published in the Gazette of India, Part II, Section 3(i), dated 13th April, 2002, p. 599, No. 15

4. [G.I., M.H.A. letter No.414/4/58-Ests.(A), dated 14th October, 1958.]

5. [DP and AR letter No. 11018/5/79-AIS(III), dated 3rd April, 1981.]

## **7. Authority to institute proceedings and to impose penalty**

:-

**1**[(1) Where a member of the Service has committed any act or omission which renders him liable to any penalty specified in Rule 6-

(a) if such act or omission was committed before his appointment to the Service-

(i) the State Government, if he is serving in connection with the affairs of that State, or is deputed for service in any company,

association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Government of that State or in a local authority set up by an Act of the Legislature of that State; or

(ii) The Central Government, in any other case, shall alone be competent to institute disciplinary proceedings against him and, subject to the provisions of sub-rule (2), to impose on him such penalty specified in Rule 6 as it thinks fit;

(b) if such act or omission was committed after his appointment to the Service,-

(i) while he was serving in connection with the affairs of a State, or is deputed for service under any company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Government of a State, or in a local authority set up by an Act of the Legislature of that State, the Government of that State; or

(ii) while he was on training, the Central Government, unless the selection for the training was done by the State Government and the cost of the training was entirely borne by the State Government.

(iii) while he was on leave, the Government which sanctioned him the leave; or

(iv) while he was under suspension, the Government which placed him or is deemed to have placed him under suspension; or

(v) if such act or omission is wilful absence from duty after the expiry of leave, the Government which sanctioned the leave; or

(vi) while he was absent from duty otherwise than on leave, the

Government which would have been competent to institute disciplinary proceedings against him, had such act or omission been committed immediately before such absence from duty, or

(vii) the Central Government in any other case, shall alone be competent to institute disciplinary proceedings against him and, subject to provisions of sub-rule (2) to impose on him such penalty specified in Rule 6 as it thinks fit, and the Government, company, associations, body of individuals or local authority, as the case may be under whom he is serving at the time of institution of such proceedings shall be bound to render all reasonable facilities to the Government instituting and conducting such proceedings.

Explanation.-For the purposes of Clause (b) of sub-rule (1) where the Government of a State is the authority competent to institute disciplinary proceedings against a member of the Service, in the event of a reorganisation of the State, the Government on whose cadre he is borne after such reorganisation shall be the authority competent to institute disciplinary proceedings and, subject to the provisions of sub-rule (2), to impose on him any penalty specified in Rule 6.]

**2**[(1-A) Notwithstanding anything contained in sub-rule (1) the Director, Lal Bahadur Shastri National Academy of Administration, the Director, Sardar Vallabhabhai Patel National Police Academy or the President, Forest Research Institute and Colleges, shall be empowered to initiate disciplinary proceedings against a probationer who is undergoing training at the Lal Bahadur Shastri National Academy of Administration, Sardar Vallabhabhai Patel National Police Academy or Forest Research Institute and Colleges, as the case may be, in respect of any misconduct or misbehaviour during the period he spends at the said Academy/Institute in accordance with the prescribed procedure laid down in Rule 10 of these rules. Thereafter the Director/President shall refer the case to the Central Government with the relevant records for passing orders under Rule 6 in consultation with the Commission.]

**3**[(1-B) Notwithstanding anything contained in sub-rule (1)] if, in

any case, a question arises as to the Government competent to institute disciplinary proceedings, it shall be decided by the Central Government and the Government so decided by the Central Government, as being competent to institute disciplinary proceedings (which may include the Central Government also), shall alone be competent to institute disciplinary proceedings against him and subject to the provisions of sub-rule (2), to impose on him such penalty specified in Rule 6 as it thinks fit, and the Government,

(2) The penalty of dismissal, removal or compulsory retirement shall not be imposed on a member of the Service except by an order of the Central Government.

(3) Where the punishing Government is not the Government on whose cadre the member is borne, the latter Government shall be consulted before any penalty specified in Rule 6 is imposed : <sup>4</sup>  
[Provided that in relation to the members of the Service borne on a Joint Cadre, the punishing Government shall consult the Joint Cadre Authority: Provided further that where the Government concerned are the Central Government and the State Government or two State Governments and there is a difference of opinion between the said Government in respect of any matter referred to in this rule, the matter shall be referred to the Central Government for its decisions, which shall be passed in consultation with the Commission.]

1. Subs by D.P and A.R. Notification No.6/9/72- A.I.S(III), dated 5th July, 1975. i.e. G.S.R. 872, dated 15th July, 1975.

2. Ins. by D.P and A.R. Notification No.11018/4/76-A.I.S (III), dated 25th February, 1977 i.e., G.S.R. 358, dated 19th March, 1977.

3. Renumbered by Ins. by D.P and A.R. Notification No. 11018/4/76-A.I.S (III), dated 25th February, 1977 i.e., G.S.R. 358, dated 19th March, 1977.

4. Subs. by D.P. Notification No.13/4/71 - A.I.S (I), dated 11th January, 1972.

#### **PART 4** Procedure for imposing penalties

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## **8. Procedure for imposing major penalties :-**

(1) No order imposing any of the major penalties specified in Rule 6 shall be made except after an inquiry is held as far as may be, in the manner provided in this rule and Rule 10, or provided by the Public Servants (Inquiries) Act, 1850 where such inquiry is held under that Act.

(2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a member of the Service, it may appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850<sup>1</sup>, as the case may be, an authority to inquire into the truth thereof.

(3) Where a Board is appointed as the inquiring authority it shall consist of not less than two senior officers provided that at least one member of such a Board shall be an officer of the service to which the member of the Service belongs.

(4) Where it is proposed to hold an inquiry against a member of the Service under this rule and/or Rule 10, the disciplinary authority shall draw up or caused to be drawn up-

(i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge ;

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain ;

(a) a statement of all relevant facts including any admission or confession made by the member of the Service ;

(b) a list of documents by which, and a list of witnesses by whom

the articles of charge are proposed to be sustained.

(5) The disciplinary authority shall deliver or cause to be delivered to the member of the Service a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the member of the Service to submit, within such time as may be Specified, a written statement of his defence and to state whether he desires to be heard in person.

(6)

(a) On receipt of the written statement of defence the disciplinary authority may appoint, under sub-rule (2), an inquiring authority for the purpose of inquiring into such of the articles of charge as are not admitted, and where all the articles of charge have been admitted by the member of the Service in his written statement of defence, the disciplinary authority shall record its finding on each charge and shall act in the manner laid down in Rule 9.

(b) If no written statement of defence is submitted by the member of the Service, the disciplinary authority may, if it considers it necessary to do so, appoint under sub- rule (2), an inquiring authority for the purpose.

(c) Where the disciplinary authority appoints an inquiring authority for holding an enquiry into such it may be an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.

(7) The disciplinary authority shall forward to the inquiring authority -

(i) a copy of the articles of charge and the statement of

imputations of misconduct or misbehaviour;

(ii) a copy of the written Statement of defence if any, submitted by the member of the Service;

(iii) a copy of the <sup>2</sup>[statements] of witness, if any, referred to in sub-rule (4);

(iv) evidence proving the delivery of the documents referred to in sub-rule(4) to the member of the Service; and

(v) a copy of the order appointing the "Presenting Officer."

(8) The member of the Service shall be required to appear in person before the inquiring authority at any time prescribed after the expiry of ten working days from the date of receipt of the articles of charge and the statement of imputations of misconduct or misbehaviour, or within such further time, not exceeding ten days, as the inquiring authority may allow.

(9)

(a) The member of the Service may take the assistance of any other Government servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits.

<sup>3</sup>[(b) A member of the Service may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as

<sup>4</sup>[NOTE : The member of the Service shall not take the assistance

of any other Government servant who has two or more pending disciplinary cases on hand in which he has to give assistance.]

(10) If the member of the Service who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the article of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the member of the service thereon.

(11) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the member of the Service pleads guilty.

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

(i) inspect, within five days of the order or, within such further time not exceeding five days as the inquiring authority may allow, the document specified in the list referred to in sub-rule (4);

(ii) submit a list of witnesses to be examined on his behalf;

NOTE.- If the member of the Service applies orally or in writing for the supply of copies of the statement of witnesses mentioned in the list referred to in sub-rule (4) the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the order or, within such further time not exceeding ten days as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the list referred to in sub-rule (4).

NOTE.-The member of the Service shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

(13) The inquiring authority shall, on receipt, of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept with a requisition for the production of the document by such date as may be specified in such requisition : Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

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

(15) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by, or on behalf of, the disciplinary authority. The witnesses shall be examined by, or on behalf of, the Presenting Officer and may be cross-examined by, or on behalf of, the member of the Service. The Presenting Officer shall be entitled to re-examine the witnesses on any points, on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(16) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the member of the Service or man itself

call for new evidence or recall and re-examine any witness and, in such case, the member of the Service shall be entitled to have, if he demands, it a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give to the member of the service an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the member of the Service to produce new evidence, if it is of opinion that the production of such evidence is necessary in the interests of justice.

Note.- New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(17) When the case for the disciplinary authority is closed, the member of the Service shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the members of the Service shall be required to sign the record. In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

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

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

in the evidence against him.

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

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

(22)

(a) Where a State Government which has caused to be inquired into the articles of any charge and, having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in Cls. (vii) to (ix) of Rule 6 should be imposed on the member of the Service, the State Government shall forward the records of the inquiry to the Central Government suggesting imposition of the penalties specified in Cls. (vii) to (ix) of Rule 6.

(b) The Central Government may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witness and examine, cross-examine and re-examine such witnesses. If the Central Government do not find justification for imposing one of the penalties specified in Cls. (vii) to (ix) of Rule 6 in a case referred to it by a State Government then it shall refer it back to the State Government.

(23) Whenever an inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry,

ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself: Provided that, if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may recall, examine cross-examine and re-examine any such witness as hereinbefore provided.

(24)

(i) After the conclusion of the inquiry, a report shall be prepared and it shall contain -

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

(b) the defence of the member of the Service in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge; and

(d) the findings on each article of charge and the reasons therefor.

(ii) The inquiring authority shall forward to the disciplinary authority the record of inquiry which shall include.

(a) the report prepared by it under Cl. (i) ;

(b) the written statement of defence, if any, submitted by the member of the Service;

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

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

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

GOVERNMENT OF INDIA'S DECISIONS<sup>5</sup>(1) The hearing in person, referred to in sub-rule (3), is really in the course or the inquiry to follow. Member of the service has the option to say that the inquiry may proceed on the strength of the written statement filed by him and he does not wish to participate in person in the inquiry. (1.2) It is not necessary to hear the member concerned in person before the inquiry starts. It is sufficient if an opportunity of personal hearing is given to him in the course of the inquiry. If however, the Government propose to inquire into the charges in such manner as they deem fit, ( and not by a Board of an Inquiry or an Inquiry Officer) and the member desires to be heard in person Government will have to appoint an inquiring authority as required by sub-rule (6). In other words, whenever a member desires to be heard in person. As Board of Inquiry or an Inquiry Officer will have to be appointed. Government can inquire into charges in such manner as they deem fit, only in cases where the member does not wish to be heard in person. <sup>6</sup>[\* \* \*] EXECUTIVE INSTRUCTIONS<sup>7</sup>

1. Circulated by Notification No 2506/80 - A.I.S (III), dated 5th August, 1950.

2. Subs. by D.P and A.R. Notification No.6/9/72-A.I.S.(III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

3. Ins. by D.P. and A.R. Notification No. 11018/12/77 - A.I.S. (III), dated 31st May, 1978 i.e., G.S.R. 753, dated 17th June, 1978.

4. Ins. by D.P.andA.R. Notification No.11018/12/76 - A.I.S.(111), dated 12th July 1977 i.e. G.S.R. 983, dated 31st July, 1977.

5. [G.I., M.H.A. letter No. 7/7/69-AIS(III), dated 11th May, 1959.]
6. Deleted vide letter No. 11018/4/79-AIS(III), dated 26th June, 1979.
7. See letters No. 11018/19/78-AIS(III), 15th January, 1979, and No. 21018/8/81-AIS(III) dated 25th November, 1981.

### **9. Action on the inquiry report :-**

(1) The disciplinary authority may, for reasons to be recorded by it in writing, remit the case to inquiring authority for further inquiry and report, and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 8 as far as may be.

(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own Findings on such charge, if the evidence on record is sufficient for the purpose.

(3) If the disciplinary authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in Cls. (i) to (iv) of Rule 6 should be imposed on the member of the Service, it shall notwithstanding anything contained in Rule 10, make an order imposing such penalty : Provided that, in every case the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the member of the Service.

**1**[(4) If the disciplinary authority having regard to its Findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in Cls. (v) to (ix) of Rule 6 should be imposed on the member of the Service, it shall make an order imposing such penalty and it shall not be necessary to give the member of the Service any opportunity of making representation on the penalty

proposed to be imposed : Provided that in every case, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the member of the Service.]

GOVERNMENT OF INDIA'S DECISIONS <sup>2</sup>: When a member is adjudged guilty of committing any act or omission which renders him liable to any of the penalties specified in Rule 3 other than dismissal, removal or compulsory retirement, the State Government under whom he was serving at the time of such act or omission, shall make a reference direct to the Union Public Service Commission for their advice as to the quantum of penalty to be imposed on him. The Commission would communicate their advice direct to the State Government concerned under intimation to the Department of Personnel and AR in the case of IAS and Ministry of Home Affairs in the case of IPS and the Department of Agriculture in case of IFS. The State Government should endorse copies of their final orders to the Commission and the Ministry of Home Affairs. If, however, the State Government do not accept the advice of the Commission in any case, they will have to make a reference to the Government of India in accordance with the proviso to Rule 6. Cases referred to the Commission and the Government of India should be complete in all respects. All the documents in connection with the case should invariably be forwarded in original.

1. Subs. by D.P. and A.R. Notification No. 11018/15/78-A.I.S.(III), dated 13th October, 1981 i.e. G.S.R. 959, dated 31st October, 1981.

2. [G.I., M.H.A. letter No. 7/1/59-AIS(II), dated 9th June, 1959 read with letter No. 73/60-AIS(II), dated 17th March, 1960.]

### **10. Procedure for imposing minor penalties :-**

(1) Subject to the provisions of sub-rule (3) of Rule 9, no order imposing on a member of the Service any of the penalties specified in clauses (i) to (iv) of Rule 6 shall be made except after-

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

(b) holding an inquiry, in the manner laid down in sub-rules (4) to (23) of Rule 8, <sup>1</sup> [in every case in which it is proposed to withhold increments of pay for a period exceeding three years, or with cumulative effect for any period, or so as to adversely affect the amount of pension payable to him, or in which the disciplinary authority is of the opinion that such inquiry is necessary;]

(c) taking the representation, if any submitted by the member of the Service under Cl. (a), and the record of inquiry, if any, held under Cl. (b) into considerations;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission.

(2) The record of proceedings in such cases shall include-

(i) a copy of the intimation to the member of the Service of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission;

(vi) the findings on each imputation of misconduct or misbehaviour;  
and

(vii) the orders on the case together with the reasons therefor.

1. Subs. by D.P. and A.R. Notification No.6/ 9/72 - AIS (III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

### **11. Cases of difference of opinion to be referred to Central Government :-**

When there is any difference of opinion between a State Government and the commission on any matter covered by these rules such matter shall be referred to the Central Government for its decision.

### **12. Communication of orders :-**

Orders made by the disciplinary authority shall be communicated to the member of the Service who shall also be supplied with a copy of the report of the inquiring authority and a statement of the finding of the disciplinary authority, together with brief reasons for its disagreements, if any, with the findings of the inquiring authority (unless they have already been supplied to him) and also a copy of the advice, if any, given by the Commission and, where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

### **13. Common proceeding :-**

Where two or more members of the Service are concerned in any case, the Government may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

### **14. Special procedure in certain cases :-**

Notwithstanding anything contained in Rule 8, Rule 9, Rule 10, Rule 11, Rule 12-

(i) where any penalty is imposed on a member of the Service on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) where the disciplinary authority is satisfied, for reasons to be recorded by it in writing, that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or

(iii) where the President is satisfied that, in the interest of the security of the State, it is not expedient to hold an inquiry in the manner provided in these rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit: <sup>1</sup> [Provided that except in cases where consultation with the Union Public Service Commission is not necessary in accordance with the provisions of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, the Union Public Service Commission shall be consulted before any order is made in any case under this rule.]

1. Subs. by D.P. and A.R. Notification No.6/5/74-AIS(III), dated 28th July, 1975 i.e. G.S.R. 988, dated 9th August, 1975.

## **PART 5 Appeals**

### **15. Orders against which no appeal lies :-**

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

(i) any order made by the President;

(ii) any order of an interlocutory nature or of the nature of step-in-aid for the final disposal of a disciplinary proceeding, other than an

order of suspension;

(iii) any order passed by an inquiring authority in the course of inquiry under Rule 8;

(iv) any order by a competent authority withholding an appeal under Rule 23.

(2) Nothing in Cls. (i) and (iv) of sub-rule (1) shall be deemed to affect or abridge the right of a member of the Service to submit a memorial to the President under, and in accordance with, the provisions of Rule 26.

#### **16. Orders against which appeal lies :-**

Subject to the provisions of Rule 15 and the Explanations to Rule 6, a member of the Service may prefer an appeal to the Central Government against all or any of the following orders, namely:-

(i) an order of suspension made or deemed to have been made under Rule 3;

(ii) an order passed by a State Government imposing any of the penalties specified in Rule 6;

(iii) an order of a State Government which-

(a) denies or varies to his disadvantage his pay, allowances, [\* \* \*] or other conditions of service as regulated by rules applicable to him; or

(b) interprets to his disadvantage the provision of any such rule; or

(c) has the effect of superseding him in promotion to a selection post;

(iv) an order of the State Government-

(a) stopping him at the efficiency bar in the time scale of pay on the ground of his unfitness to cross the bar; or

(b) reverting him while officiating in a higher grade or post to a lower grade or post, otherwise than as a penalty; or

[(c) \* \* \*]

(d) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof; or

(e) determining his pay and allowances-

(i) for the period of suspension, or

(ii) from the date of dismissal, removal or compulsory retirement from service, or from the date of reduction to a lower grade, post, time-scale of pay or stage in a time-scale of pay, to the date of reinstatement or restoration to be paid to him on his reinstatement or restoration; or

(f) determining whether or not the period from the date of suspension or from the date of dismissal, removal, compulsory retirement or reduction to a lower grade, post, time scale of pay or stage in a time scale of pay, to the date of his reinstatement or restoration shall be treated as a period spent on duty for any purpose.

[Explanation.- In this rule, the expression member of the Service includes a person who has ceased to be a member of the service.]

GOVERNMENT OF INDIA'S INSTRUCTIONS<sup>1</sup> 1.P.S Officers serving with the Govt. of India on deputation or their Heads of Departments, should not enter into direct correspondence with the State Government or the Inspector General of Police concerned on matters relating to Service conditions. The correspondence in this regard should invariably be between the borrowing and the lending Governments. Representations from such officers are, therefore, to be routed through the Ministry of Home Affairs and not sent to the State Government or the Inspector General of Police of the State. <sup>2</sup> No appeal lies to the Government of India under these rules in respect of matters pertaining to a period prior to officers appointment to the Indian Administrative Service/Indian Police Service.

1. [G.I., M.H.A letter No. 13/4/61-P(V), dated 5th May, 1961.]

2. [G.I., M.H.A letter No. 32/56/56-AIS(II), dated 11th January, 1957.]

### **17. Period of limitation of appeals :-**

No appeal preferred under these rules shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the orders 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 appellate had sufficient cause for not preferring the appeal in time.

### **18. Form and content of appeal :-**

(1) Every member preferring an appeal shall do so separately and in his own name.

(2) Every appeal preferred under these rules shall be addressed to

the Secretary to the Government of India in <sup>1</sup>[the Department or the Ministry, as the case may be dealing with the All-India Service concerned and shall -

(a) contain all material statements and arguments relied on by the appellant ;

(b) contain no disrespectful or improper language ; and

(c) be complete in itself.

(3) Every such appeal shall be submitted through the head of the office under whom the appellant is for the time being serving and through the Government from whose order the appeal is preferred.

(4) The authority which made the order appealed against shall, on receipt of a copy of every appeal, which is not withheld under <sup>2</sup> [Rule 21,] forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without waiting for any direction from the Central Government.

1. Subs. by D.P. and A.R. Notification No. 6/9/72 - AIS(III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

2. G.S. Prabhakar v. Union of India, 1988 Lab I.C. 323 at p. 327, See also R.S. Gramophadhy v. Union of India, (1988) 8 A.T.C. 804 at p. 807 (C.A.T.)

### **19. Consideration of Appeals :-**

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(1) In the case of an appeal against an order of the State Government imposing any penalty specified in Rule 6, the Central Government shall consider-

(a) whether the procedure laid down in these rules has been complied with, and, if not, whether such non-compliance has resulted in violation of any provision of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on record; and

(c) whether the penalty imposed is adequate, in-adequate or severe :

(i) confirming, enhancing, reducing or setting aside the penalty, or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

**1**[(i) the Commission shall be consulted before an order confirming, enhancing, reducing or setting aside a penalty is passed;

(ii) if the enhanced penalty which the Central Government proposes to impose is one of the penalties specified in Cls. (v) to (ix) of Rule 6 and an inquiry under Rule 8 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 14, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 8 and thereafter, on a consideration of the proceedings of such inquiry **2**[\* \* \*] make such orders as it may deem fit; and

(iii) if the enhanced penalty which the Central Government proposes to imposed is one of the penalties specified in Cls. (v) to (ix) of Rule 6 and an inquiry under Rule 8 has already been held in the case, the Central Government shall **2** [\* \* \*] make such orders as it may deem fit; and

(iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity as far as may be in accordance with the provisions of Rule 10, of making representation against such enhanced penalty.]

(2) In an appeal against any other order specified in Rule 16 the Central Government shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

1. Subs. by D.P. and A.R. Notification No. 6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

2. Omitted by Notification No. 11018/15/78-AIS(III), dated 13th October, 1981 i.e. G.S.R. 959, dated 31st October, 1981.

## **20. Implementation of orders on appeal :-**

Every order passed by the Central Government in appeal under any of the relevant provisions of these rules shall be final and the State Government concerned shall forthwith give effect to such order.

## **21. Circumstances in which appeals may be withheld :-**

(1) The State Government, from whose order an appeal is preferred, may withhold the appeal if-

(a) it is an appeal in a case in which under these rules there is no right of appeal, or

(b) it does not comply with the provisions of Rule 18, or

**1** [(c) it is not preferred within the period specified in Rule 17 and no reasonable cause is shown for the delay], or

(d) it is a repetition of a previous appeal which has already been decided and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case.

(2) In every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons therefor.

(3) An appeal withheld on account only of failure to comply with the provisions of Rule 18 may be resubmitted at any time within one month of the date on which the appellant has been informed of the withholding of the appeal, and, if resubmitted in a form which complies with the said provisions, shall not be withheld.

1. Subs. by D.P. and A.R. Notification No. 6/9/72-AIS (III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

## **22. List of appeals withheld :-**

The State Government shall forward to the Central Government on the first day of January and July every year a list of appeals to the Central Government withheld by them under Rule 21 during the preceding six months together with the reasons for withholding the same.

## **23. Appellate authority may call for any appeal withheld :-**

The Central Government may call for any appeal which has been withheld by any State Government under Rule 21 dealt with it in the manner laid down in Rule 19 and pass such orders thereon as the Central Government thinks fit.

## **PART 6 Revision, review and memorials**

### **24. Revision :-**

(1) Notwithstanding anything contained in these rules, the Central Government or the State Government concerned as the case may be at any time not exceeding 6 months from the date of the order passed in appeal, if an appeal has been preferred, and where no such appeal had been preferred within one year of the original order which gives the cause of action, either on its own motion or otherwise call for the records of any order relating to suspension or any inquiry and <sup>1</sup>[revise any order made under these rules or under

the rules repealed by Rule 30 from <sup>2</sup>[\* \* \*] and may:

(a) confirm, modify or set aside the order ; or

(b) confirm, reduce, enhance or set a side the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(d) pass such order as it may deem fit : Provided that no order imposing or enhancing any penalty shall be made unless the member of the service concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in Cls. (v) to (ix) or Rule 6 or to enhance the penalty imposed by the order sought to be <sup>3</sup>[revised to any of the penalties specified in these clauses,] no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 8 and <sup>4</sup>[\* \* \*] except after consultation with the Commission : Provided further that where the original order was passed by the Central Government or the State Government concerned, as the case may be, after consultation with the Commission, it shall not be revised except after consultation with the Commission.

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

(i) the expiry of the period of limitation for an appeal, or

(ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for <sup>2</sup> [revision shall be dealt] with in the same

(c) An application for [revision shall be dealt] with in the same manner as if it were an appeal under these rules.

1. Subs. by D.P. and A.R. Notification No.11018/10/81 - A.I.S. (111), dated 3rd February, 1984 i.e. O.S.R. 162 dated 18th February, 1984.

2. Omitted by D.P. and A.R. Notification No.6/9/72 - A.I.S.(III), dated 5th July 1975 i.e. G.S.R. 872, dated 19th July, 1975.

3. Subs. by DP and AR Notification No.11018/10/82 - AIS(III), dated 3rd February, 1984 i.e. G.S.R. 162 dated 18th February, 1984.

4. Omitted by G.S.R. 959, dated 31st October, 1981.

#### **24A. Review :-**

[the Central Government may at any time, either on its own motion or otherwise, review any order passed under these rules, when any new material of evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to its notice : Provided that no order imposing or enhancing any penalty shall be made by the Central Government unless the member of the Service concerned has been given a reasonable opportunity of making a representation against the penalty proposed or where it is proposed to impose any of the major penalties specified in Rule 6 or to enhance a minor penalty imposed by the order sought to be reviewed to any of the major penalties and if an enquiry under Rule 8 has not already been held in the case, no such penalty shall be imposed except after inquiring in the manner laid down in Rule 8, subject to the provisions of Rule 14, and except after consultation with the Commission.]

#### **25. Memorials :-**

(1) A member of the Service shall be entitled to submit a memorial to the President against any order of the Central Government or the State Government by which he is aggrieved within a period of three years from the date of the passing of such order.

<sup>1</sup>[Explanation : In this sub-rule, the expression member of the

Service includes a person who has ceased to be a member of the Service.]

(2) Every such memorial shall be authenticated by the signature of the memorialist and submitted by the memorialist on his own behalf.

(3) Every memorial submitted under these rules shall-

(a) contain all material statements and arguments relied up by the memorialist;

(b) contain no disrespectful or improper language ;

(c) be complete in itself; and

(d) end with a specific prayer.

**2**[(4) If the memorial is against the orders of a State Government, it shall be submitted through the State Government concerned and if the memorial is against the orders of the Central Government, it shall be submitted through the Ministry or the authority concerned in the Central Government, and the State Government concerned, or as the case may be, the Ministry or authority in the Central Government shall forward the same together with a concise statement of facts material thereto and, unless there are special reasons to the contrary, with an expression of its opinion thereon : Provided that if the memorialist is for the time being serving under a State Government, or under a Ministry or an authority in the Central Government, which has not passed the orders against which the Memorial is submitted then, the memorial shall be submitted through that State Government, or that Ministry or authority in the Central Government, under which he is for the time being serving.]

**3** [(5) A memorial submitted under the proviso to sub-rule (4) shall be referred to the State Government, or as the case may be, to the Ministry or authority in the Central Government, against whose orders the memorial is submitted, and the State

**4** [(5-A) If the memorial is against an order imposing any of the penalties specified in Rule 6, no such order shall be revised except after consultation with the Commission.]

(6) The authority against whose orders a memorial is submitted under this rule shall give effect to any order passed thereon by the President.

1. Ins. by G.S.R. 872, dated 19th July 1975.

2. Subs. by D.P. and A.R. Notification No. 11018/7/79-A.I.S.(III), dated 11th November, 1980 i.e. G.S.R. 1220, dated 29th November, 1980.

3. Subs. by D.P. and A.R. Notification No. 11018/7/79-A.I.S.(III), dated 11th November, 1980 i.e. G.S.R. 1220, dated 29th November, 1980.

4. Ins. by D.P. and A.R. Notification No. 6/9/72-A.I.S.(III), dated 5th July, 1975 i.e. G.S.R. 872, dated 19th July, 1975.

## **26. Forwarding of advance copies :-**

In cases where an appeal is preferred or a memorial is submitted under these rules, the appellant or the memorialist, as the case may be, may, if he so desires, forward an advance copy to the appellate authority in the case of an appeal or to the President of India in the case of a memorial.

## **PART 7 Miscellaneous**

### **27. Service of orders, notices, etc :-**

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

**28. Power to relax time limit and condone delay :-**

Save as otherwise expressly provided in these rules, the Central Government or the State Government, as the case may be, may, for good and sufficient reasons or if sufficient cause is shown, extend the time specified in these rules for anything required to be done under these rules or condone any delay.

**29. Supply of copy to Commissions advice :-**

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

**30. Repeal and Saving :-**

(1) The All India Services (Discipline and Appeal) Rules, 1955, are hereby repealed: Provided that-

(a) such repeal shall not affect the previous operation of the said rules, or anything done, or any action taken, thereunder ;

(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 hereby repealed (hereinafter referred to as the repealed rules).

(3) An appeal pending at the commencement of these rules against any order made before such commencement under the repealed rules 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 review against any order made before such commencement under the repealed Rules shall be preferred or made under these rules, as if such orders were made under these rules: Provided that nothing in these rules shall be construed as reducing any period of limitation for any appeal or review provided by the repealed rules.

### **31. Removal of doubts :-**

Where a doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Central Government for its decision.

EXECUTIVE INSTRUCTIONS: Copy of Department of Personnel and A.R. letter No. IUW/7/S2-AIS(III), dated 13th July, 1983, addressed to Chief Secretaries of all State Governments. SUBJECT :-All India Services (Discipline and Appeal) Rules, 1969-Disciplinary cases-Timely and complete reference to Union Public Service Commission. I am directed to invite a reference to letter No. 6/6/72-AIS(III), dated the 8th January, 1973 issued by the Department of Personnel on the subject mentioned above, and to say that as a sequel to the amendment of Article 311(2) of the Constitution and the provisions contained in Rule 9, Rule 19 and Rule 24, of the All India Services (Discipline and Appeal) Rules, 1969 it is no longer necessary to issue a show-cause notice in cases where the disciplinary authority proposes to unpose any of the major penalties or where it is proposed to enhance an existing penalty. As a result some changes in the proforma to be used for consulting the Union Public Service Commission have become necessary. It has also been found necessary to make certain modifications in items 1, 2, 4, 7, 12 and 13 of the proforma. Revised proforma which may hereafter be used for consulting the U.P.S.C is forwarded herewith. 2. It has been observed by the Commission that, even though the proforma clearly provides that it should be signed by an officer of the State Government etc. making the reference, in some cases the proforma is forwarded to the Commission without ensuring that entries contained herein are

appropriate and reflect the correct position. The importance of making correct entries in the profonna cannot be over-emphasised. It is, therefore, requested that it may kindly be ensured that reference to the Commission in disciplinary cases are made to the Commission in the prescribed profonna complete in all respects, duly signed by an officer of the State Government. <sup>1</sup>ANNEXURE Particulars Relating to the disciplinary case referred to the Union Public Service Commission with letter No..... Dated.....

\*1. Name of accused officer and the Service to which he belongs \*2. (i) Whether confirmed in the Service. (ii) Date of such confirmation. 3. Post held: (a) Designation. (b) Scale of Pay. (c) Pay Drawn. (d) Date from which Pay shown against (c) drawn. 4. Date of next increment 5. Date of Birth 6. Date of joining Government Service. 7. Date when due to retire or date of actual retirement in case of persons who have already retired. 8. (a) (i) Amount of monthly pension admissible (ii) Amount of monthly pension sanctioned (b) (i) Amount of gratuity admissible (ii) Amount of gratuity sanctioned (This information is required only in respect of cases of recovery from or withholding of pension/special additional pension) <sup>2</sup>(x) Sanction of the Central Govt. for institution of departmental proceedings where necessary. Rule 18(4). (C) In the case of Memorials: or Suo Mow Review In addition to the documents specified under (A) and (B) above, the following: (i) Orders, if any, on the appeal. (ii) Memorial, if any, from the accused officer. (iii) Note indicating the reasons for modifying the existing order of penalty and precise extent of such modification. 13. Miscellaneous documents such as extracts of relevant Rules, Codes, Acts, Judgments, Manuals etc., referred to in the charge-sheet, statement of allegations, statement of defence Inquiring Authoritys, Report, reply to show- cause notice appeal. State Governments comments. 14. In cases where no enquiry has been held and factual and procedural points have been raised in the officers explanation : A note explaining such points. 15. Whether comments on procedural points, if any raised by the officer in his explanation to the charge-sheet/reply to show-cause notice/appeal have been given. <sup>3</sup>16. Whether complete and upto date confidential roll of the officer has been enclosed. Signature - Name in Block letters of officer of the State Govt. Signing the statement :- Designation:- Date:- Telephone Number- <sup>4</sup> (iv) "Now it is settled by the decision of this Court in State of Orissa v. Vidyabhus/un Mahapatra (1963 Supp. I.S.C.R. 648 at p. 666)that if the order of

punishing authority can be supported on any finding as to substantial misdemeanour for which the punishment can be imposed, it is not for the Court to consider whether the charge proved alone would have weighed with the authority in imposing the punishments. The Court is not concerned to decide whether the punishment imposed, provided it is justified by the rules, is appropriate having regard to the misdemeanour established." Evidence Act, 1872 or the procedure prescribed in Code of Criminal Procedure, 1973 . In this connection, I forward herewith relevant extracts from the judgements of the courts for your information. I shall be grateful, if you would kindly bring these decisions to the notice of all authorities dealing with disciplinary cases, as the principle of these decisions, if followed, should enable the competent authority to deal with disciplinary cases more expeditiously. All Vigilance Officers.

1. To be used in case of members of All India Services.
2. This information is required in case of pensioners only.
3. [Copy of D.P. and A.R. letter No. 10182/75-AIS(III), dated 30th June, 1975.]
4. [Copy of D.O. No. 24/7S/62-AVD, dated 26th May, 1962.]

#### **SCHEDULE 1**

##### SCHEDULE 1

[See Rule 3(8)(c)] 1. Composition of Review Committees.-(a) The Review Committee constituted by the Central Government shall consist of: (i) Secretary to the Government of India in the - Chairman; concerned Ministry/Department (ii) Additional Secretary/Joint Secretary in charge of - Member; Administration in the concerned Ministry/ Department (iii) Any other Additional Secretary/Joint Secretary in - Member; the concerned Ministry/Department Note.-The Committee may, if considered necessary, co-opt an officer of the Department of Personnel and Training with the approval of Secretary (Personnel), Ministry of Personnel, Public Grievances and Pensions. (b) A Review Committee constituted by the State Government shall consist- (i) Chief Secretary - Chairman; (ii) Senior most Additional Chief Secretary/Chairman, - Member; Board of Revenue/Financial Commissioner or an officer or equivalent rank and status (iii) Secretary, Department of Personnel in the State - Member- Government Secretary; Note.-(i) The Home Secretary/Director General(Police) of the concerned States may be co-opted wherever a case concerning a member of the Indian Police Service is considered. (ii) The Secretary Forest/Principal Chief Conservator of Forest of the concerned State may be co-opted wherever a case concerning a member of the Indian Forest Service is considered by the Committee. (iii) In States where Civil Services Board have been constituted, the State Government may entrust the work of the Review Committee to the Board. 2. Functions.-(a) A Review

Committee/Civil Services Board shall review the cases of officers under suspension in order to determine whether they are of sufficient grounds for continuation of suspension. (b) In every case the review shall be done within 90 days from the date of order of the suspension. In a case where the period of suspension has been extended, the next review shall be done within a period of 180 days from the date of last extension. 3. Procedure.-(a) A Review Committee/Civil Services Board while assessing the justification for further continuance of any suspension, shall look into the progress of any enquiry/investigation against the officer by obtaining relevant information from the authorities enquiring/investigating into the charges. (b) The Review Committee/Civil Services Board while examining a case shall consider the possibility of the officer under suspension tampering with the evidence, his influencing the process of enquiry or investigation and deprivation of his services during suspension. (c) The Review Committee/Civil Services Board shall submit a detailed report to the competent authority, clearly stating its recommendations and the reasons for arriving at the recommendations relating to the continuance of suspension.