

BHEL Conduct, Discipline And Appeal Rules, 1975

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BHEL Conduct, Discipline And Appeal Rules, 1975

1. SHORT TITLE AND COMMENCEMENT :-

(i) These rules may be called BHEL Conduct, Discipline and Appeal Rules, 1975.

(ii) These came into force on 1st Sept., 1975.

2. APPLICATION :-

These rules shall apply to all employees except:-

- (i) those in casual employment or paid from contingencies;
- (ii) those governed by the Standing Orders.

3. DEFINITIONS :-

In these rules, unless the context otherwise requires:

- (a) "Employee" means a person in the employment of the Company other than the Casual, Workcharged or Contingent Staff, but includes a person on deputation to the Company.
- (b) "Company" means the Bharat Heavy Electricals Limited.
- (c) "Board" means the Board of Directors of the Company and includes, in relation to the exercise of powers, any Committee of the Board/Management or any Officer of the Company to whom the Board delegates any of its powers.
- (d) "Chairman/Managing Director" means the Chairman/Managing Director of the Company.
- (e) "Disciplinary Authority" means the authority specified in the Schedule appended to these rules and competent to impose any of the penalties specified in Rule 23.
- (f) "Competent Authority" means the authority empowered by the Board of Directors by any general or special rule or order to discharge the function or use the powers specified in the rule or order.
- (g) "Government" means the Government of India
- (h) "Appellate Authority" means the authority specified in the Schedule appended to these rules.
- (i) "Reviewing Authority" means the authority specified in the

Schedule appended to these rules.

(j) "Family" in relation to an employee includes:

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

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

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

(k) "Public Servant" shall mean and include a person as mentioned in Section 21 of the Indian Penal Code as amended from time to time.

4. GENERAL :-

(1) Every employee of the Company shall at all times

(i) maintain absolute integrity;

(ii) maintain devotion to duty; and

(iii) do nothing which is unbecoming of a public servant.

(2) Every employee of the Company holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all employees for the time being under his control and authority.

4A. PROHIBITION OF SEXUAL HARASSMENT OF WORKING WOMEN :-

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

(2) Every employee who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such workplace. Explanation: For the purpose of this rule "sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as;

(a) physical contact and advances

(b) a demand or request for sexual favours

(c) sexually coloured remarks

(d) showing pornography

(e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(3) Any violation of this rule will be considered as misconduct."

5. MISCONDUCT :-

Without prejudice to the generality of the term "misconduct", the following acts of omission and commission shall be treated as misconduct.

(1) Theft, fraud or dishonesty in connection with the business or property of the Company or of property of another person within the premises of the Company.

(2) Taking or giving bribe or any illegal gratification.

(3) Possession of pecuniary resources or property disproportionate to the known sources of income by the employee or on his behalf by another person which the employee cannot satisfactorily account for.

(4) Furnishing false information regarding name, age, fathers name, qualifications, ability or previous service or any other matter germane to the employment at the time of employment or during the course of employment.

(5) Acting in a manner prejudicial to the interests of the Company.

(6) Willful insubordination or disobedience, whether or not in combination with other, of any lawful and reasonable order of his superior.

(7) Absence without leave or overstaying the sanctioned leave for more than four consecutive days without sufficient grounds or proper or satisfactory explanation.

(8) Habitual late or irregular attendance.

(9) Neglect of work or negligence in the performance of duty including malingering or slowing down of work

(10) Damage to any property of the Company.

(11) Interference or tampering with any safety devices installed in or about the premises of the Company.

(12) Drunkenness or riotous or disorderly or indecent behaviour in the premises of the Company or outside such premises where such behaviour is related to or connected with the employment.

(13) Gambling within the premises of the establishment.

(14) Smoking within the premises of the establishment where it is prohibited.

(15) Collection without the permission of the Competent Authority of any money within the premises of the Company except as

sanctioned by any law of the land for the time being in force or rules of the Company.

(16) Sleeping while on duty.

(17) Commission of any act which amounts to a criminal offence involving moral turpitude.

(18) Absence from the employees appointed place of work without permission or sufficient cause.

(19) Purchasing properties, machinery, stores, etc. from or selling properties, machinery stores, etc. to the Company without express permission in writing from the Competent Authority.

(20) Commission of any act subversive of discipline or of good behaviour.

(21) Abetment of or attempt at abetment of any act which amounts to misconduct.

(22) Failure of the employees in any way whatsoever to comply with the terms and conditions under which a loan/advance has been granted to him under the Company Rules.

(23) Making false allegations against another employee / Director / CMD

(24) Violation of or non-compliance with the Companys Rule / Policies / Manuals

NOTE: The above instances of misconduct are illustrative in nature, and not exhaustive.

6. EMPLOYMENT OF NEAR RELATIVES OF THE EMPLOYEES OF THE COMPANY IN ANY COMPANY OR FIRM ENJOYING PATRONAGE OF THE COMPANY :-

(1) No employee shall use his position or influence directly to secure employment for any person related whether by blood or marriage to the employees wife or husband, whether such a person is dependent on the employee or not.

(2) No employee shall, except with the previous sanction of the Competent Authority, permit his son, daughter or any member of the family to accept employment with any Company or firm with which he has official dealings, or with any other Company or firm, having official dealings with the Company.

Provided that where the acceptance of the employment cannot await the prior permission of the Competent Authority, the employment may be accepted provisionally subject to the permission of the Competent Authority, to whom the matter shall be reported forthwith.

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

ADMINISTRATIVE INSTRUCTIONS

From the provisions of Clause 6(3), it may be seen that an employee is totally forbidden from dealing, in his official capacity, with any matter concerning a firm owned or managed by a member of his family or by any person in whom the employee may be interested because of his close relationship, friendship, etc. In case any matter concerning such a firm or person comes up before an employee in official capacity, he should refrain from dealing with that matter and in all such cases, he should record on the file the facts of his relationship/interest and thereafter any such matter should be disposed off according to the written instructions of the superior authority.

All employees are required to scrupulously follow these provisions. Any violation thereof will be considered as misconduct attracting disciplinary action. Such violations may not be treated as merely technical lapses.

7. TAKING PART IN DEMONSTRATIONS :-

No employee of the Company shall engage himself or participate in any demonstration which involves incitement to an offence.

8. CONNECTION WITH PRESS OR RADIO :-

(1) No employee of the Company shall except with the previous sanction of the Competent Authority, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication.

(2) No employee of the Company shall except with the previous sanction of the Competent Authority, participate in a Radio Broadcast or publish or cause to be published any article etc. which may have a bearing on the affairs of the Company or its subsidiaries provided however, that no such sanction shall be necessary in the case of articles written for any Magazine, House

Organ etc. sponsored and published by or on behalf of the Company in which case the discretion for publication devolves on the "Editorial Board" or any other agency appointed by the Company for the purpose.

Provided that no such sanction shall be required if such broadcast or such publication is of a purely literary, artistic or scientific character.

9. CRITICISM OF GOVERNMENT AND THE COMPANY :-

No employee shall, in any radio broadcast or in any document published under his name or in the name of any other person or in any communication to the press, or in any public utterances, make any statement

(a) Which has the effect of adverse criticism of any policy or action of the Central or State Governments or of the Company; or

(b) Which is capable of embarrassing the relations between the Company and the public. Provided that nothing in these rules shall apply to any statement made or views expressed by an employee, of a purely factual nature which are not considered to be of a confidential nature, in his official capacity or in due performance of the duties assigned to him; Provided further that nothing contained in this clause shall apply to bonafide expression of views by him as a n office-bearer of a recognised trade union for the purpose of safeguarding the conditions of service of such employee or for securing an improvement thereof.

10. EVIDENCE BEFORE COMMITTEE OR ANY OTHER AUTHORITY :-

(1) Save as provided in sub-rule (3) no employee of the Company shall, except with the previous sanction of the Competent Authority, give evidence in connection with any enquiry conducted by any person, committee or authority.

(2) Where any sanction has been accorded under the sub-rule (1) no employee giving such evidence shall criticise the policy or any action of the Central Government or of a State Government or of the Company.

(3) Nothing in this rule shall apply to:-

(a) Evidence given at any enquiry before an authority appointed by the Government, Parliament or a State Legislature or any Company;

(b) Evidence given in any judicial enquiry; or

(c) Evidence given at any departmental enquiry ordered by authorities subordinate to the Government.

11. UNAUTHORIZED COMMUNICATION OF INFORMATION :-

(1) No employee, whether during the period of his service or after leaving the service of the Company, shall except with the previous sanction of the Competent Authority by writing to any person (including a co-employee) or by communicating to newspapers, journals or books, or by speech or discussion or in any manner disclose or cause to be disclosed any information or documents relating to the activities of the Company or its subsidiaries.

(2) No employee shall, except in the ordinary course of his duties, give or cause to be given to any person any advice on matters relating to the activities of the Company or its subsidiaries.

(3) No employee, shall, except in the ordinary course of his duties, disclose or cause to be disclosed to any person any secret process, know-how, cost of production of any or all of the products of the Company or its subsidiaries or any information regarding purchase made by or contracts entered into by the Company or any information regarding settlement of claims by the Company in or out of courts or any other information, knowledge or matters of trade or business secrets of the Company or its subsidiaries.

The provisions of this rule shall apply also to ex-employees.

(4) No employee shall except with the previous sanction of the Competent Authority carry with him or cause to be carried outside the office/factory premises any papers, books, drawings, photographs, instruments, apparatus, documents or any other property of the Company or its subsidiaries, notes or copy thereof.

Provided that this provision shall not apply to employees who are specially authorised by the Competent Authority to take out of the office/factory premises any papers, books, documents, etc. for study or other purposes approved by the Competent Authority in writing.

(5) Any manuscript, books, or other literary work, drawings, sketches, paintings, photographs or similar papers containing note or information relating to the business of the Company shall be the property of the Company whether prepared by the employee or otherwise. No royalty shall, however, be payable to the employee. Every employee when called upon by the Competent Authority, shall sign such documents, applications, deeds or other instruments which in the opinion of the said authority are necessary to vest the

property including copyright thereof in the Company solely and exclusively for its use. Breach of any one of these provisions shall be a misconduct under Rule 5.

11A. INVENTIONS :-

(1) Every employee shall, within one month of taking up his employment furnish the Company with:

(i) A list of all patents held by him or applied for in India or abroad whether in his own name or jointly with any other person (s);

(ii) Title and nature of any inventions in his possession prior to his taking up the appointment which shall be treated as confidential;

(iii) No employee of the Company shall, except with the previous sanction of the Competent Authority, apply for or cause to permit any other person to apply for or to obtain in India or abroad any patent, patent of additions, license, rights, privilege or the like protection in respect of any invention or process, under any Act, Statute, Statutory orders, Regulations or otherwise.

If such invention or process has been made, discovered or obtained by the employee during the period of his service with the Company, he shall upon request by the Competent Authority forthwith disclose full and complete description of the said invention or process and the mode of performing the same and assign and transfer in favour of the Company at their cost, such invention or process (whether patented or not) for its own absolute and exclusive use or for the use of its subsidiaries. In the event of such a request being made by the Competent Authority, the employee shall sign all applications, deeds, instruments, assurances, documents, papers, conveyances etc. as the said authority may in his opinion require for the vesting of the rights under and by virtue of these provisions wholly and absolutely in the Company.

(2) All inventions including improvements or modifications thereon or process made or discovered by the employee during or in relation to the period of his services with the Company shall be absolute property of the Company and he shall hold the same in trust for them. The Company shall recognise the inventor/inventors in that their name/names will be mentioned in the patent.

The Company shall not however be obliged to pay any fee, royalty or any other consideration for the use of any such inventions or process.

(3) Save as otherwise provided in these Rules, no employee shall assign, grant any license, or create any charge or interest in favour

of any person, make use of or otherwise deal with any such invention or process (whether patented or not) he has made, discovered or obtained during the period of his service with the Company.

(4) No employee, whether during or after the period of his service with the Company shall except for the purpose of the business of the Company and with the previous sanction of the Competent Authority publish or cause to be published, disclose or otherwise make known in any manner whatever such inventions or process.

NOTE: The word "invention" occurring in these rules shall have the meaning assigned to it under the Patents Act, 1970.

(5) Breach of any one of these provisions shall be a misconduct under Rule 5.

12. GIFTS :-

(1) Save as otherwise provided in these rules, no employee of the Company shall accept or permit any member of his family or any other person acting on his behalf, to accept any gift.

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

NOTE: An employee of the Company shall avoid acceptance of lavish or frequent hospitality from any individual or firm having official dealings with him.

(2) On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gifts is in conformity with the prevailing religious or social practices, an employee of the Company may accept gifts from his near relatives but he shall make a report to the Competent Authority if the value of the gifts exceeds Rs.7000/-.

(3) On such occasions as are specified in sub-rule (2) an employee of the Company may accept gifts from his personal friends having no official dealings with him, but he shall make a report to the Competent Authority if the value of any such gift exceeds Rs.7000/-.

(4) In any other case, an employee of the Company shall not accept or permit any member of his family or any other person acting on his behalf to accept any gifts without the sanction of the Competent Authority if the value thereof exceeds Rs.1500/-. Provided that when more than one gift has been received from the

same person/firm within a period of 12 months, the matter shall be reported to the Competent Authority if the aggregate value of the gifts exceed Rs.1500/-. Foreign contributions falling within the ambit of Foreign Contribution Regulation Act 1976 as amended also fall within the purview of Rule 12. (Extract of the Act are enclosed as Annexure to these Rules).

12A. DOWRY :-

No employee of the Company shall-

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

EXPLANATION I

For the purposes of this rule, dowry has the same meaning as defined in the Dowry Prohibition Act, 1961 (No.28 of 1961) which reads as follows:- "Definition of Dowry"

In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly :

- (a) by one party to a marriage to the other party to the marriage; or
- (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

EXPLANATION II

For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.

EXPLANATION III

The expression "valuable security" has the same meaning as in Section 30 of the Indian Penal Code.

13. PRIVATE TRADE OR EMPLOYMENT :-

(1) No employee of the Company shall except with the previous sanction of the Competent Authority, engage directly or indirectly in any trade or business or undertake any other employment:

Provided that an employee may without such sanction,

- (i) undertake honorary work of social or charitable nature; or

(ii) undertake occasional work of literary, artistic or scientific character; or

(iii) participate in Sports activities as amateur subject to the condition that in all the cases his official duties do not thereby suffer. He shall not undertake or shall discontinue, such work or activity, if so directed by the Company.

(2) Every employee of the Company shall report to the Competent Authority if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

ADMINISTRATIVE INSTRUCTIONS

(a) Cases have come to notice where family members of some of the BHEL employees:

(i) have started ancillaries/small scale industries engaged in exclusive/extensive business with BHEL, or

(ii) are engaged in some other trade or business or own or manage insurance/commission agencies; but the concerned employees have not reported these facts to the Competent Authority as required under Rule 13(2).

(b) It is in the interest of the employees that such intimation are promptly given and brought on record as failure to give timely intimation in such matters has, at times, resulted in embarrassing situations both for the employees and the management.

(c) In the event of complete and timely intimation being available on record, an expectation could be that the concerned official had taken note of these facts and had been duly circumspect in dealing with any official matters concerning such firm or persons and allegations of favouritism merely on the ground that the firm was owned or managed by a family member of an employee could generally be discounted, unless there be some other adverse factors. On the other hand failure to report these facts, required under Rule 13(2) *ibid* could by itself, lead to an adverse inference, arising from suppression of facts.

(d) It is, therefore, essential that compliance with rule 13(2) *ibid* should not be treated a routine matter, nor should non-compliance with this provision be treated as a mere technical lapse.

(e) It is noticed in some cases, that the employees had been assisting members of their families in their business, after office hours, or supervising their business affairs. This amounts to violation of rule 13(1) *ibid*, which provides that no employee shall, except with the previous sanction of the Competent Authority engage directly or indirectly in any trade or business.

(f) All employees are required to scrupulously follow these provisions. Any violation thereof will be considered as misconduct, attracting disciplinary action and such violation may not be treated as mere technical lapse.

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

Provided that an employee of the Company may take part in the registration, promotion or management of a Consumer/House Building Cooperative Society substantially for the benefit of employees of the Company registered under the Co-operative Societies Act, 1912 (2 of 1912) or any other law for the time-being in force, or a literary, scientific or charitable society registered under the Registration Act, 1960 (21 of 1860), or any corresponding law in force.

(4) Unless otherwise provided by general or special orders of the Company, no employee will accept any fee for any work done by him for any private or public body or any private person without the prior sanction of the Competent Authority.

EXPLANATION: The term fee used here shall have the meaning assigned to it in Fundamental Rules 9(6A) reproduced hereunder:

TEXT OF FUNDAMENTAL RULE 9(6A)

"Fee" means a recurring or non-recurring payment to a Government servant from a source other than the Consolidated Fund of India, or the Consolidated Fund of a State (or the Consolidated Fund of a Union Territory) whether made directly to the Government servant or indirectly through the intermediary of Government, but does not include:

(a) unearned income such as income from property, dividends, and interests on securities; and

(b) income from literary, cultural, artistic, scientific or technological efforts if such efforts are not aided by the knowledge acquired by the Government servant in the course of his service.

(5) No functional Director of the Company including the Chief Executive, who has retired / resigned from the service of the Company, after such retirement / resignation, shall accept any appointment or post, whether advisory or administrative, in any firm or Company, whether Indian or foreign, with which the

Company has or had business relations, within one year from the date of his retirement without prior approval of the Government. The term retirement includes resignation; but not the cases of those whose term of appointment was not extended by Government for reasons other than proven misconduct. The term business relations includes official dealings as well.

(6) Sr Management of the Company shall make disclosures to the Board relating to all material, financial and commercial transactions where they have personal interest that may have potential conflict with the interest of the Company. The term Sr. Management would comprise Executive Directors, Unit Heads, Region Heads and Function heads in the rank of GM/GM I/c.

(7) No Executive Director/GM (I) with powers of ED/GM with powers of ED who has retired/resigned from the service of the company, after such retirement/resignation shall accept any appointment or post, whether advisory or administrative, in any firm or company, whether Indian or foreign with which the Company has or had business relations within one year from the date of his retirement without prior approval of CMD. The term retirement includes resignation. The term "Business relations" includes "Official dealings" as well. This is effective from 1-03-2012. Procedure for applying of such permission will be notified separately.

14. INVESTMENT, LENDING AND BORROWING :-

No employee shall, save in the ordinary course of business with a bank, the Life Insurance Corporation or a firm of standing, borrow money from or lend money to or otherwise place himself under pecuniary obligation to any person with whom he has or is likely to have official dealings or permit any such borrowing, lending or pecuniary obligation in his name or for his benefit or for the benefit of any member of his family.

15. INSOLVENCY AND HABITUAL INDEBTEDNESS :-

(1) An employee of the Company shall avoid habitual indebtedness unless he proves that such indebtedness or insolvency is the result of circumstances beyond his control and does not proceed from extravagance or dissipations.

(2) An employee of the Company who applies to be, or is adjudged or declared insolvent shall forthwith report the fact to his Competent Authority.

16. MOVABLE, IMMOVABLE AND VALUABLE PROPERTY :-

(1) No employee of the Company shall, except with the previous knowledge of the Competent Authority acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family.

(2) No employee of the Company shall, except with the previous sanction of the Competent Authority, enter into any transaction concerning any immovable or movable property with a person or a firm having official dealings with the employee or his subordinate.

(3) Every employee of the Company shall report to the Competent Authority within one month of every transaction concerning movable property owned or held by him in his own name or in the name of a member of his family, if the value of such property exceeds Rs.20,000/-.

(4) (i) Every employee shall, on first appointment in the Company and also on 1st January of each calendar year submit a return of assets and liabilities in the prescribed form giving the particulars regarding:-

(a) the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, debentures purchased under promoters / employees quota.

(4) (ii) Every employee shall, on first appointment in the Company submit a return of assets and liabilities in the prescribed form giving the particulars regarding:

(a) shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him;

(b) other movable property inherited by him or similarly owned, acquired or held by him if the value of such property exceeds Rs.20,000/-.

(c) debts and other liabilities incurred by him directly or indirectly.

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

from which such property was acquired.

(6) All employees covered by the BHEL Conduct, Discipline and Appeal Rules should submit a report in the proforma enclosed if transactions in shares, securities, debentures or mutual fund schemes in a calendar year exceed Rs.1,00,000/-. This report is to be submitted on an annual basis by all employees in whose cases such transactions in a calendar year exceed Rs.1,00,000/-. Such reports should be filed by the employees by 31st March of the following year.

EXPLANATION NO. I

The term "every transaction concerning movable property owned or held by him" in sub rule 16(3) includes all transactions of sale or purchase. For the purposes of Rule 16, the definition of movable property would include:-

- (a) Jewellery, insurance policies the annual premia of which exceeds Rs.20,000/- or one-sixth of the total annual emoluments received from the Company, whichever is less, shares, securities and debentures;
- (b) loans advanced by such employee whether secured or not;
- (c) motor cars, motor cycles, horses or any other means of conveyance; and
- (d) refrigerators, radios (radiograms) and television sets.

EXPLANATION NO. II

Transaction entered into by the spouse or any other member of family of an employee of the Company out of his or her own funds (including stridhan, gifts, inheritance etc) as distinct from the funds of the employee of the Company himself/herself in his or her own name and in his or her own right, would not attract the provisions of this rule.

EXPLANATION NO. III

Bureau of Public Enterprises have since clarified that for the purpose of receiving intimation from/granting permissions to the functional Directors of the Public Sector Undertakings regarding sale/purchase of immovable property etc. under the relevant CDA Rules, the Competent Authority is the Managing Director or the Chairman-cum-Managing Director of the undertaking as the case may be.

NOTE:- RENTING OUT OF A HOUSE OF AN EMPLOYEE TO A FOREIGNER/FOREIGN MISSION/FOREIGN ORGANISATION (INCLUDING INTERNATIONAL ORGANISATIONS).

The instructions contained in the Govt. of India , Ministry of Finance, B.P.E letter No. 17(13)/84- GM dated 09-07-84, which are

equally applicable to the employee/officials in the Public Sector Undertakings are reproduced below. Wherever a case of this type is processed for necessary Govt. approval, the Corporate Office should also be kept informed. Extract from the Govt. of India, Ministry of Finance, B.P.E letter No. 17(3)/84-GM dated 9th July, 1984, is as follows :

Ministry of Home Affairs vide their OM No.II/21024/5/79-IS-US-D.II dated 8th April, 1982 and OM No.II/21024/3/79-IS-US-D.II dated 16th February, 1983, addressed to all Ministries/Departments of Govt. of India, had issued instructions relating to commercial contracts between Central Government Officials and foreign missions/organisations/agencies etc. These instructions stipulated that every request for permission for the renting out of a house of a Government servant to a foreigner/foreign mission/foreign organisation (including International Organisations) should be examined by the administrative Ministry/Department concerned in consultation with the Ministry of Home Affairs (Intelligence Bureau). Only after clearance from the security angle is given by the Ministry of Home Affairs (Intelligence Bureau) necessary permission should be accorded.

(2) Finance Minister has directed that the above instructions applicable to Government servants should be made applicable to the employees/officials in the public sector undertakings. Accordingly, the following procedure should be adopted by the Public Sector enterprises before an employee lets out accommodation to foreign nations/foreign missions etc.

a) An employee must obtain prior permission before letting out his house to a foreign mission/organisation/agency, etc.

b) The request for permission for the renting out of the house of the employee to a foreign/foreign mission/organisation should be examined by the Competent Authority in the concerned public sector in consultation with the administrative ministry and with the Ministry of Home Affairs (IB). Only after clearance from the security angle is given by the Ministry of Home Affairs (IB), necessary permission should be accorded.

c) Every case should be accompanied with a self-contained note containing inter-alia the following particulars of the official of the public enterprises, who proposes to rent out the house and of the person/party to whom the house is proposed to be rented out:

(i) Parentage (iv) Permanent address

(ii) Date of Birth (v) Present address

(iii) Place of Birth (vi) Nationality

d) Contravention of this procedure should be viewed seriously and strict action should be taken against the employee concerned for such contravention.

(3) It may please be noted that every case has first to be examined by the administrative Ministry/Department and then referred only to the Ministry of Home Affairs and not to the Intelligence Bureau direct.

CHIT FUNDS

The subscriptions which an employee gives to a Chit Fund would be a transaction in movable property within the meaning of Rule 16 of BHEL CDA Rules, 1975. If the monthly/annual subscription to the chit fund exceeds the monetary limits prescribed in Sub-rule (3) under Rule 16, the employee has to report it to the Competent Authority under the aforesaid rule.

Previous sanction of the Competent Authority would be necessary only if the employee concerned has official dealings with the Chit Fund Company. The amount that the employee may receive from the chit fund can be classified into two categories:

- i) receiving the amount of the sum total of the contributions payable by all subscribers for any one instalment less the discount or commission payable to the chit fund company by bid before the expiry of the period upto which the subscription is to be made, and
- ii) receiving the amount at the time of maturity.

As regards (i) above, since the amount received by a subscriber from the chit fund by bid would be more than the amount subscribed by him and the difference will have to be made good by him by future subscriptions upto the total period of the chit fund, the amount received in such cases would amount to a loan received from the chit fund or 16(3) as the case may be, of BHEL CDA Rules. As regards (ii) above, if the amount received from the chit fund exceeds the prescribed monetary limits in sub-rule (3) of Rule 16 *ibid* the employee has to report to the Competent Authority under that sub-rule.

LIFE INSURANCE POLICY

An employee need not obtain prior permission from the Competent Authority for taking a Life Insurance Policy. He should, however, submit a report to the Competent Authority if the annual premium of an Insurance Policy exceeds the monetary limits laid down in Explanation No. I(a) below Rule 16 of BHEL CDA Rules. If, in any case, the annual premium initially determined was less than the said monetary limits, but on conversion, the annual premium

exceeds the said limits, a report to the Competent Authority is necessary at that stage. When an employee receives the sum assured as survival benefit/on maturity of the policy, he need not submit any report in this regard. He should, however, submit proof of receiving the sum assured as survival benefits/on maturity of the policy in cases where the fact of taking insurance policy was not intimated earlier due to the annual premium being less than the prescribed monetary limits.

BANK DEPOSITS (CURRENT, SAVINGS) AND INVESTMENTS IN NATIONAL / SAVINGS PLAN CERTIFICATES, UNIT TRUST, FIXED DEPOSITS, ETC.

Current accounts, Savings Bank Accounts and Fixed deposits in a Bank made by an employee from out of his salary or accumulated savings need not be reported by the employees under Rule 16(3) of the CDA Rules. The purchase of Postal or National Savings Certificates or Units of Unit Trust of India or deposits in Companies/Government or Public Sector Bonds etc. exceeding the monetary limits laid down in Rule 16(3) *ibid* from such accumulated savings are required to be reported to the Competent Authority as these come in the same category as Insurance Policies, shares, securities, and debentures mentioned in Rule 16. Encashment of Postal or National Savings Certificates however is not required to be reported as this is not a separate transaction but is a consequence to the initial transaction of the purchase of these certificates.

CASH

Cash/money is movable property within the meaning of Rule 16 *ibid*.

MISCELLANEOUS

"On account" payments to Co-operative House Building Societies for purchase, development etc. of land are to be treated as transactions concerning movable properties. All purchases made at the same time in the same place (shop etc) and charged for in the same bill should be treated as one transaction for the purpose of Rule 16 whether or not they relate to the same item.

16A. Rule 16A :-

(i) A Full time Director or any executive/ employee involved in the decision making process of fixation of price of an IPO/FPO of shares of a CPSE shall not apply either himself/ herself or through any member of his/ her family or through any person acting on his/her behalf for allotment of shares (which includes all types of equity

related instruments) in an IPO/FPO of such CPSE, even out of the category of preferential quota reserved for employees/ Directors of the CPSE.

(ii) All executives/ employees including full time Directors of the Company who are in possession of unpublished price sensitive information would be prohibited from dealing/ transacting either in their own name or through any member of their family in the shares of the Company.

(iii) Full-time Directors or executives/ employees of Company or any member of his/her family or any person acting on his/ her behalf shall not apply for shares out of any preferential quota reserved for employees/ Directors of other companies.

(iv) All employees of the Company would be required to disclose to the Company all transactions of purchase/ sale in shares worth Rs. 20,000/- or more in value or existing holding/ interest in the shares worth Rs. 20,000/- or more in the Company, either in his/her own name or in the name of any family member to report to the Company indicating quantity, price, date of transaction and nature of interest within 4 working days.

17. CANVASSING OF NON-OFFICIAL OR OTHER INFLUENCE

:-

No employee shall bring or attempt to bring any outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service in the Company. Instances have come to notice that despite these provisions, employees of the Company have been approaching Ministers, Members of Parliament, MLAs and leaders of political parties etc. to obtain support for their representations/appeals etc. pertaining to their conditions of service, under consideration of the Company. It is brought to the notice of the employees once again cautioning them that a serious view will be taken of any violation thereof. It has further been decided that in future when such instances come to the notice of the Management, action against the employee concerned should be taken in the following manner:- An employee violating Rule 17 of the BHEL Conduct, Discipline and Appeal Rules for the first time, after the issue of this letter, should be advised by the concerned Disciplinary Authority in writing and he may be asked to acknowledge receipt of the advice. A copy of this advice need not be placed in the ACR file of the employee. However, if he belongs to Corporate Cadre, a copy of the advice should be sent to

the Corporate Office for information and record. If an employee is found guilty of violation of this provision of the Conduct Rules, a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him by the appropriate authority and a copy thereof should be placed in the ACR file of the employee. If the warning is issued to an employee belonging to the Corporate Cadre, an authenticated copy of the same should be sent to the Corporate Office also for information and record. If an employee is found guilty of violation of this provision of the Conduct Rules despite a warning issued to him as above, disciplinary action should be initiated against him by the Unit concerned under the provisions of BHEL Conduct, Discipline and Appeal Rules.

18. BIGAMOUS MARRIAGE :-

(1) No employee shall enter into or contract a marriage with a person having a spouse living; and

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

Provided that the Board may permit an employee to enter into, or contract, any such marriage as is referred to in Clause (1) or clause (2), if it is satisfied that:

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

(b) there are other grounds for so doing.

(3) The Company employee who has married or marries a person other than that of Indian nationality, shall forthwith intimate the fact to his Personnel Deptt.

19. CONSUMPTION OF INTOXICATING DRINKS AND DRUGS

:-

(1) An employee of the Company shall:

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

(b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;

(c) refrain from consuming any intoxicating drink or drug in a public place;

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

(e) not use any intoxicating drink or drug to excess.

EXPLANATION

1) For the purpose of this rule, public place means any place or premises (including clubs, even exclusively meant for members where it is permissible for the members to invite non-members as guests, bars and restaurants, conveyance) to which the public have or are permitted to have access, whether on payment or otherwise.

2) The Company employees should also refrain from consuming intoxicating drinks even at official parties arranged by Foreign Missions whether within the Mission premises or in halls/lounges exclusively reserved. The same position would obtain in respect of consumption of intoxicating drinks at parties arranged by Government Public Undertakings or semi-Government Organisations where foreigners are entertained or at similar parties hosted by others.

20. SUSPENSION :-

(1) The appointing authority or any authority to which it is subordinate or the Disciplinary Authority or other authority empowered in that behalf by the Management by general or special order may place an employee under suspension:-

(a) Where a disciplinary proceeding against him is contemplated or is pending; or

(b) Where a case against him in respect of any criminal offence is under investigation or trial.

(1)A It would be appropriate to place an employee under suspension if :-

(i) the continuance of the employee in office is likely to prejudice investigation, trial or inquiry (apprehending tampering with documents or witnesses); or

(ii) where the continuance in office of the employee is likely to seriously subvert discipline in the office in which he is working;

(iii) where the continuance in office of the employee will be against the wider public interest e.g., if there is a public scandal and it is considered necessary to place the employee under suspension to demonstrate the policy of the company / Govt. to deal strictly with employees involved in such scandals, particularly corruption.

(iv) where the investigation has revealed a prima - facie case justifying criminal / departmental proceedings which are likely to

lead to his conviction and / or dismissal / removal or premature retirement from service; or

(v) where the employee is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

(1)B It would be desirable to suspend an employee for acts of omission and commission of the following types :

(i) an offence of conduct involving moral turpitude :

(ii) corruption, embezzlement or misappropriation of Companys funds / money, possession of disproportionate assets, misuse of official powers for personal gains;

(iii) serious negligence and dereliction of duty resulting in considerable loss to the Company ;

(iv) desertion of duty; and

(v) refusal or deliberate failure to carry out written orders of superior officers

(2) An employee who is detained in custody, whether on criminal charge or otherwise for a period exceeding 48 hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders.

(3) Where a penalty of dismissal or removal from service imposed upon an employee under suspension is set aside on appeals or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal or removal and shall remain in force until further orders.

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

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

21. SUBSISTENCE ALLOWANCE :-

(1) An employee under suspension shall be entitled to draw subsistence allowance equal to 50 per cent of his basic pay provided the Disciplinary Authority is satisfied that the employee is not engaged in any other employment or business or profession or vocation. In addition he shall be entitled to Dearness Allowance admissible on such subsistence allowance and any other compensatory allowance of which he was in receipt on the date of suspension provided the suspending authority is satisfied that the employee continues to meet the expenditure for which the allowance was granted.

(2) Where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows:

(i) The amount of subsistence allowance may be increased to 75% per cent of basic pay and allowances thereon 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 employee under suspension.

(ii) The amount of subsistence allowance may be reduced to 25 per cent of basic pay and allowance thereon if, in the opinion of the said authority, the period of suspension has been prolonged due to the reasons to be recorded in writing, directly attributable to the employee under suspension.

(3) If an employee is arrested by the Police on a criminal charge and bail is not granted, no subsistence allowance is payable. On grant of bail, if the Competent Authority decides to continue the suspension, the employee shall be entitled to subsistence allowance from the date he is granted bail.

22. TREATMENT OF PERIOD OF SUSPENSION :-

(1) When the employee under suspension is reinstated, the Competent Authority may grant him the following pay and allowances for the period of suspension:-

(a) If the employee is exonerated and not awarded any of the penalties mentioned in Rule 23, the full pay and allowances which he would have been entitled to if he had not been suspended, less the subsistence allowance already paid to him; and

(b) If otherwise, such proportion of pay and allowances as the Competent Authority may prescribe.

(2) In a case falling under sub-clause (a) the period of absence from duty will be treated as period spent on duty. In a case falling under sub-clause (b) it will not be treated as period spent on duty unless the Competent Authority so directs.

(3) Where an employee under suspension dies before disciplinary or the court proceedings instituted against him are concluded, the period between the date of suspension and the date of death in such a case may be treated as duty for all purposes and his family may be paid full pay and allowances the deceased employee would have been entitled had he not been suspended, subject to adjustment of subsistence allowance already paid. The gratuity payment and other terminal benefits in such cases will also be determined accordingly.

(4)(i) When an employee is placed under suspension under Rule 20 (1)(b) the Competent Authority may grant him the pay and allowances for the period of suspension as per the following :-

(a) If on finalisation of investigation, the employee is not prosecuted or disciplinary proceedings are not initiated, then the employee may be granted full pay and allowances which he would have drawn had he not been placed under suspension less the subsistence allowance already paid to him.

(b) If on finalisation of investigation, the employee is prosecuted in a court of law but is acquitted honourably in the Court Trial, then the employee may be granted full pay and allowances which he would have drawn had he not been placed under suspension less the subsistence allowance already drawn.

(c) If on finalisation of investigation, disciplinary proceedings are initiated against the employee, then the grant of pay and allowances shall be governed by subrule(1) above.

(d) In all other situations, he shall be entitled to such proportion of pay and allowances as the Competent Authority may prescribe.

4(ii)(a) In cases falling under sub-clauses (a) and (b) of Rule 22(4) (i) above, the period of absence from duty will be treated spent on duty.

(b) In a case falling under sub-clause (c) of Rule 22(4)(i) above, the period of absence from duty will be treated / decided as per the provision of sub-rule (2) above.

(c) In a case falling under sub-clause (d) of Rule 22(4)(i) above, the period of absence from duty will not be treated as period spent on duty unless the Competent Authority so directs.

5 Where an employee under suspension retires on reaching the age of superannuation the decision regarding treatment of period of suspension and entitlement to pay and allowances for the said period will be taken on finalisation of disciplinary proceedings or criminal case, as the case may be.

23. PENALTIES :-

The following penalties may be imposed on an employee, as hereinafter provided for misconduct committed by him or for any other good and sufficient reasons.

MINOR PENALTIES

- (a) Censure;
- (b) Withholding of increments of pay with or without cumulative effect;
- (c) Withholding of promotions;
- (d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Company by negligence or breach of orders.
- (e) Reduction to a lower stage in the time scale of pay for a period not exceeding 3 years without cumulative effect and not adversely affecting his terminal benefits.

MAJOR PENALTIES

- (f) Save as provided in Clause(e), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increment of pay;
- (g) Reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the employee to the time-scale of pay, grade, post from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post from which the employee was reduced and his seniority and pay on such restoration to that grade or post;
- (h) Compulsory retirement;
- (i) Removal from service which shall not be a disqualification for future employment under the Government or the Corporation/Company owned or controlled by the Government;
- (j) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government or the Corporation/Company owned or controlled by the Government.

Provided that, in every case in which 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 clause (i) or (j) 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:-

(i) Withholding of increment of an employee on account of his work being found unsatisfactory or not being of the required standard, or for failure to pass a prescribed test or examination;

(ii) stoppage of an employee at the efficiency bar in a time scale, on the ground of his unfitness to cross the bar;

(iii) non-promotion whether in an officiating capacity or otherwise, of an employee, to a higher post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case;

(iv) reversion to a lower grade or post, of an employee officiating in a higher grade or post, on the ground that he is considered, after trial, to be unsuitable for such higher grade or post, or on administrative grounds unconnected with his conduct.

(v) reversion to his previous grade or post, of an employee appointed on probation to another grade or post, during or at the end of period of probation in accordance with the terms of his appointment.

(vi) Termination of Service:-

(a) of an employee appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment;

(b) of an employee appointed in a temporary capacity otherwise than under a contract or agreement, on the expiration of the period for which he was appointed, or earlier in accordance with the terms of his appointment.

(c) of an employee appointed under a contract or agreement in accordance with the terms of such contract or agreement; and

(d) of any employee on reduction of establishment.

24. DISCIPLINARY AUTHORITY :-

The Disciplinary Authority, as specified in the schedule, or any authority higher than it, may impose any of the penalties specified in Rule 23 on any employee.

25. PROCEDURE FOR IMPOSING MAJOR PENALTIES :-

(1) No order imposing any of the major penalties specified in Clause (f), (g), (h), (i) and (j) of Rule 23 shall be made except after an enquiry is held in accordance with the rule. Proceedings under this Rule may be initiated, for conduct which lends itself to both criminal prosecution as well as disciplinary action, notwithstanding that a criminal case against the employee in respect of same conduct is under investigation or trial.

(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 an employee, it may itself enquire into, or appoint any serving or retired public servant (hereinafter called the Inquiring Authority) to inquire into the truth thereof.

(3) Where it is proposed to hold an inquiry, the Disciplinary Authority shall frame definite charges on the basis of the allegations against the employee. The charges, together with a statement of the allegations, on which they are based, a list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained, shall be communicated in writing to the employee, who shall be required to submit within such time as may be specified by the Disciplinary Authority (not exceeding 15 days), a written statement whether he admits or denies any of or all the articles of charge.

EXPLANATION

It will not be necessary to show the documents listed with the Charge-sheet or any other document to the employee at this stage. It is clarified that if the employee requests to show him/give him the copies of the documents listed with the Charge-sheet to enable him to give a proper reply, the Disciplinary Authority can consider and decide such requests taking into account the facts and circumstances of the case.

If considered appropriate, the copies of documents can be given to the employee. However, if the documents are bulky and copies cannot be given, then an opportunity can be given to the employee to inspect the documents.

(4) On receipt of the written statement of the employee, or if no

such statement is received within the time specified, an enquiry may be held by the Disciplinary Authority itself, or by any other public servant appointed as an Inquiring Authority under Sub-rule (2) of Rule 25. Provided that it may not be necessary to hold an inquiry in respect of the charges admitted by the employee in his written statement. The Disciplinary Authority shall, however, record its findings on each such charge.

(5) Where the Disciplinary Authority itself inquires or appoints an Inquiring Authority for holding an enquiry, it may, by an order appoint a public servant to be known as the "Presenting Officer" to present on its behalf the case in support of the article of charge.

(6) The employee may take the assistance of any other BHEL employee but may not engage a legal practitioner for the purpose.

CLARIFICATIONS

1. The word "BHEL employee" in this context would mean a co-employee working in the same Division or another Division of BHEL located at the same station where the employee seeking assistance is himself working. Provided that it shall not be permissible to take the assistance of an employee who has two pending disciplinary cases on hand in which he has to give assistance.

2. Clause (6) inter-alia provides that a delinquent employee, against whom disciplinary proceedings have been instituted as for imposition of the major penalty, may not engage a Legal Practitioner to present the case on his behalf before the Inquiring Authority. This position has to be maintained 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 permits the engagement of a Legal Practitioner by the delinquent employee. When on behalf of the Disciplinary Authority the case is being presented by a Prosecuting Officer of the Central Bureau of Investigation or a Government Law Officer (such as Legal Adviser, Jr. Legal Adviser) there are evidently good and sufficient circumstances for the Disciplinary Authority to exercise his discretion in favour of the delinquent employee and allow him to be represented by a Legal Practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the Court as arbitrary and prejudicial to the defence of the delinquent employee.

3. The employee may also take the assistance of a retired BHEL employee to present the case on his behalf subject to such conditions as may be specified by the company from time to time by general or special orders in this behalf.

(7) On the date fixed by the Inquiring Authority, the employee

shall appear before the Inquiring Authority at the time, place and date specified in the notice. The Inquiring Authority shall ask the employee whether he, pleads guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the Inquiring Authority shall record the plea, sign the record and obtain the signature of the employee concerned thereon. The Inquiring Authority shall return a finding of guilt in respect of those articles of charge to which the employee concerned pleads guilty.

(8) If the employee does not plead guilty, the Inquiring Authority shall adjourn the case to a later date not exceeding thirty days, after recording an order that the employee may, for the purpose of preparing his defence :

(i) inspect the documents listed with the charge sheet;

(ii) submit a list of additional documents and witnesses that he wants to examine; and

(iii) be supplied with the copies of the statements of witnesses, if any, listed in the chargesheet. NOTE Relevancy of the additional documents and the witnesses referred to in sub-rule 25(8)(ii) above will have to be given by the employee concerned and the documents and witnesses shall be summoned if the Inquiring Authority is satisfied about their relevance to the charges under inquiry.

(9) The Inquiring Authority shall ask the authority in whose custody or possession the documents are kept, for the production of the documents on such date as may be specified.

(10) The authority in whose custody or possession the requisitioned documents are, shall arrange to produce the same before the Inquiring Authority on the date, place and time specified in the requisition notice;

Provided that the authority having the custody or possession of the requisitioned documents may claim privilege if the production of such documents will be against the public interest or the interest of the Company. In that event, it shall inform the Inquiring Authority accordingly.

(11) 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, but not on a new matter, without the leave of the Inquiring Authority. The Inquiring Authority may also put such questions to the witnesses as it thinks fit.

(12) Before the close of the prosecution case, the Inquiring Authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the charge-sheet or may itself call for new evidence or recall or re-examine any witnesses. In such cases the employee shall be given opportunity to inspect the documentary evidence before it is taken on record, or to cross-examine a witness, who has been so summoned.

(13) When the case for the Disciplinary Authority is closed, the employee may 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 employees 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.

(14) The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the Inquiring Authority according to the provision applicable to the witnesses for the Disciplinary Authority.

(15) The Inquiring Authority may, after the employee closes his case, and shall if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purposes of enabling the employee to explain any circumstances appearing in the evidence against him.

(16) The Inquiring Authority may, after the completion of the production of evidence hear the Presenting Officer, if any appointed, and the employee or permit them to make available written brief of their respective cases if they so desire.

(17) If the employee does not submit the written statement of defence referred to in sub-rule (3) on or before the date specified for the purpose or does not appear in person, or through the assisting officer or otherwise fails or refuses to comply with any of the provisions of these rules, the Inquiring Authority may hold the enquiry ex-parte.

(18) Whenever any Inquiring Authority, after having heard 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 interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as herein before provided.

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

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

(b) a gist of the defence of the employee in respect of each article of charge;

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

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

EXPLANATION

If in the opinion of the Inquiring Authority the proceedings of the inquiry establish any article of charge different from the original articles of charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) the Inquiring Authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include:-

(a) the report of the inquiry prepared by it under sub-clause (i) above;

(b) the written statement of defence, if any, submitted by the employee referred to in sub-rule (13);

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

(d) written briefs referred to in sub-rule (16), if any, and

(e) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry.

26. ACTION ON THE INQUIRY REPORT :-

(1) The Disciplinary Authority, if it is not itself the Inquiring Authority may, for reasons to be recorded by it in writing remit the case to the Inquiring Authority for fresh or further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 25 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 Rule 23 should be imposed on the employee it shall, notwithstanding anything contained in Rule 27, make an order imposing such penalty.

(4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the employee concerned.

27. PROCEDURE FOR IMPOSING MINOR PENALTIES :-

(1) Where it is proposed to impose any of the minor penalties specified in clauses (a) to (e) of Rule 23, the employee concerned shall be informed in writing of the imputations of misconduct or misbehaviour against him and given an opportunity to submit his written statement of defence within a specified period not exceeding 15 days. The defence statement, if any, submitted by the employee shall be taken into consideration by the Disciplinary Authority before passing orders. Proceedings under this Rule may be initiated, for conduct which lends itself to both criminal prosecution as well as disciplinary action, notwithstanding that a criminal case against the employee in respect of same conduct is under investigation or trial.

(2) The record or the proceedings shall include :

(i) a copy of the statement of imputations of misconduct or misbehaviour delivered to the employee;

(ii) his defence statement, if any, and

(iii) the orders of the Disciplinary Authority together with the reasons there for.

28. COMMUNICATION OF ORDERS :-

After receipt of Inquiring Authority's report, the delinquent employee should be provided a copy of the Inquiring Authority's report by the Disciplinary Authority, to give him/her an opportunity to make a representation if he/she so desires against it, within a period of 15 days of the receipt of such report, for the consideration

of the Disciplinary Authority. Provided that in case the Inquiring Authority has held any or all the charges against the delinquent employee as "not proved", the Disciplinary Authority should consider the Inquiring Authority's report in the first instance. If he disagrees with Inquiring Authority's findings, he should also communicate his reasons for such disagreement while providing the Inquiring Authority's report to the delinquent employee. The order imposing any major or minor penalty should, therefore, be passed by the Disciplinary Authority after giving due consideration to such representation, if any. This will be applicable in the case where Disciplinary Authority is other than the Inquiring Authority. Orders made by the Disciplinary Authority under Rule 26 or 27 shall be communicated to the employee concerned.

29. COMMON PROCEEDINGS :-

Where two or more employees are concerned in a case, the authority competent to impose a major penalty on all such employees may make an order directing that disciplinary proceedings against all of them may be taken in common proceedings and the specified authority may function as the Disciplinary Authority for the purpose of such common proceedings.

30. SPECIAL PROCEDURE IN CERTAIN CASES :-

Notwithstanding anything contained in Rule 25 or 26 or 27, the Disciplinary Authority may impose any of the penalties specified in Rule 23 in any of the following circumstances :

- (i) the employee has been convicted on a criminal charge, or on the strength of facts or conclusions arrived at by a judicial trial; 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 enquiry in the manner provided in these Rules; or
- (iii) where the Disciplinary Authority is satisfied that in the interest of the security of the Corporation/Company, it is not expedient to hold any enquiry in the matter provided in these rules.

30A. Rule 30A :-

- (i) Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority

by which it was commenced in the same manner as if the employee had continued in service.

(ii) During the pendency of the disciplinary proceeding or the judicial proceeding, the disciplinary authority may withhold payment of gratuity, for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the Company if the employee is found in a disciplinary proceeding or judicial proceeding to have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the Company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provision of Section 7(3) and 7(3A) of the Payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in case the employee is fully exonerated.

31. EMPLOYEES ON DEPUTATION FROM THE CENTRAL GOVERNMENT OR THE STATE GOVERNMENT ETC. :-

(i) Where an order of suspension is made or disciplinary proceeding is taken against an employee, who is on deputation to the Company from the Central or State Government or another public undertaking or a local authority, the authority lending his services (hereinafter referred to as the "Lending Authority") shall forthwith be informed of the circumstances leading to the order of his suspension, or the commencement of the disciplinary proceeding, as the case may be.

(ii) In the light of the findings in the disciplinary proceedings taken against the employee

(a) If the Disciplinary Authority is of the opinion that any of the minor penalties should be imposed on him, it may pass such orders on the case as it deems necessary after consultation with the Lending Authority; Provided that in the event of a difference of opinion between the Disciplinary and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority.

(b) If the Disciplinary Authority is of the opinion that any of the major penalties should be imposed on him, it should place his service at the disposal of the Lending Authority and transmit to it the proceedings of the enquiry for such action as it deems necessary.

(iii) If the employee submits an appeal against an order imposing a

minor penalty on him under sub-rule (ii)(a), it will be disposed of after consultation with the Lending Authority: Provided that if there is a difference of opinion between the Appellate Authority and the Lending Authority, the services of the employee shall be placed at the disposal of the Lending Authority, and the proceedings of the case shall be transmitted to that authority for such action as it deems necessary.

32. APPEALS :-

(i) An employee may appeal against an order imposing upon him any of the penalties specified in Rule 23 or against the order of suspension referred to in Rule 20. The appeal shall lie to the authority specified in the Schedule.

(ii) An appeal shall be preferred within one month from the date of communication of the order appealed against. The appeal shall be addressed to the Appellate Authority specified in the schedule and submitted to the authority whose order is appealed against. The authority whose order is appealed against shall forward the appeal together with its comments and the records of the case to the appellate authority within 15 days. The Appellate Authority shall consider whether the findings are justified or whether the penalty is excessive or inadequate and pass appropriate orders within three months of the date of appeal. The Appellate Authority may pass orders confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as may deem fit in the circumstances of the case.

Provided that if the enhanced penalty which the Appellate Authority proposes to impose is a major penalty specified in clauses (f), (g), (h), (i) and (j) of Rule 23 and an inquiry as provided in Rule 25 has not already been held in the case, the Appellate Authority shall direct that such an enquiry be held in accordance with the provisions of Rule 25 and thereafter consider the record of the inquiry and pass such orders as it may deem proper. If the Appellate Authority decides to enhance the punishment but an enquiry has already been held as provided in Rule 25, the Appellate Authority shall give a show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The Appellate Authority shall pass final order after taking into account the representation, if any, submitted by the employee.

33. REVIEW :-

Notwithstanding anything contained in these rules, the Reviewing Authority as specified in the schedule may call for the record of the case within six months of the date of the final order and after reviewing the case pass such orders thereon as it may deem fit. Provided that if the enhanced penalty, which the Reviewing Authority proposes to impose is a major penalty specified in clauses (f), (g), (h), (i) and (j) of Rule 23 and an enquiry as provided under Rule 25 has not already been held in the case, the Reviewing Authority shall direct such an enquiry to be held in accordance with the provisions of Rule 25 and thereafter consider the record of the enquiry and pass such orders as it may deem proper. If the Reviewing Authority decides to enhance the punishment but an enquiry has already been held in accordance with the provisions of Rule 25, the Reviewing Authority shall give show cause notice to the employee as to why the enhanced penalty should not be imposed upon him. The Reviewing Authority shall pass final order after taking into account the representation, if any, submitted by the employee.

34. SERVICE OF ORDERS, NOTICES ETC :-

Every order, notice and other process made or issued under these rules shall be served in person on the employee concerned or communicated to him by registered post at his last known address.

35. POWER TO RELAX TIME LIMIT AND TO CONDONE DELAY :-

Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or 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.

35A. POWER TO GRANT IMMUNITY / LENIENCY :-

1 With a view to obtaining the evidence of any employee supposed to have been directly or indirectly involved in any misconduct along with others, the Disciplinary Authority at any stage may grant immunity/leniency to such employee on condition of his making a full and true disclosure of the whole of the circumstances relating to the misconduct implicating himself and other employees / public

servants and that such disclosure is free from malice.

2 Every Disciplinary Authority who grants immunity/leniency under Rule 35(A)1 above shall record his reasons for so doing.

36. SAVINGS :-

(1) Nothing in these rules shall be construed as depriving any person to whom these rules apply, to any right of appeal which had accrued to him under the rules which has been superseded by these rules.

(2) An appeal pending at the commencement of these rules against an order made before the commencement of these rules shall be considered and orders thereon shall be made, in accordance with these rules.

(3) The proceedings pending at the commencement of the rules shall be continued and disposed as far as may be, in accordance with the provisions of these rules, as if such proceedings were proceedings under these rules.

(4) Any misconduct, etc. committed prior to the issue of these rules which was a misconduct under the superseded rules shall be deemed to be a misconduct under these rules.

37. REMOVAL OF DOUBTS :-

Where a doubt arises as to the interpretation of any of these rules, the matter shall be referred to the CMD/Board for final decision.

38. AMENDMENTS :-

The Board may amend, modify or add to these rules, from time to time and all such amendments, modifications or additions shall take effect from the date stated therein.