

***The U.P. Disciplinary Proceedings (Administrative Tribunal) Rules, 1947***

***Published vide U.P. Government Notification No. 5511/25-110, dated 4-11-1947***

**LEGISLATIVE HISTORY 6**

As amended by the following amending notifications-

- No. A-2515-XXV/CX-108-54, dated 16-7-1956
- No. 1288/XXXIX-VGL-1966, dated 28-1-1966
- No. 937/XXX-2 (3)-68, dated 19-3-1968
- No. 1844/XXXIX-2 (5)-68, dated 12-6-1969
- No. 859/XXXIX-(2)-2 (5)-1968, dated 8-6-1973
- No. 2565/XXXIX-2 (7)-1970, dated 7-11-1975
- No. 7-1-1977-Karmik, dated 17-4-1977

In exercise of the powers conferred by Sections 241 (2) and 266 (3) of the Government of India Act, 1935, as amended, and Section 234 (a) and (b) of the United Provinces Land Revenue Act (Act III of 1901) and Section 7 of the Police Act (Act V of 1861) and all other powers enabling him to do so, the Governor of the U.P. is pleased to make the following rules for regulating in certain cases the conduct of disciplinary proceedings and the award of punishment to members of the public services under the Governor's rule-making control:

1. (1) These rules may be called the U.P. Disciplinary Proceedings (Administrative Tribunal) Rules, 1947.

(2) They shall come into force with effect from November 8, 1947.

(3) They shall apply to all Government servants under the rule-making control of the Government, and will be applicable to any acts, omissions or conduct arising before the date of the commencement of these rules as they are applicable to those arising after the date.

[(4) They shall also apply to all persons who have revived from such Government service as is referred in sub-rule (3); in so far as required for purposes mentioned in Rule 10-A.]

2. For the purposes of these rules, unless there is anything repugnant in the subject or context,-

(a) "*Government*" means the Government of Uttar Pradesh;

(b) "*Tribunal*" means the Administrative Tribunal constituted under Rule 3;

(c) [\*\*\*]

(d) [\*\*\*]

(e) [\*\*\*]

3. (1) Government may from time to time constitute one or more Administrative Tribunals as it may consider necessary for enquiry into such cases or classes of cases as Government may by general or special order direct.

(2) Each Tribunal shall consist of two members, one of whom shall be an officer of adequate seniority to be the Head of a Department or the Commissioner of a division and the other a judicial officer qualified for appointment as a Judge of the High Court :

Provided that nothing herein contained shall prevent the appointment of the same person as member of more Tribunals than one.

(3) Government shall nominate one of the members of each Tribunal to be the Presiding Officer of that Tribunal.

(3-A) Without prejudice to the generality of its power to replace any member of assessor whose services cease to be available for functioning as such Government may, if it is satisfied that it is expedient so to do for the ends of justice,-

(a) transfer any case pending before any Tribunal either to another Tribunal having a new set of members or to a Tribunal reconstituted by replacing one of its members, or

(b) replace the assessor appointed to assist it.

(4) The Tribunal shall be assisted by an assessor who will be appointed by the Governor taking into account the rank of the charged Government servant, so however that he shall always be a gazetted Government servant and shall be an officer drawing pay in a scale higher than that of the charged Government servant of where more than one Government servants has been charged in the same proceedings in a scale of pay higher than that of the highest charged Government servant As far as possible, the Governor will select as assessor an officer serving with the same department as the charged Government servant or, where more than one Government servant has been charged in the same proceedings, the charged Government servant in the highest scale of pay.

[(5) Where no officer serving with the same department as the charged Government servant and drawing pay in a scale higher than that of the charged Government servant is available for appointment as Assessor under sub-rule (4), the Governor may appoint as Assessor an officer drawing higher pay that, thought in the same scale as, the charged Government servant.]

(6) If an officer appointed as Assessor fulfilled the qualifications mentioned in sub-rule (4) or sub-rule (5) at the time of his appointment as such, he shall, unless otherwise ordered by the Governor, continue to act as Assessor notwithstanding that, during the continuance of the proceedings before the Tribunal-

(a) the charged Government servant has got into the same pay scale as such Assessor, or

(b) such Assessor has retired from Government service and has been simultaneously re-employed in the post from which he retired.

[(7) Notwithstanding anything in the foregoing sub-rules, a Tribunal to which a case relating to a member of any of the following services is referred shall consist of two officers, each of whom shall be qualified for appointment as a Judge of the High Court, and no assessor shall be appointed to assist such a Tribunal:

- (a) U.P. Higher Judicial Service,
- (b) U.P. State Judicial Service, and
- (c) U.P. Judicial Officers Service:

Provided that nothing herein contained shall prevent the appointment on a member of a Tribunal referred to in sub-rule (2), who is qualified as mentioned in this sub-rule, as a member of a Tribunal under this sub-rule and the provisions of sub-rules (3) and (3-A) of this rule and Rules 8-A and 9 shall *mutatis mutandis* apply to a Tribunal referred to in this sub-rule:

Provided further that the power under sub-rule (1) or under sub-rule (3-A) shall, in relation, to a Tribunal mentioned in this sub-rule, be exercised by the Government only on the recommendation or with the consent of the High Court.]

**[4. (1)** Except as provided in sub-rule (2), the Governor may refer to the Tribunal cases relating to an individual Government servant or class of Government servants in respect of any imputation of misconduct or misbehaviour.

(2) The High Court may refer to the Tribunal cases relating to an officer belonging to a service referred to in sub-rule (7) of Rule 3, hereinafter referred to as a 'Judicial Officer' in respect of any imputation of misconduct or misbehaviour.]

**[5. (1)** In forwarding any case to the Tribunal the Government [or the High Court, as the case may be] shall state-

- (a) the particulars of the official involved;
- (b) the substance of the imputations of misconduct or misbehaviour reduced into definite and distinct articles of charge;
- (c) a statement of imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(i) a statement of relevant fact, including any admission or confession made by the official;

(ii) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(1A) The Tribunal shall have the power to amend the articles of charge but not so as to affect the substance thereof and also to make any correction in the statement of the imputations of misconduct or misbehaviour in support of each article of charge.

(1B) The Tribunal may, where it thinks fit in the interest of justice summon and examine any witness not included in the list referred to in sub-rule (1).

(2) The Tribunal shall be entitled to the perusal of all records having a bearing on the case before it.]

6. Subject to the general or special directions of the Governor the Tribunal may hold its sittings at any place in the State.

[7. (1) The proceedings of the Tribunal shall be held *in camera*,

(2) The Government [or the High Court as the case may be] may appoint a Government servant or a legal practitioner to be known as the presenting officer, to present the case in support of the articles of charge.

(3) The Government servant 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 [in his case] is a legal practitioner, of the Tribunal having regard to the circumstances of the case, so permits :

Provided that nothing in this sub-rule shall be construed to authorise the payment of any travelling or daily allowance to any Government servant for enabling him to assist the charged Government servant.

(4) If the Government servant who has not admitted any of the articles of charge, in his written statement of defence, or has not submitted any written statement of defence, appears before the Tribunal, the Tribunal shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of

the articles of charge, the Tribunal shall record the plea, sign the record and obtain his signatures thereon.]

8. (1) The Tribunal shall in each case make such enquiry as may be necessary.

(2) In conducting such enquiry the Tribunal shall be guided by rules of enquiry and natural justice and shall not be bound by formal rules relating to procedure and evidence.

[(3) \* \* \* \* \*]

**8A.** (1) If a member of the Tribunal ceases at any time to be available for functioning as such, the remaining member shall be deemed to validly constitute the Tribunal for the purposes of cases pending before it.

(2) In conducting such enquiry the Tribunal shall be guided by rules of equity and natural justice and shall not be bound by formal rules relating to procedure and evidence.

[(3) \* \* \* \* \*]

**8B.** (1) If a member of the Tribunal cease at any time to be available for functioning as such the remaining member shall be deemed to validly constitute the Tribunal for the purposes of cases pending before it.

(2) The replacement of a member of, or an assessor appointed to assist a Tribunal during to another, shall not necessitate the re-opening of the proceedings of such case or a *de novo* enquiry into it.

(3) If a member or assessors, if any, is absent at a particular hearing then in the case of a Tribunal referred to in sub-rule (7) or Rule 3 the remaining member, and in any other case, the remaining member with the assessor, or, as the case may be, both the members without the assessor may proceed with the case.

9. [(1) After completing the proceedings the Tribunal shall make a record of the case in which it shall state the charges, the explanation, its own findings and the views of assessor, which shall be submitted by the assessor to the Tribunal within 3 days after the date of the last hearing of the case or within such extended time as may be granted by the Tribunal

on his application or otherwise. The Tribunal shall, where satisfied that punishment be imposed, also formulate its recommendations about punishment.]

[(2) The Tribunal may recommend and punishment mentioned in the Civil Services (Classification, Control and Appeal) Rules or compulsory retirement with or without full or proportionate pension, or with or without gratuity or compassionate allowance as it may deem suitable or may recommend any action under Article 351-A of the Civil Service Regulations.

(3) Where the Tribunal makes a recommendation for compulsory retirement as aforesaid be competent to the Governor to impose that penalty notwithstanding that it is not a penalty mentioned in the Civil Service (Classification, Control and Appeal) Rules].

**[10. (1)** On receipt of the Tribunal's recommendation, [\* \* \*] the High Court may pass an order awarding a penalty other than one of dismissal, removal or compulsory retirement itself, or recommend to the Governor or pass such order as it may deem fit.

(2) In a case relating to Government servant not being a Judicial Officer, the Governor on receipt of the Tribunal's recommendations, may pass an order awarding the punishment recommended by the Tribunal or a higher or lesser punishment or pass such order as he may deem fit.

(3) The Governor or the High Court as the case may be, may at any time, if he or it, considers necessary call for a classification or supplementary finding from the Tribunal.

(4) No appeal shall lie against as order passed by the Governor or the High Court under this rules.

(5) Consultation with the Public Service Commission is not necessary in view of the first proviso to Regulation 8 (a) of the U.P. Public Service Commission (Limitation of Functions) Regulations, 1954 before passing an order of punishment under these rules.]

**[10A. (1)** Notwithstanding anything in these rules, the Governor may refer to the Tribunal a case against a retired Government servant where proceedings are proposed to be held under Article 351-A of the Civil Service Regulations.

(2) Where a Government servant retires during the pendency of any proceedings against him under these rules the Governor may order the proceedings to be continued for purpose of Article 351-A of the Civil Service Regulation.

(3) Any action under this rule in respect of a judicial officer shall be taken only on the recommendation or with the consent of the High Court.

[(4) For the purpose of proceedings under this rule, an assessor to be appointed in the case of a retired Government servant shall be of a rank not lower than the rank held by the charged Government servant before his retirement.]

[11. During or in contemplation of proceedings under these rules a Government servant may be placed under suspension by the authority competent under the ordinary rules :

Provided that in the case of a judicial officer the power of suspension may be exercised by the High Court or on its recommendation by the Governor:

Provided further that in relation to judicial officers, references in Rule 40-A of the Civil Service (Classification, Control and Appeal) Rules to the appointing authority shall be included as references to the High Court.]

12. Nothing in these rules shall be deemed to affect the conduct and disciplinary proceedings in case other than those specifically dealt with under the provisions of these rules.

13. The Governor may delegate-

(1) the power under rule 4 to refer the cases of their subordinate officials to the Tribunal, to gazetted officers in-charge of districts in their respective departments or to those placed above them; and,

(2) the power to pass an order of punishment under Rule 10 to a Head of Department in respect of non-gazetted officer in his department:

Provided that when such a delegation has been made, an appeal shall lie, against the order so passed by the Head of Department; the Governor.

**[14. Power to issue copies on payment.** - A copy of an order or other document may be issued to the charged Government servant at discretion of



the Tribunal on payment by him of charges at the rate of Rs. 5 for every 1,500 word or part thereof.

*Administrative instructions of the State Government on the above rules.*

In regard to the working of the Disciplinary Proceedings (Administrative Tribunal) Rules, 1957, the State Government has issued the following guiding instructions to all Heads of Department and Principal Heads of offices :

(1) Preliminary enquiries against an official shall be made under the order of the authority empowered to take disciplinary action against the delinquent. Where this authority is the Government a reference should be made to the Administrative Department of the Secretariat giving the necessary particulars.

(2) If preliminary enquiries disclose a *prima facie* case against the official concerned, Government will decide whether the case should be referred to the Tribunal or should be dealt with departmentally under the normal rules.

(3) It is to be borne in mind that the Disciplinary Proceeding (Administrative Tribunals) Rules not supersede the normal rules regulating the conduct of disciplinary proceedings against Government servants vide Rules 12 of the above rules. The new rules, however, provided an expeditions alternative to the rather cumbersome procedure provided for in the normal rules. The authority empowered to take disciplinary proceedings against their subordinate should, therefore, make full use of the Tribunal and take necessary steps to refer to it, in particular selected cases in which they consider that the application of the normal procedure should not be in the public interest. To other case particularly those concerning petty official or petty matters, the authority are free to take action under the ordinance rules. In cases of doubt a reference may be made to the Government.

(4) Government attach great importance of the purity of the services. On them depends the efficiency of the administrative machinery which is essential to secure the welfare of the people of the State. Government trust that all concerned will act with vigour so that adding moral effect be produced by their concerned action. It should take steps in this direction as should be considered as failing in his primary duty. It is, however, to be made clear that honest, constitution, devoted and impartial official should not in any way deal embarrassed by these measures which are intended to secure the integrity and efficiency of the service. Government has no doubt that way will continue to

discharge their duties to the best of their ability and judgement without dealing embarrassed in any way.]

**[15. Transitory provisions. -** (1) Where any proceeding having been taken under the said rules as they stood before their amendment by these rules (hereinafter in this rule referred to as the unamended rules) before the commencement of these rules, and-

(a) the charged Government servant's for being represented by Counsel was rejected by the Tribunal on the ground that Rule 7 of the unamended rules did not permit such request being granted; or

(b) after the conclusion of the inquiry by the Tribunal the charged Government servant was asked to show cause against a proposed penalty of dismissal removal or reduction in rank but a copy of the findings of the Tribunal or of its recommendation as to punishment was not furnished to such servant, or

(c) the enquiry against a charged Government servant being a "Judicial Officer" (as defined in the amended rules) was held by a Tribunal as constituted under the unamended rules or the punishment was awarded to him without the recommendation of the High Court in this behalf, or the High Court was not consulted at some other stage, then in either of the following case, namely:

(i) the proceedings before tribunal under the unamended rules are still pending; or

(ii) the proceedings before the tribunal having been concluded the matter is pending consideration with the Governor; or

(iii) the validity of any proceedings before the Tribunal or of the order of imposition of penalty has been challenged in a court of law on any of the aforementioned forms (a), (b) and (c) and the matter is either pending before the court or such proceedings or order has been adjudicated void by the court further proceedings shall be taken in the manner hereinafter provided

(2) Where the proceedings are pending before the Tribunal immediately before the commencement of these rules and the case falls in categories (a) and (i) mentioned in sub-rule (1), then further proceedings shall be taken in accordance with sub-rules (2) and (3) of Rule 7 as hereby amended.

(3) Where the case falls in category (a) and category (ii) or (iii) mentioned in sub-rule (1) then subject to the orders, if any, or any court of law, the case shall stand referred back to the Tribunal for fresh proceedings in accordance with sub-rules (2) and (3) of Rule 7 as hereby amended.

(4) Where the case falls category (b) and (iii) mentioned in sub-rule (1) then subject to the order, if any of any court of law the Governor may recall the notice or order of punishment and issue a fresh notice to show cause along with a copy of the findings of the Tribunal or of its recommendations as to punishment, as the case may be to take further action thereafter accordingly.

(5) If the case falls under category (c) and either of the categories (i), (ii) and (iii) mentioned in sub-rule (1) then subject to the orders, if any, of any court of law, the case shall stand referred to a new Tribunal constituted in accordance with sub-rule (7) of Rule 3 of the amended rules, and the new Tribunal shall proceed afresh in accordance with the amended rules.

*Explanation.* - Nothing in this sub-rule shall be deemed to require the High Court to be consulted again in respect of a stage of the proceedings where proceeding of that stage had been originally taken on the recommendation or with the consent of the High Court.

(6) In any further proceedings under sub-rules (2), (3) or sub-rule (5) the Tribunal may on the evidence recorded in the case earlier by itself or by any of other Tribunal:

Provided that if such Tribunal is of opinion that the further examination of all or any of the witness whose evidence had already been recorded is necessary in the interests of justice it may and where the charged Government servant so requests it shall resubmit, any such witness, and after such further examination, cross-examination and reexamination, if any, as it may direct, the witness shall be discharged.

(7) In any proceedings pending before the Tribunal under the said rules immediately before the commencement of these rules or any proceedings recommended under the foregoing sub-rules any reference to any charge of the nature defined in clause (a) or clause (b), clause (c) or clause (d) or clause (e) or sub-rule (1) of Rule 4 of the said rules as they stood before their amendment by these rules shall be deemed to be reference to a misconduct or misbehaviour of the charged Government servant.

(8) The provisions of sub-rule (4) of Rule 49-A of the Civil Services (Classification, Control and Appeal) Rules, shall apply in relation to any further inquiry provided by these rules as they apply in relation to any further enquiry is held in pursuance of a consideration and decision referred to in that rules, and references in that sub-rule to the appointing authority shall in relation to judicial officer be deemed to be substituted by reference to the High Court.]