

The Dacca Gazette

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PART I-ORDERS AND NOTIFICATIONS BY THE GOVERNOR OF EAST PAKISTAN.
THE HIGH COURT, GOVERNMENT TREASURY, etc.

GOVERNMENT OF EAST PAKISTAN

BASIC DEMOCRACIES AND LOCAL GOVERNMENT DEPARTMENT

Section IX
NOTIFICATION

No.s-IX/IA-9/65/1112-13th November 1965--In exercise of powers conferred by section 52 of the East Pakistan Water Supply and Sewerage Authority Ordinance, 1963 (East Pakistan Ordinance No. XIX of 1963), the Governor is pleased to make the following rules, namely:

THE Dacca/CHITTAGONG/WATER SUPPLY AND SEWERAGE
AUTHORITY EMPLOYEES (EFFICIENCY & DISCIPLINE) RULES, 1965.

1. Short title, Applications and commencement--(1) These rules may be called the Dacca/Chittagong Water Supply and Sewerage Authority Employees (Efficiency and Discipline) Rules, 1965.

2) These rules shall apply to all officers and servants of the Authority but shall not apply to the servants of the provincial Government or the Municipal Committee, whose services have been lent to the Authority, except as provided in the proviso of subsection (2) of section 27 of the Ordinance.

3) These rules shall come into force at once.

2. Definitions--(1) In these rules, unless there is anything repugnant in the subject or context,--

(a) "Competent Authority" means the Water Supply and Sewerage Authority or Chairman or an Officer designated by the Authority to exercise the power under these rules.

(b) "Misconduct" means conduct prejudicial to good order or service discipline or unbecoming of an officer, servant and gentleman.

THE DACGA GAZETTE, EXTRA., NOVEMBER 18, 1965 (PART -I)

- (c) "Ordinance" means the East Pakistan Water Supply and Sewerage Authority Ordinance, 1963 (East Pakistan Ordinance No. XIX of 1963).
- (d) "Penalty" means a penalty which may be imposed under these Rules.
- (2) Words and expressions used but not defined in these rules shall have the same meaning as are expressly assigned to them in section 2 of the ordinance.
3. Grounds for Penalty- When an officer or a servant, in the opinion of the competent Authority :
- (a) is inefficient, or has ceased to be efficient, whether by reasons of infirmity of mind or body or otherwise, and is not likely to recover his efficiency ; or
 - (b) is guilty of misconduct ; or
 - (c) is corrupt, or may reasonably be considered corrupt because-
 - (i) he is, or any of his dependents or any other persons through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or
 - (ii) he has assumed a style of living beyond his ostensible means of livelihood; or
 - (d) is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities, and whose retention in service is considered prejudicial to national security;

the Authority may, subject to the provision of sub-rule(4) of rule 4, impose on him one or more penalties.

4. Penalties-The following are the penalties :

Minor Penalties -

- (a) Censure;
- (b) the withholding of promotion or increment including stoppage at efficiency bar for a specified period;

4. Major penalties-

- (c) recovery from pay of the whole or part of any pecuniary loss caused to the Authority by negligence or breach or orders;
- (d) reduction to a lower post or time-scale, or to a lower stage, in a time-scale;
- (e) compulsory retirement;
- (f) removal from service; and
- (g) dismissal from service;

(2) Removal does not, but dismissal does, disqualify from future employment.

(3) For misconduct any penalty in sub-rule(1) may be imposed, but the penalties to be ordinarily imposed for inefficiency shall be those set out in clause (b), (c), (d) or (e) of that sub-rule and for corruption or subversion those set out in clause (e), (f) or (g) of that sub-rule.

(4) No authority subordinate to that by which an officer or a servant was appointed shall be competent to impose on him any penalty set out in clause (d), (e), (f), or (g) of sub-rule(1).

Explanation-The discharge-(a) of a person appointed on probation the period of probation;

(b) of a person appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment; and

(c) of a person engaged under contract, in accordance with the term of his contract.

does not amount to removal or dismissal within the meaning of this rule.

5. Inquiry procedure in case of subversion(1) When an officer or a servant is to be proceeded against under clause(d) of rule 3, the competent authority-

(a) may, by order in writing, require him to proceed on such leave, as may be admissible to him, and from such date, as may be specified in the order;

(b) shall, by order in writing, inform him of the action proposed to be taken in regard to him and the ground of that action; and

(c) shall give him a reasonable opportunity of showing cause against action before an Inquiry committee to be appointed under clause(2) to inquire into the charge. provided that no such opportunity shall be given where the Authority is satisfied that in the interests of the security of Pakistan, or any part thereof, it is not expedient to give such opportunity.

(2) Where an Inquiry-Committee is to be constituted in pursuance of clause (c) of sub-rule (1)-

- (a) the Authority shall constitute it of three Heads of Branches;
- (b) the Inquiry Committee shall inquire into the charge and submit his findings to the Authority within a period of fifteen days; and
- (c) the Authority shall on receipt of the findings and recommendations of the Inquiry Committee pass such orders as it deems fit.

6. Inquiry in cases of Inefficiency, Misconduct and corruption

(1) When an officer or a servant, hereinafter referred to as the accused, is to be proceeded against under clause(a), (b) or (c) or rule 3, the procedure specified in the sub-rules 2, 3, 4, 5 & 6 shall be followed.

(2) The competent authority may, if it thinks fit, appoint an officers to examine and report on the allegations against the accused to enable the Authority to decide whether a formal inquiry should be held, and the officer may also informally examine the accused.

(3) If the competent authority decides that a formal inquiry should be held, it shall further decide whether the allegations, if established, would call for a minor or major penalty.

(4.) procedure in cases calling for minor penalty-(a) In cases calling for a minor penalty, the authority competent to impose the penalty or such officers, as may be appointed by it in that behalf, shall frame a charge and in making it known to the accused, shall call upon him to answer it within a specified time which shall not be less than 7 days or more than 14 days and to state, together with his answer, whether he desires to be heard in person or to adduce evidence in defence.

(b) On receiving the answer, the competent authority, or the Officer aforesaid shall, if satisfied that there is a prime facie case, and, if the accused has so desired, give him the opportunity of being heard in person and to adduce evidence in defence :

Provided that the competent authority, or the said officer may, for reasons to be recorded in writing refuse to call a particular witness or to summon or admit a particular evidence.

(c) If the accused fails to answer within the specified time or having answered, fails to appear or absents himself from the proceedings, the competent authority or the said officer may proceed with the inquiry and record a finding.

(d) Where an Officer has been appointed to hold an inquiry, the said officer shall submit his finding to the competent authority within three days of the completion of the proceedings and the competent authority having considered the findings shall pass such orders as it may deem fit.

(e) Where the inquiry is held by the competent authority itself, it shall record a finding and pass such orders as it may deem fit within ten days of the completion of the inquiry.

(5) Procedure in cases calling for major penalty-(a) In cases calling for a major penalty, the authority competent to impose the penalty shall frame a charge and communicate it to the accused together with a statement of the allegations on which it is based and of any other circumstances which the said authority proposes to take into consideration when passing orders on the case.

(b) The competent authority shall require the accused, within a reasonable time, which shall not be less than seven days or more than fourteen days, from the day the charge has been communicated to him, to put in a written defence, stating at the same time whether he desires to be heard in person.

(c) If the accused so desires, or if the competent authority so directs, an inquiry officer to be appointed under rule 8 shall hold a formal inquiry at which oral evidence shall be heard as to such of the allegations as are not admitted, and the accused shall be entitled to cross-examine the witnesses against him to give evidence in person and to have such witnesses called for in defence as he may wish, provided that the Inquiry Officer, may for reasons to be recorded in writing, refuse to call a particular witness or to summon or admit particular evidence.

(d) The proceedings shall contain a sufficient record of the evidence and the Inquiry Officer's report of his findings and the grounds thereof.

(e) When the competent authority, having considered the report of inquiry, has arrived at a provisional conclusion as to the penalty to be imposed, it shall so inform the accused and supply him with a copy of the report and call upon him to show cause within a reasonable time which shall not be less than 7 days and not more than 14 days, as to why the penalty proposed should not be imposed. The competent authority shall take into consideration any cause shown by the accused before passing orders.

(6) Nothing in the preceding sub-rule shall apply :

(i) Where the accused is dismissed or removed from service or reduced in rank on the ground of conduct which has led to a sentence of fine or of imprisonment: or

(ii) Where the authority competent to dismiss or remove a person or reduce him in rank is satisfied, for reasons to be recorded in writing by that authority, that it is not reasonably practicable to give the accused an opportunity of showing cause.

7. Power to Order Medical Examination as to Mental or Bodily Infirmary -

(1) Where it is proposed to proceed against an accused on the ground of inefficiency by reason of infirmity of mind or body the competent authority may, at any stage, whether or not an officer has been appointed in pursuance of sub-rule(2) of the rule 6 to examine and report, require the accused to undergo a medical examination by a Medical Officer or a Civil Surgeon as the said authority may direct and the report of the Medical Officer or the Civil Surgeon shall form part of the proceedings.

(2) If any accused refuses to undergo such examination his refusal may, subject to the consideration of any ground he may give in support of it, be taken into consideration against him as showing that he had reasons to believe that the result of the examination will prove unfavourable to him.

8. Appointment and Procedure of Inquiry Office-(1) Where an Officer or a servant is proceeded against under clause (a), or clause (c) of rule 3, and the competent authority has decided that the case calls for a major penalty the said authority shall appoint an Officer, being senior in rank to the person, proceeded against, to be Inquiry Officer and to conduct the proceedings.

(2) The Inquiry Officer shall hear the case from day-to-day and no adjournment shall be given except for reasons to be recorded in writing. Every adjournment with reasons therefor, shall be reported forthwith to the authority ordering the inquiry. No adjournment shall be given for more than a week.

(3) If the Inquiry Officer is satisfied that the person proceeded against is hampering or attempting to hamper the progress of the inquiry he shall administer a warning, and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect, and proceed to complete the inquiry in such manner as he thinks best fitted to do substantial justice.

(4) The Inquiry Officer shall, within ten days of the proceedings, or such longer period as may be allowed by the competent authority, submit his findings and the grounds thereof to the said authority.

9. Suspension-The person against whom action is proposed to be taken under clause (b) or (c) of rule 3 may be placed under suspension if, in the opinion of the competent authority, suspension is necessary or expedient.

10. Compensation, Gratuity, etc., of Accused compulsorily retired, removed or dismissed-(1) Subject to any order of the competent authority as to the amount of contributory Provident Fund or gratuity to be paid an accused compulsorily retired shall, except as hereinafter provided, be entitled to such gratuity or provident fund benefits as would have been admissible to him on the date of the retirement under the rules applicable to his service or post, if he had been discharged on account of the abolition of his post without alternative suitable employment being provided.

(2) Subject to any order of the Authority made on compassionate grounds an accused who is removed or dismissed shall not be entitled to any compensation, gratuity or benefits accruing from Authority's contribution to a contributory Provident Fund.

11. Reinstatement-(1) When the suspension of an accused is held to have been unjustifiable or not wholly justifiable; or when an accused, who has been dismissed, removed or suspended, is reinstated the punishing or the Appellate authority may grant to him for the period of his absence from duty -

- (a) If he is honourably acquitted, full pay to which he would have been entitled if he had not been dismissed, removed or suspended, and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal, removal or suspension; or
- (b) If otherwise, such proportion of such pay and allowances as the punishing or the Appellate authority may prescribe;
- (c) In a case falling under clause (a) the period of absence from duty will be treated as a period spent on duty :
- (d) In a case falling under clause (b), the period may be treated as duty or leave but will not be so treated unless the punishing or the Appellate authority directs accordingly.

Note-(i) When the orders passed are in respect of an officer or a servant in temporary employment regard will be had to the period for which the temporary appointment was sanctioned.

(ii) Posts vacated by dismissed Officer or servant may be filled substantively subject to the condition that the arrangements thus made will be reversed if the dismissed officer or servant, is reinstated on appeal.

(2) An Officer or a servant, who is dismissed or removed from the service of the Authority but is reinstated on appeal, is entitled to count his former service for leave.

12. Appeal-(1) An accused on whom a penalty is imposed under these rules shall have right of appeal to :

(a) The Chairman, if the order was passed by an officer to whom power has been delegated under the provision of section 12 of the Ordinance;

(b) the Authority, if the order was passed by the Chairman; and

(c) the Provincial Government, if the order was passed by the Authority.

(2) An order passed under clause (a), (b) and (c) of sub-rule

(1) shall be final.

(3) the Appellate authority shall consider :

- (a) Whether the facts on which the order was passed has been established;
- (b) Whether the facts established afford sufficient ground for taking action; and
- (c) Whether the penalty is excessive, adequate or inadequate and after such consideration shall pass such order as it thinks proper.

13. Withholding of Appeal-(1) An Appeal may be withheld, if -

- (a) it contains disrespectful or improper language, or
- (b) it is not preferred within six months after the date on which the appellant was informed of the order appealed against and no reasonable cause is shown for the delay, or
- (c) it is a repetition of previous appeal which has been disposed of and no new facts or circumstances are adduced which afford grounds for reconsideration :

Provided that in every case in which the appeal is withheld the appellant shall be informed of the fact and the reasons for it.

(2) No appeal shall lie against withholding of an appeal under this rules.

(3) The list of appeals withheld under this rule with the reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority.

(4) An appellate authority may call for records of any appeal withheld by an authority subordinate to him and may pass such orders thereon as it considers fit.

14. Bar to engage Lawyers or Agent-No lawyer or agent shall be allowed to appear on behalf of any accused either before the Officer who conducts the inquiry or to whom the appeal may be made.