

GOVERNMENT OF JHARKHAND

PERSONNEL, ADMINISTRATIVE REFORMS AND RAJBHASHA DEPARTMENT

NOTIFICATION

Ranchi, Dated *3rd February, 2016*

No. 8/Niti-01/2015 ka 1011/ In exercise of the power conferred by the Proviso to the article 309 of the Constitution of India, the Governor of Jharkhand hereby makes the following rules –

JHARKHAND GOVERNMENT SERVANTS (CLASSIFICATION, CONTROL & APPEAL) RULES, 2016

PART - I

GENERAL

1. **Short title, extent and commencement :-** (1) These Rules may be called the "Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016."
 - 2) It shall extend to the whole State of Jharkhand.
 - 3) These Rules shall come into force from the date of its publication in the official Gazette.
2. **Definition :-** For the purposes of these Rules, unless there is any thing repugnant in the subject or context :-
 - a) 'Government' means the Government of Jharkhand.
 - b) 'Orders of the Government' mean executive orders passed in exercise of powers given under Rules of Executive Business framed under Article 166 of the Constitution of India.
 - c) 'Probationer' means a person appointed to a service on probation.
 - d) 'Civil Post' means any existing post under the services of the State Government of Jharkhand. It includes also posts of the State Services, other services of the State and ex-cadre existing post under the State Government of Jharkhand.

'State Services' means services specified as State Services by general or special order of the Government.

'Other Services' means Services other than state services.
 - e) 'Service' means a service of the State.
 - f) 'Appointing Authority' in relation to a Government Servant means the authority -
 - i) who is empowered to make appointments to the Service of which the Government Servant is for the time being a member, or
 - ii) who is empowered to make appointments to the post which the Government Servant for the time being holds, or
 - iii) who has appointed the Government Servant to such Service, grade or post, as the case may be, or
 - iv) where the Government Servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, such authority who appointed him to that Service or to any grade in that Service or to that post,

- g) 'Cadre' means the strength of the Service or a part of a service sanctioned as a separate unit.
- h) 'Cadre Authority' in relation to a service, has the same meaning as in the Rules regulating that service;
- i) 'Commission' means the Jharkhand Public Service Commission;
- j) 'Department of the Government of Jharkhand' means a Department as specified in the Rules of Executive Business;
- k) Save as otherwise expressly provided in the rules of a particular cadre, 'Disciplinary Authority' means Appointing Authority or any other Authority authorised by it who shall be competent under these Rules to impose on a Government Servant any of the penalties specified in clause (i) to (v) in rule 14 of these Rules;
- l) 'Government Servant' means a person who -
 - i) is a member of a service or holds a civil post under the State and it includes any such person on foreign service or whose services are temporarily entrusted to the Government, or a local or other authority;
 - ii) is a member of a service or holds a civil post under the Government and whose services are temporarily entrusted to the Union Government or any other State Government.
- m) 'Head of the Department', for the purpose of exercising the powers as Appointing, Disciplinary or Appellate Authority, means such authority, who is declared as the Head of the Department under the Jharkhand Service Code;
- n) 'Head of the Office' for the purpose of exercising the powers as Appointing, Disciplinary or Appellate Authority, means such authority who is declared to be the Head of the Office;
- o) 'Secretary' means a Secretary to the Government in any Department;
- p) 'Valid notice' means a notice as provided under C.P.C. and the General Clauses Act.

- 3. Application of these Rules :-** 1) These Rules shall apply to every Government Servant but shall not apply to -
- a) Any member of the All India Services.
 - b) Any person in casual employment.
 - c) Any person subject to discharge from service on less than one months notice,
 - d) Any person for whom special provision is made, such as Police Manual, Jail Manual, Excise Manual etc, in respect of matter covered by these Rules, by or under any law for the time being in force or by or under any agreement entered into with the previous approval of the Government before or after the commencement of these Rules, in regard to matter covered by such special provisions.
- 2) Notwithstanding anything contained in sub-rule (1), the Government of Jharkhand may, by order, exclude any class of Government Servants from the operation of all or any of these Rules against him.

- 3) Notwithstanding anything contained in sub-rule (1), these Rules shall apply to every Government Servant temporarily transferred to a Service or post coming within (d) in sub-rule (1).
- 4) If any doubt arises with respect to the provisions of these Rules the matter shall be referred to the Government in the Department of Personnel, Administrative Reforms and Rajbhasha, whose decision shall be final.

PART II

CLASSIFICATION

4. **Classification of State Services and other services :-** The State Services and other services of the State shall be classified as follows :-
 - i) Group - A
 - ii) Group - B
 - iii) Group - C
 - iv) Group - D
5. **Constitution of State Services and other services :-** The State Services and other services of the State shall be constituted into Group - A, Group - B, Group - C and Group - D by a general or special order of the Government.
6. **Classification of posts :-** All the Civil Posts, post of the State Services and other services under the State shall, by a general or special order of the Government, be classified as follows :-

Sl. No.	Description of Posts	Classification of posts
1.	All Posts drawing pay in following pay band and grade pays :- PB - IV, ₹ 37400-67000/-, Grade Pay ₹ 10000/-, 8900/- & 8700/- PB - III, ₹ 15600-39100/-, Grade Pay ₹ 7600/-, 6600/- & 5400/-	Group A
2.	All Posts drawing pay in following pay band and grade pays :- PB - II, ₹ 9300-34800/-, Grade Pay ₹ 5400/-, 4800/-, 4600/- & 4200/-	Group B
3.	All Posts drawing pay in following pay band and grade pays :- PB - I, ₹ 5200-20200/-, Grade Pay ₹ 2800/-, 2400/-, 2000/-, 1900/- & 1800/-	Group C
4.	All Posts drawing pay in following pay band and grade pays :- 1S, ₹ 4440-7440/-, Grade Pay ₹ 1800/- & 1650/-	Group D

Explanation :- (1) For the purpose of this rule Pay Band and Grade Pay have the same meaning as assigned in the Finance Department, Resolution No. 660 dated 28.02.2009.

- 2) As and when the Grades and Classification of posts are revised by the Government from time to time, the Grade and Classification of the posts mentioned above shall be deemed to have been revised automatically accordingly.

PART - III

APPOINTING AUTHORITY

7. **Appointment in Group A and Group B posts of State Services :-** All appointments to Group - A and Group - B posts of state services shall be made by the Government.

Provided that the Government may, by a general or a special order and subject to such conditions as may be specified in such order, delegate the power to make such appointments to the Secretary of the Department.

8. **Appointments to other services :-** All appointments to Group - B, Group - C and Group - D posts of other services shall be made by the Secretary/Head of the Department/Head of the Office specified in that behalf by a general or special order of the Government.

PART - IV

SUSPENSION

9. **Order of Suspension :-** (1) The Appointing Authority or any authority to which the Appointing Authority is subordinate or the Disciplinary Authority or Secretary/Head of the Department/Head of the Office empowered in that behalf by the Government by general or special order, may place a Government Servant under suspension when -

- a) A disciplinary proceeding against the Government Servant is contemplated or is pending; or
- b) In the opinion of the aforesaid authority, the Government Servant has engaged himself or herself in activities prejudicial to the interest of the security of the State; or
- c) A case against the Government Servant in respect of any criminal offence is under investigation, inquiry or trial and the competent authority is satisfied that it is expedient to suspend the Government Servant in public interest.

- 2) A Government Servant shall be deemed to have been placed under suspension by an order of Appointing Authority with effect from the following date :-

- a) From the date of his or her detention, if he or she is detained in custody whether on a criminal charge or otherwise for a period exceeding forty eight hours;
- b) From the date of his or her conviction, if in the event of a conviction for an offence he or she is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

EXPLANATION :- The period of forty eight hours specified in clause (b) of this sub rule shall be computed from the date of commencement of the imprisonment after the conviction and for this purpose intermittent periods of imprisonment, if any, shall be taken into account.

- 3) (i) After the custody period under sub rule (2), the period of deemed suspension shall be deemed to end when the Government Servant gives his joining and the joining shall be accepted.
(ii) If a decision is taken to suspend the Government Servant again under sub-rule (1) (a) or (b) or (c) then such action may be taken only after acceptance of joining and by issuing a separate order.
- 4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant under suspension is set aside in appeal or on revision under these Rules and the case is remitted for further inquiry or action or with any other direction, the order of his suspension shall be deemed to have continued in force on and from the date of original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- 5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the Disciplinary Authority on a consideration of the circumstances of the case, decides to hold further inquiry against the Government Servant to meet a situation where the court has passed an order purely on technical grounds without going into the merit of the case, on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government Servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.
- 6) a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent.
b) Where a Government Servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him or her during the continuance of that suspension, the authority, competent to place him or her under suspension, may, for reasons to be

recorded by it in writing, direct that the Government Servant shall continue to be under suspension till the termination of all or any of such proceedings.

- c) An order of suspension made or deemed to have been made under this rule may, at any time, be modified or revoked by the same authority who or whose subordinate authority has passed such order.

10. **Subsistence allowance during suspension :-** (1) A Government Servant under suspension or deemed to have been placed under suspension, shall be entitled to the following payments namely :-

- a) subsistence grant an amount equal to the leave salary which the Government Servant would have drawn, if he had been on leave, on half pay addition in dearness allowance admissible on such half pay;

Provided that where the period of suspension has exceeded twelve months, the authority, which made or is deemed to have made the order of suspension, shall be competent to vary the amount of subsistence grant for any period subsequent to the period of the first twelve months, as follows -

- i) The amount of subsistence grant may be increased by a suitable amount not exceeding fifty percent of the subsistence grant admissible during the period of the first twelve months, if in the opinion of the said authority, the period of suspension has been prolonged, for reasons to be recorded in writing, not directly attributable to the Government Servant.
 - ii) The amount of subsistence grant may be reduced by a suitable amount, not exceeding fifty percent of the subsistence grant admissible during the period of first twelve months, if, in the opinion of the said authority, the period of suspension has been prolonged, due to reasons to be recorded in writing, directly attributable to the Government Servant.
 - iii) The rate of dearness allowance will be based on the increased or as the case may be, the decreased amount of the subsistence grant admissible under sub-clause (i) and (ii) of this rule.
- b) Any other compensatory allowance to which a Government Servant may be entitled from time to time on basis of pay, which he received on the date of suspension.

Provided that the Government Servant shall not be entitled to that compensatory allowance unless the said authority is satisfied that the Government Servant continues to meet the expenditure for which they are granted.

Provided further that the Government Servant shall be entitled to receive subsistence allowance only for such period when he is actually present at the headquarters, fixed by the Disciplinary Authority during the suspension period. He shall be required to mark his attendance in the attendance register meant for such Government Servant.

Provided further that since the headquarters cannot be fixed for the period of custody, therefore marking of such attendance shall not be required for the period of custody.

- 2) No payment under sub rule (1) shall be made unless the Government Servant furnishes a certificate that he is not engaged in any other employment, business, profession or vocation.
- 3) Where suspension is under sub rule (2) of rule 9, in that case also the subsistence allowance shall be admissible in accordance with sub rule (1) above. As a result of deemed suspension due to detention in custody the payment of subsistence allowance may be made to the dependent nominated by the Government Servant on the basis of his authority. Such subsistence allowance shall be paid by the same establishment where the Government Servant was posted at the time of detention.
- 4) The Disciplinary Authority shall be the competent authority to grant subsistence allowance and to increase or decrease the same.

11. **Treatment of service on reinstatement and admissibility of pay and allowances after suspension :-** (1) When a Government Servant under suspension is reinstated or would have been so reinstated but for his superannuation while under suspension, the Disciplinary Authority shall consider and make specific order regarding the following :-
- a) The pay and allowances to be paid to the Government Servant for the period of suspension ending with reinstatement or the date of his retirement on superannuation, as the case may be, and
 - b) Whether or not the said period shall be treated as a period spent on duty.
- 2) Notwithstanding anything contained in rule 10 of these Rules, where a Government Servant under suspension has died before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as on duty for all purpose and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended. While making such payment adjustment shall be made in respect of subsistence allowance and other allowances already paid and the adjustment of Government dues or loans.
- 3) Where the Disciplinary Authority is of the opinion that the suspension was wholly unjustified, the Government Servant shall, subject to the provisions of sub

rule (8) of this rule, be paid such full pay and allowances to which he would have been entitled, had he not been suspended. While making such payment adjustment shall be made in respect of subsistence allowance and other allowances already paid.

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government Servant had been delayed due to reasons directly for which the Government Servant is liable, it may, give the Government Servant an opportunity to make his or her representation and consider the representation, if any, submitted by him or her. After that it may direct, for reasons to be recorded in writing, that the Government Servant shall be paid for the period of such delay only such proportion of such pay and allowances as may be determined by it.

- 4) In cases falling under sub rule (3) of this rule, the period of suspension shall be treated as a period spent on duty for all purpose.
- 5) In cases other than those falling under sub rule (2) and (3) of this rule, the Government Servant shall subject to the provisions of sub rule (8) and (9) be paid such proportion of the full pay and allowances to which he would have been entitled had he not been suspended, as the Disciplinary Authority may determine. Such determination by the Disciplinary Authority shall be done after giving notice to the Government Servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within sixty days from the date on which notice aforesaid is served on the Government Servant.
- 6) Where suspension is revoked pending finalisation of the disciplinary proceeding or proceedings in a court, any order passed under sub rule (1) of this rule before the conclusion of the proceedings against the Government Servant, shall be reviewed on its own motion, after the conclusion of the proceedings by the Disciplinary Authority and an order shall be made by him in accordance with the provisions contained in sub rule (3) or sub rule (5), as the case may be.
- 7) In a case falling under sub rule (5) of this rule the period of suspension shall not be treated as a period spent on duty, unless the Disciplinary Authority specifically directs that it shall be the period spent for any specified purposes.
- 8) The payment of allowances under sub rule (2), sub rule (3) or sub rule (5) of this rule shall be subject to all other conditions under which such allowances are admissible.
- 9) The proportion of the full pay and allowances determined under the proviso to sub rule (3) or under sub rule (5) of this rule shall neither be equal to full pay and allowances nor shall it be less than the subsistence allowance.

- 12. Treatment of service on reinstatement and admissibility of pay and allowances after dismissal, removal or compulsory retirement as a result of appeal :-** (1) When a Government Servant, who has been dismissed, removed or compulsorily retired, is reinstated as a result of appeal or would have been so reinstated but for his retirement on superannuation while under suspension or not, the Disciplinary Authority shall consider and pass a specific order -

- a) Regarding the pay and allowances to be paid to the Government Servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be; and
 - b) Whether or not the said period shall be treated as a period spent on duty ?
- 2) The Government Servant shall, subject to the provisions of sub rule (6) of this rule be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed from the service or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, in cases -
- i) Where the Disciplinary Authority is of opinion that the Government Servant who had been dismissed, removed or compulsorily retired has been fully exonerated, or
 - ii) Where the order of dismissal, removal or compulsory retirement from service is set aside by the appellate authority solely on the ground of noncompliance of the requirement of these Rules and no further inquiry is proposed to be held;

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government Servant had been delayed due to reasons directly attributable to the Government Servant, it may, after giving him an opportunity to make his representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government Servant shall, subject to the provisions of sub rule (7), be paid for the period of such delay, only such proportion of such pay and allowances as it may be determined by him.

- 3) In a case falling under sub rule (2) the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.
- 4) In cases other than those covered by sub rule (2) of this rule the Government Servant shall, subject to the provisions of sub rule (6) and (7), be paid such

proportion of the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the Disciplinary Authority may determine. The Disciplinary Authority shall determine the proportion of such payment after giving notice to the Government Servant of the quantum proposed and after considering the representation, if any, submitted by him, in that connection within sixty days from the date on which the notice aforesaid is served to the Government Servant.

- 5) In a case falling under sub rule (4), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the Disciplinary Authority specifically directs that it shall be so treated for any specified purpose.

Provided that if the Government Servant so represents, such authority may after consideration, direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the Government Servant.

- 6) The payment of allowances under sub rule (2) or sub rule (4) shall be subject to all other conditions under which allowances are admissible.
- 7) The proportion of the full pay and allowances determined under the proviso to sub rule (2) or under sub rule (4) shall neither be equal to the full pay and allowances nor less than the subsistence allowance and other allowances admissible under rule 10, as the case may be.
- 8) Any payment made under this rule to a Government Servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be, and the date of reinstatement. Where the pay and allowances admissible under this rule are equal to or less than the amounts earned during such employment elsewhere, nothing shall be paid to the Government Servant.

- 13. Treatment of service on reinstatement and admissibility of pay and allowances where dismissal, removal or compulsory retirement is set aside by a court of law :-** (1) Where the dismissal, removal or compulsory retirement of a Government Servant is set aside by a court of law and such Government Servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the Government Servant shall be paid pay and allowances in accordance with the provisions of sub rule (2) or (3) of this rule subject to the directions if any, of the court.

- 2) i) In cases other than those covered by sub rule (3) of this rule, the Government Servant shall be paid such proportion of the full pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, and as the Disciplinary Authority may determine. The Disciplinary Authority shall determine the proportion of such payment after giving notice to the Government Servant of the quantum proposed and after considering the representation, if any, submitted by him, in that connection, within sixty days from the date on which the notice aforesaid is served to the Government Servant.

Provided that any payment under this sub rule to a Government Servant shall neither be equal to the full pay and allowances nor less than the subsistence allowance and other allowances admissible under rule 10, as the case may be.

- ii) The period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the court shall be regularised in accordance with the provisions contained in sub rule (5) of rule 12.
- 3) Where the dismissal, removal or compulsory retirement of a Government Servant is set aside by a court on the merit of the case, or where the dismissal, removal or compulsory retirement of a Government Servant is set aside by a court solely on the ground of non-compliance with the requirements of these Rules and no further inquiry is proposed to be held, the period intervening between the date of dismissal, removal or compulsory retirement as the case may be, and the date of reinstatement shall be treated as on duty for all purposes. As a result the Government Servant shall be paid full pay and allowances for the period to which he would have been entitled, had he or she not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.
- 4) The payment of allowances under sub rule (2) or sub rule (3) shall be subject to all other conditions under which such allowances are admissible.
- 5) Any payment made under this rule to a Government Servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him or her through any employment during the period between the dismissal, removal or compulsory

retirement and the date of reinstatement. Where the pay and allowances admissible under this rule are equal to or less than those earned during such employment elsewhere, nothing shall be paid to the Government Servant.

PART - V

PENALTIES AND DISCIPLINARY AUTHORITIES

14. ***Minor and Major Penalties :-*** The following penalties may, for good and sufficient reasons and as here in after provided, be imposed on a Government Servant, namely -

Minor Penalties :-

- i) Censure;
- ii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- iii) Reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension.
- iv) Withholding of increments of pay without cumulative effect and not adversely affecting his pension or withholding confirmation in service.

Major Penalties -

- v) Withholding of promotion.
- vi) Withholding of increments of pay with cumulative effect.
- vii) Save as provided for in clause (iii) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government Servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.
- viii) Reduction to lower time scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government Servant during such specified period to the time scale of pay, grade, post or Service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period -
 - a) The period of reduction to time scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and
 - b) The Government Servant shall regain his seniority in the higher time scale of pay, grade, post or service.

- ix) Compulsory retirement,
- x) Removal from service which shall not be a disqualification for future employment under the Government;
- xi) Dismissal from service which shall ordinarily be a disqualification for future employment under the Government.

Provided that, in every case in which the charge of possession of assets disproportionate to known source of income or 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 (x) or clause (xi) shall be imposed.

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

EXPLANATIONS :-

Explanation (1)

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

- i) Withholding of increments of pay of a Government Servant for his failure to pass any departmental examination in accordance with the Rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment.
- ii) Withholding of promotion of a Government Servant after consideration of his case to a service, grade or post for which he is eligible, whether he is in a substantive or in officiating capacity.
- iii) Non-promotion of a Government Servant, whether in a substantive or officiating capacity, after consideration of his case, to a Service, grade or post for promotion to which he is eligible.
- iv) Reversion of a Government Servant officiating in a higher Service, grade, or post to a lower Service, grade or post or on any administrative ground unconnected with his conduct.
- v) Reversion of a Government Servant, appointed on probation to any other Service, grade or post to his permanent Service, grade or post during or at the end of period of probation in accordance with the terms and conditions of his appointment or the Rules and order governing such probation.
- vi) Replacement of the services of a Government Servant, whose services had been borrowed from a State Government or an authority under the control of a State Government, at the disposal of the State Government or the authority from which

the services of such Government or the authority from which the services of such Government Servant had been borrowed.

- vii) Compulsory retirement of a Government Servant in accordance with the provisions relating to superannuation or retirement under rule 74 of the Jharkhand Service Code.
- viii) Termination of the service -
 - a) Of a Government Servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms and conditions of his appointment or the Rules and orders governing probation; or
 - b) Of a Government Servant, employed under an agreement, in accordance with the terms of such agreement.

Explanation (2) The penalties mentioned in clause (i), (iii), (iv), (v), (vi), (vii) and (viii) are explained as follows within the meaning of this rule:

- Clause (i) Censure - The censure shall be entered in the character roll of the year in which it has been imposed. The adverse effect of censure on the confirmation and promotion of concerned Government Servant shall be for one year commencing from date of issue of the order.
- Clause (iii) Reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect. This penalty shall be effective from the date of issue of order; In this penalty the 'stage' means the stage of pay scale. As it is without cumulative effect, therefore after the expiry of the period of penalty the next stage shall be admissible adding the benefit of all the effected stages.
- Clause (iv) *Withholding of increments of pay without cumulative effect*- Such penalty shall be effective from the date of issue of order, i.e. the increments due after the issue of the order shall be withheld. It will be essential to mention clearly the number of annual increments withheld in the order by the Disciplinary Authority. After the communication of order of penalty the increment shall remain withheld from the due date of next increment. For example, if two increments of a Government Servant are withheld without cumulative effect, it will mean that after the date of communication of order of penalty, from the due date of next increment till one year the first increment and from the second due date till one year the second increment shall remain withheld. As the penalty is without cumulative effect, the salary from the due date of third increment after the withholding of increments shall be paid with increment after adding the stages of both the withheld increments, but the financial benefit of withheld period shall not be admissible.

No promotion shall be considered during the period of operation of this penalty, i.e. for the number of years the increments are withheld. Only after the expiry of the period of penalty, it will be possible to consider on the promotion from the due date.

Clause (v) *Withholding of promotion :-* While awarding the penalty of withholding of promotion, it shall be essential to explain in the order of the Disciplinary Authority whether this penalty shall be for a particular period or for the whole service period.

Clause (vi) *Withholding of increments of pay with cumulative effect -* Such penalty shall be effective from the date of issue of order, i.e. the increments due after the issue of the order shall be withheld. It will be essential to mention clearly the number of annual increments withheld in the order by the Disciplinary Authority. After the communication of order of penalty the increment shall remain withheld from the due date of next increment. For example, if two increments of a Government Servant are withheld with cumulative effect, it will mean that after the date of communication of order of penalty, from the due date of next increment till one year the first increment and from the second due date till one year the second increment shall remain withheld. The cumulative effect shall be for such number of years as is the increments withheld, but as the penalty is with cumulative effect therefore the withheld increments shall remain withheld for the whole service period. Under these circumstances the salary from the due date of third increment after the withholding of two increments shall be paid with increment without adding the stage of both the withheld increments.

No promotion shall be considered during the period of operation of this penalty, i.e. for the number of years the increments are withheld. Only after the expiry of the period of penalty it will be possible to consider on the promotion from the due date.

Clause (vii) *Reduction to a lower stage in time scale of pay for a specified period, with further directions as to whether or not the Government Servant will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay. -* It shall be essential to mention clearly in the order of penalty the period of effect of such penalty and also whether annual increment will be earned during such period or not. It shall also be essential to explain whether on the expiry of period of penalty, further increments will be automatically admissible or will remain postponed, and if postponed the period of such postponement.

If the future increments are postponed after expiry of period of such reduction, in that case the promotion will be withheld for such number of years as is the number of years of withholding of increment.

Clause (viii) Reduction to a lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the government servant to the time scale of pay, grade, post or service from which he or she was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government Servant was reduced and his seniority and pay on such restoration to that grade, post or service - It shall be essential to mention clearly in the order concerning this penalty whether its limit of effect shall be permanent or for indefinite period, or not. If the intention is not to make its limit of effect permanent or for indefinite period, in that case it shall be essential to mention the period of such reduction and the conditions of restoration after the completion of period of such reduction in the proposed penalty. Therefore, it shall be desirable for the Disciplinary Authority to invariably specify the following instructions in the order of penalty -

- a) The period of reduction, unless the clear intention is that the reduction should be permanent or for an indefinite period.
- b) Where the period of reduction is specified, whether on the expiry of the period the Government Servant is to be promoted automatically to the post from which he was reduced; and
- c) Whether on such re-promotion, the Government Servant will regain his original seniority in the higher service, grade or post or higher time scale which had been assigned to him prior to the imposition of the penalty.

"Explanation (3) :- Warning - The warning is not a penalty within the meaning of this rule and due to this it has not been placed in any of the category of penalty. But the occasion may come when the Disciplinary Authority or his sub ordinate authority may need to criticize a Government Servant due to his carelessness, lack of interest, delay in execution of work etc. Such criticism may be done by warning him orally or in writing, so that the work of the Government Servant may improve. It is also possible that after the procedure of disciplinary proceeding for an allegation i.e. after the scrutiny of explanation it is concluded that it will be sufficient to warn the delinquent person instead of censuring him. In that circumstance the 'Warning' awarded should be entered into the

character roll. But with the entering into character roll such 'warning' cannot be converted into 'censure'. However such warning has the effect on the merit of the Government Servant or on his being considered for promotion on higher post. Such 'warning' cannot be a 'censure' because while awarding 'warning' he was not considered to be censured. If there is entry of 'two warnings' in the character roll of a Government Servant, the said 'warnings' due to the aforesaid reasons, neither be deemed to be converted into 'censure' nor be equivalent to 'a censure'. But it does not mean that Government Servant may have so many 'warnings' entered into his character roll. The 'warnings' has the effect of adverse remarks. If there is no improvement in the work despite warning, the reporting/reviewing officer will be competent to record the remarks accordingly.

Explanation (4)

The Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand in consultation with the Law Department, Government of Jharkhand may make regulations not inconsistent with these rules, to provide for all matters for which provision is necessary or expedient, for the purpose of giving effect to above mentioned rules.

15. **Disciplinary Authorities :-** (1) The Government may impose any of the penalties specified in rule 14 on any Government Servant.
 - 2) Without prejudice to the provisions of sub rule (1), any of the penalties specified in rule 14 may be imposed on a Government Servant by the Appointing Authority or any authority to which the Appointing Authority is subordinate or by any other authority empowered in this behalf by a general or special order of the Government.
16. **Authority to institute proceedings :-** (1) The Government or Appointing Authority or any authority to which the Appointing Authority is subordinate or any other authority empowered by general or special order of the Government may -
 - a) Institute disciplinary proceedings against any Government Servant;
 - b) Direct a Disciplinary Authority to institute disciplinary proceedings against any Government Servant on whom that Disciplinary Authority is competent to impose any of the penalties specified in rule 14 under these Rules.
 - 2) A Disciplinary Authority, competent under these Rules to impose any of the penalties specified in clauses (i) to (iv) of rule 14, may institute disciplinary proceedings against any Government Servant for the imposition of any of the

penalties specified in clauses (v) to (xi) of the rule 14 notwithstanding that such Disciplinary Authority is not competent under these Rules to impose any of the penalties under clauses (v) to (xi) of Rule 14.

PART - VI

PROCEDURE FOR IMPOSING PENALTIES

17. Procedure for imposing major penalties :-

- 1) No order imposing any of the penalties specified in clauses (v) to (xi) of rule 14 shall be made without holding an inquiry, as far as may be, in the manner provided in these Rules.
- 2) Wherever the Disciplinary Authority is of the opinion that there are grounds for inquiring about the truth of any imputation of misconduct or misbehaviour against a Government Servant, he may himself inquire into it, or appoint under these Rules, an authority to inquire about the truth thereof.

EXPLANATION :- Where the Disciplinary Authority himself holds the inquiry, any reference in sub rule (7) to sub rule (20) and in sub rule (22) of this rule to the inquiring authority shall be construed as a reference to the Disciplinary Authority.

- 3) Where it is proposed to hold an inquiry against a Government Servant under this rule, the Disciplinary Authority shall draw up or cause to be drawn up :-
 - i) The substance of the imputations of misconduct or misbehaviour as a definite and distinct article of charge.
 - ii) A statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain :-
 - a) A statement of all relevant facts including any admission or confession made by the Government Servant;
 - b) A list of such document by which, and a list of such witnesses by whom, the articles of charge are proposed to be sustained.

EXPLANATION :- Where Criminal case is pending against a Government Servant the Departmental Proceeding and Criminal Proceeding may be conducted simultaneously, but the set of evidence of Departmental Proceeding shall be different from the Criminal Proceeding. In such case the article of charges shall be based on administrative lapses and misconduct committed by the Government Servant.

- 4) The Disciplinary Authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

- 5)
 - a) On receipt of the written statement of defence, the Disciplinary Authority may himself inquire into such of the articles of charge which are not admitted, or, if it thinks necessary, to appoint, under sub rule (2) of this rule, an inquiry authority for the purpose, where all the articles of charges have been admitted by the Government Servant in his written statement of defence, the Disciplinary Authority shall record his finding on each charge, after taking such evidence as it may think fit and shall take action in the manner laid down in rule 18.
 - b) If no written statement of defence is submitted by the Government Servant, the Disciplinary Authority may itself inquire into the articles of charge or may, if it thinks necessary, to appoint, under sub rule (2) of this rule an inquiry authority for the purpose.
 - c) Where the Disciplinary Authority itself inquires into any article of charge or appoints an inquiring authority for holding an inquiry about such charge, it may, by an order, appoint a Government Servant or a legal practitioner, to be known as the "Presenting Officer" to present on his behalf the case in support of the articles of charge.
- 6) The Disciplinary Authority shall, where it is not the inquiring authority, forward the following records to the inquiring authority :-
 - i) A copy of the articles of charge with the statement of the imputations of misconduct or misbehaviour.
 - ii) A copy of the written statement of defence, if any, submitted by the Government Servant.
 - iii) A copy of the statement of witnesses, if any, specified in sub rule (3) of this rule.
 - iv) Evidence proving the delivery of the documents specified to in sub rule (3) to the Government Servant; and
 - v) A copy of order appointing the "Presenting Officer".
- 7) The Government Servant shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding ten days, as may be specified by the inquiring authority.
- 8)
 - a) The Government Servant may take the assistance of other Government Servant posted in any office, either at his headquarter or at the place where the inquiry is to be held, to present the case on his behalf.

Provided that he may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the Disciplinary Authority is a legal practitioner, or, the Disciplinary Authority, having regard to the circumstances of the case, so permits.

Provided also that the Government Servant may take the assistance of any other Government Servant posted at any other station, if the inquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing so permits.

Provided further that the Government Servant shall not take the assistance of any such other Government Servant who has three pending disciplinary cases on hand in which he has to give assistance.

- b) The Government Servant may take the assistance of a retired Government Servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.
- 9) 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 inquiring authority, such authority shall ask him whether he is guilty or has to say anything in his defence. 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 Government Servant thereon.
- 10) The inquiring authority shall record a finding of guilt in respect of those articles of charge to which the Government Servant pleads guilty.
- 11) The inquiring authority shall, if the Government Servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the Government Servant may, for the purpose of preparing his defence -
 - i) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list in sub rule (3).
 - ii) Submit a list of witnesses to be examined on his behalf.

NOTE - If the Government Servant applies in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub rule (3), the inquiring authority shall furnish him with such copies, as early as possible.

- iii) Give a notice within ten days of the order or within such further time as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of Government but not mentioned in the list specified in sub rule (3) of this rule.

Provided that the Government Servant shall indicate the relevance of the documents required by him to be discovered or produced by the Government.

- 12) The inquiring authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition.

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

- 13) On receipt of the requisition specified in sub rule (12) of this rule, every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority.

Provided that if the authority, having the custody or possession of the requisitioned documents, is satisfied, for reasons to be recorded by it in writing, that the production of all or any of such documents will be against public interest or security of the State, he shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents.

- 14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses, as it thinks fit.
- 15) If it shall appear necessary before the close of the case on behalf of the Disciplinary Authority, the inquiring authority may, in his discretion, allow the Presenting Officer to produce evidence not included in the list given to the Government Servant or may itself call for new evidence or recall and re-examine

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

Provided that new evidence shall not be permitted or called for nor any witness shall be recalled to supplement the evidence. Such evidence may be called for if there is any inherent lacuna or defect in the evidence, produced originally.

- 16) When the case for the Disciplinary Authority is closed, the Government Servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the Government Servant 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.
- 17) The evidence on behalf of the Government Servant shall then be produced. The Government Servant may examine himself in his own behalf if he so prefers. The witnesses produced by the Government Servant shall then be examined and they shall be liable to examination, cross-examination and re-examination by the inquiring authority according to the provisions applicable to the witnesses for the Disciplinary Authority.
- 18) The inquiring authority may, after the Government Servant closes his case, and shall, if the Government Servant has not examined himself, generally question him on the circumstances appearing against him in evidence for the purpose of enabling the Government Servant to explain any circumstances appearing in the evidence against him.
- 19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the Government Servant, or permit them to file written statement of their respective case, if they so desire.
- 20) If the Government Servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may proceed with the inquiry *ex-parte*.

- 21) a) Where a Disciplinary Authority competent to impose any of the penalties specified in clauses (i) to (iv) of rule 14 [but not competent to impose any of the penalties specified in clauses (v) to (xi) of rule 14], has himself inquired into or caused to be inquired into the article of any charge and that authority having regard to his own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (v) to (xi) of rule 14 should be imposed on the Government Servant, that authority shall forward the record of the inquiry to such Disciplinary Authority as is competent to impose the penalties mentioned in clause (v) to (xi) of rule 14.
- b) The Disciplinary Authority to which the record are so forwarded may act on the evidence on the record or may, if he is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross-examine and re-examine the witnesses and may impose on the Government Servant such penalties as it may deem fit in accordance with these rules.
- 22) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the basis of 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 hereinbefore provided.
- 23) i) After the conclusion of the inquiry, a record shall be prepared and it shall contain :-
- a) the articles of charge and the statement of the imputations of misconduct or misbehaviour.
 - b) the defence of the Government Servant in respect of each article of charge.
 - c) an assessment of the evidence in respect of each article of charge.
 - d) the findings on each article of charge and the reasons thereof.

EXPLANATION :- If in the opinion of the inquiring authority the proceedings of the inquiry may establish any article of charge different from the original articles of the charge, he may record his findings on such article of charge :

Provided that the findings on such article of charge shall not be recorded unless the Government Servant 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 prepared by it under clause (i) of this sub rule;
 - b) the written statement of defence, if any, submitted by the Government Servant;
 - c) the oral and documentary evidence produced in the course of the inquiry;
 - d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and
 - e) the orders, if any, made by the Disciplinary Authority and the inquiring authority in regard to the inquiry.

18. 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 further inquiry and report and the inquiring authority shall thereupon proceed to hold further inquiry, as far as may be according to the provisions of rule 17.

- 2) The Disciplinary Authority, after receipt of the enquiry report as per rule 17 (23) (ii) or as per sub rule (1), 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 finding on such charge, if the evidences on record is sufficient for the purpose.
- 3) The Disciplinary Authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings, if any, as provided in sub rule (2) to the Government Servant who may submit, if he or she so desires, his or her written representation or submission to the Disciplinary Authority within fifteen days.
- 4) The Disciplinary Authority if it is different from the inquiry authority shall before making a final order in the case, forward a copy of the inquiry report to the Government Servant concerned who may submit, if he or she so desires, his or her written representation or submission to the Disciplinary Authority within fifteen days.

The Disciplinary Authority shall consider the representation or submission, if any, submitted by the Government Servant before proceeding further in the manner specified in sub rule (5) and (6).

- 5) 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 clauses (i) to (iv) of rule 14 should be imposed on the Government Servant, it shall, notwithstanding anything contained in rule 19, make an order imposing such penalty.
- 6) If the Disciplinary Authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidences adduced during the inquiry is of the opinion that any of the penalties specified in clauses (v) to (xi) of Rule 14 should be imposed on the Government Servant, it shall make an order imposing such penalty and it shall be necessary to give the Government Servant an opportunity of making representation on the penalty proposed to be imposed.
- 7) Notwithstanding anything contained in sub rule (5) and (6) in every case where it is necessary to consult the Commission, the Commission shall be consulted and its advice shall be taken into consideration before making any order imposing any penalty on the Government Servant.

19. Procedure for imposing minor penalties :- (1) Subject to the provisions of sub rule (3) of rule 18, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (iv) of rule 14 shall be made except after -

- a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;
- b) considering the representation, if any, submitted by the Government Servant under clause (a);
- c) recording a finding on each imputation of misconduct or misbehaviour.

20) Special procedure in certain cases -

Notwithstanding anything contained in rule 17 to 19 -

- i) where any penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction on a criminal charge; or
 - ii) where the Disciplinary Authority is satisfied for reasons to be recorded by him in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these Rules; or
 - iii) where the Government is satisfied that in the interest of the State, it is not expedient to hold any inquiry in the manner provided in these Rules;
- the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit;

Provided that the Government Servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i).

Provided further that the Commission shall be consulted, where such consultation is necessary, before any orders are made in any case under this rule.

- 21. Communication of Orders** - Orders made by the Disciplinary Authority shall be communicated to the Government Servant who shall also be supplied with a copy of its finding on each article of charge, or where the Disciplinary Authority is not the inquiring authority, a statement of the findings of the Disciplinary Authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority and also a copy of the advice, if any, given by the Commission, and where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.
- 22. Common Proceedings** - (1) Where two or more Government Servants are concerned in any case, the Government or any other authority competent to impose the penalty of dismissal from service on all such Government Servants, may make an order directing that disciplinary action against all of them may be taken in a common proceeding.
- NOTE - If the authorities competent to impose the penalty of dismissal on such Government Servants are different an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the other authorities.
- 2) Any such order shall specify -
- i) the authority which may function as the Disciplinary Authority for the purpose of such common proceeding;
 - ii) the penalties specified in rule 14 which such Disciplinary Authority shall be competent to impose;
 - iii) whether the procedure laid down in rule 17 and rule 18 or rule 19 shall be followed in the proceeding.
- 23. Discharge or Reversion of Probationers :-**
- (1) A probationer who has no lien on any post under the State Government shall be liable to be discharged from the Service at any time without notice, if -
 - i) on the basis of his performance or conduct during probation, he is considered unfit for further retention in the service; or
 - ii) on the receipt of any information relating to his nationality, age, health, or of antecedents, the Appointing Authority is satisfied that he is ineligible or otherwise unfit for being a member of the Service.
 - 2) A probationer who holds a lien on a post under the State Government may be reverted to such post at any time in any of the circumstances specified in sub-rule (1).

PART - VII

APPEALS

24. **Orders against which appeal lies** - A Government Servant may prefer an appeal against order of suspension or order of penalty.
25. **Appellate Authorities** - 1) A Government Servant, including a person who has ceased to be in Government service, may prefer an appeal against the orders specified in rule 24 to the authority specified in this behalf by a general or special order of the Government or, where no such authority is specified.-
- i) where such Government Servant is or was holder of Civil post, Group - A or Group - B -
 - a) to the Appointing Authority, where the order appealed against is made by an authority subordinate to it, or
 - b) to the authority immediately superior which passed an order, where such order is made by Appointing Authority or any other authority superior to the Appointing Authority.
 - ii) where such Government Servant is or was holder of Civil post, Group - C or Group - D, to the authority to which the authority making the order appealed against is immediately subordinate.
- 2) There shall be no appeal against the orders of the Government; however review petitions may be filed in the form of Memorials.
- 3) Where the person, who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate or to an authority specially authorised for this purpose by the Government.
26. **Period of limitation for appeals** - No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of **ninety days** from the date on which a copy of the order appealed against is delivered to the appellant.
- Provided that the appellate authority may entertain the appeal after the expiry of the said period, if he is satisfied that the appellant had sufficient cause for not preferring the appeal in time.
27. **Forms and content of appeal** - (1) Every person preferring an appeal shall do so separately and in his own name.
- 2) The appeal shall be presented to the authority to whom the appeal may be filed and a copy of appeal will be forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.
 - 3) The authority which made the order appealed against, shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the

relevant records to the appellate authority without any avoidable delay, and without waiting for any direction from the appellate authority.

28. Consideration of appeal - (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in view of the provisions of rule 9 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke or modify the order accordingly.

2) In the case of an appeal against an order imposing any of the penalties specified in rule 14, the appellate authority shall consider -

- a) whether the procedure laid down in these Rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- b) whether the findings of the Disciplinary Authority are warranted by the evidence on the record; and
- c) whether the penalty imposed is adequate, inadequate or severe;

and pass orders -

- i) confirming, enhancing, reducing, or setting aside the penalty; or
- ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

Provided that -

- i) the Commission shall be consulted in all cases where such consultation is necessary;
- ii) if the enhanced penalty which the appellate authority propose to impose is one of the penalties specified in clauses (i) to (iv) of rule 14 and an inquiry under rule 17 has not already been held in the case, the appellate authority shall, subject to the provisions of rule 19, himself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 18 and thereafter on a consideration of the proceedings of such inquiry and after giving the appellant a reasonable opportunity, as far as may be in accordance with the provisions of clause (ii) of rule 18, of making a representation against the penalty proposed on the basis of the evidence adduced during such inquiry, make such orders as it may deem fit;
- iii) if the enhanced penalty which the appellate authority propose to impose is one of the penalties specified in clauses (i) to (iv) of rule 14 and an inquiry under rule 17 has already been held in the case, the appellate authority shall, make such orders as it may deem fit, after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty; and

- iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, of making a representation against such enhanced penalty.
- 3) The appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

PART - VIII

MISCELLANEOUS

- 29. **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 may condone any delay.
- 30. **Over-riding effect of these Rules** - Notwithstanding contained any thing contrary to these Rules in any other Rules, the provisions of these Rules shall have over-riding effect.
- 31. **Power of the Government to make regulation** - The Government may make regulations to carry out all or any of the purpose of these Rules.
 - 2) All regulations made under these Rules shall be published in the official gazette.
- 32. **Repeal and Savings** - (1) The notification no. - III/R1-101/63-8051- A dated 3rd July, 1963 adopting the Civil Services (Classification, Control and Appeal) Rules, 1930 and The Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 as well as Notifications making amendments in the said two Rules are hereby repealed.
 - 2) All instruction issued under the Civil Service (Classification, Control and Appeal) Rules, 1930 and The Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 from time to time are hereby repealed.
 - 3) Anything done or any action taken in exercise of the powers under the Civil Service (Classification, Control and Appeal) Rules, 1930 and The Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 shall be deemed to have been done or taken in exercise of the powers conferred by or under those Rule, as if those Rules were in force on the day on which such thing or action was done or taken.
 - 4) Nothing in these Rules shall operate to deprive any person of any right of appeal, which he would have had if these Rules had not been made in respect of any order passed before they came in force.

- 5) Notwithstanding any thing contained in these Rules any departmental proceedings initiated under the Rules repealed shall continue under those Rules including the Appeal preferred against any penalty imposed as if those Rules were still in existence.

33. **Removal of doubts** - If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Government in the Department of Personnel, Administrative Reforms and Rajbhasha and its decision shall be final.

By the order of the Governor of Jharkhand,

L. G. M.
03/02/16
(Ratan Kumar)

Secretary to the Government.

Memo No. :- 8/Niti-01/2015 ka 1011/ Ranchi, Dated *3rd February, 2016*

Copy forwarded to the Nodal Officer, E-Gazette, Personnel, Administrative Reforms and Rajbhasha Department, Jharkhand, Ranchi for its publication in the official Gazette.

Yogendra
3/2/16

(Yogendra Dubey)

Deputy Secretary to the Government